



RESEARCH REPORT

Monitoring and evaluation arrangements for the Justice Law and Order Sector in Uganda: a case study

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January 2009

List of acronyms

DAC	Development Assistance Committee
DFID	UK Department for International Development
DPG	Development Partners Group
EU	European Union
GoU	Government of Uganda
JCC	Joint Co-ordination Committee
JLOS	Justice, Law and Order Sector
KRA	Key Result Area
LRA	Lords Resistance Army
LDU	Local Defence Unit
M&E	Monitoring and Evaluation
MIS	Management Information System
MoFPED	Ministry of Finance, Planning and Economic Development
MTE	Mid-Term Evaluation
NDP	National Development Plan
NRM	National Resistance Movement
OECD	Organisation for Economic Co-operation and Development
OPM	Office of the Prime Minister
PEAP	Poverty Eradication Action Plan
PPU	Policy and Planning Unit
PRSP	Poverty Reduction Strategy Paper
SIP	Strategic Investment Plan
SSR	Security Sector / System Reform
UN	United Nations
UNPS	Uganda National Panel Survey
UPDF	Uganda People's Defence Force

1 Introduction

This case study report presents research findings on the monitoring and evaluation (M&E) arrangements of a long-running justice sector development programme in Uganda (hereafter JLOS – Justice Law and Order Sector). It is one of five case studies carried out as part of the Saferworld project, 'Evaluating for Security: Developing specific guidance on monitoring and evaluating Security Sector Reform interventions'.¹ Together with a wider desk review and supplementary research into the broader M&E systems used by the major SSR donors, the case studies provide an evidence base from which specific guidance on monitoring and evaluating SSR can be developed.

As this case study shows, JLOS is qualitatively different from many justice, SSR and rule of law programmes, in that it comprises a sector-wide approach, to which donor assistance is primarily delivered via sector budget support. This arrangement has over time facilitated, and in fact required, the development of sophisticated M&E arrangements. These include routine monitoring, periodic reviews and a sophisticated basket of indicators which measure the impact of the sector's member institutions but also of the sector as a whole.

JLOS does not conceive of itself as a 'security sector' as such, given its primary emphasis on the issues and institutions of justice, law and order.² The sector does, however, fit within the increasingly widely accepted OECD Development Assistance Committee's broad definition of SSR which, "*refers to a broad range of security and justice institutions*" and which, "*in no way should be seen as implying that justice is subordinate to security*".³ Important to note, however, is the absence of the armed forces and Ministry of Defence from the membership of the sector, which, as outlined in the case study and argued within the sector's 2004 Mid-Term Evaluation (MTE), has implications in terms of the scope and impact of JLOS programming.

The research for this case study was carried out using a desk review and interviews in Kampala in September-October 2008. The case study briefly explains the Ugandan context and history of the programme's development before covering the content and management arrangements for the programme, including its M&E systems. It then charts the chronological development of this system from 2001 onwards covering important milestones along the way, including an influential mid-term review carried out in 2004. In doing so it shows that the JLOS experience of developing and refining these systems through a process of trial and error, ongoing monitoring, reviewing and learning has important lessons for justice and security sector reform programming worldwide. The challenges encountered along the way are covered in the main body of the text with lessons arising provided by way of a final summary. The lessons are intended for analysis and take-up by JLOS itself, particularly in the design of the next MTE which is planned for 2009, and also as a means of distilling experience from Uganda which can inform other security and justice sector programmes. The M&E terminology used in this study is consistent with that used by the OECD. Where appropriate, footnotes have been used to elaborate some specific terms in more detail.

2 Evolution of the Justice Law and Order Sector in Uganda

2.1 *Towards a sector-wide approach*

Uganda is a developing country that has experienced long periods of internal unrest and periodic cycles of violent conflict since independence in 1962. The long-running conflict in the north, involving the Lords Resistance Army (LRA), remains unresolved, with a peace agreement having been negotiated but not yet signed, and chronic insecurity affects the

¹ Other case studies include the Irish/Dutch backed *Justice, Law and Order Sector* in Uganda, the Australian backed *Law and Justice Programme* in Papua New Guinea, the SDC backed *Implementation of Community-Based Policing in Bosnia Herzegovina* and UNDP backed *Support to the Security Sector Reform Programme* in Albania.

² Interview with JLOS Secretariat official, 10 September 2008.

³ OECD-DAC Handbook on Security System Reform: Supporting Justice and Security, OECD, p 5; available from, <http://www.oecd.org/dataoecd/43/25/384064.pdf>.

predominantly pastoralist Karamoja region in the north-east of the country. Other parts of Uganda are relatively stable at present, but tensions and conflict risks are such that further outbreaks of violence cannot be ruled out.

The current National Resistance Movement (NRM) government came to power in 1986 and committed the country to all major international human rights treaties which among other things require accessible, fair and effective systems of justice, law and order. Though the sector's individual institutions had been the subject of reform and reconstruction, with international support during the late 1980s, moves to develop a reform programme for the entire justice, law and order sector began in November 1999.

The stimulus for a sector-wide approach came in part from the findings of numerous studies into the functioning of the justice sector and the public's perceptions of it.⁴ On the 'demand' side, the general public were clearly experiencing personal and property insecurity and were highly dissatisfied with a justice system they believed to be both corrupt and ineffective. 'Supply' side studies identified a litany of failings in both the criminal and civil justice systems, including: corrupt practices, ineffective planning and budgeting, inadequate facilities, insufficient equipment and transport, antiquated methods of investigation and prosecution, long delays and huge case backlogs and long remand periods (for example, five years for capital offences), lack of appropriate procedural guidelines and court performance standards, cumbersome and slow court procedures, and low likelihood of judgements being enforced. These problems left the private sector unable to make and enforce contracts, thus contributing to lowering investment and making reform a priority for national economic development.⁵

In addition, the creation of JLOS was linked to the development and implementation of Uganda's first Poverty Eradication Action Plan – PEAP (Uganda's version of a Poverty Reduction Strategy Paper, or PRSP). The PEAP process created an incentive for the creation and strengthening of 'sectors' to better channel and align development aid, since they enabled co-ordinated planning in support of national poverty eradication goals. By organising themselves into a sector, JLOS institutions were able to set joint objectives in line with those of the PEAP. This also offered the prospect of, "*increased financial resources and higher visibility*"⁶, since the Ministry of Finance, Planning and Economic Development (MoFPED) was required to allocate resources in line with the PEAP framework.⁷

Other factors were also at play. Disillusionment had begun to set in with the results of institution-specific projects and there had been some donor co-ordination problems. Some argue that donor support for JLOS served to offset the criticism that large scale budget support and promotion of Uganda as a model aid recipient internationally conspicuously overlooked serious problems with governance, human rights and defence forces. Finally, two cross-sectoral pilot programmes were producing promising evidence that co-ordinated interventions across the sector would yield better results. (These initiatives were the Chain Linked Initiative, which ran in Masaka magisterial area to enhance co-ordination, co-operation and communication between criminal justice agencies, and the Case Backlog Project that sought to reduce the backlog of criminal cases in the High Court.)

2.2 Strategic Investment Plan I

From November 1999 onwards the Government of Uganda (GoU) began establishing a cross-justice sector planning and reform framework, at the heart of which was the JLOS Secretariat,

⁴ These included: a 1995 Crown Agents Report, the 1999 Review of Uganda's Criminal Justice System, a 2004 'Internal Study of Results of Danida Support to the Judiciary Project Phases I and II by independent consultant Stella Mukasa, Allen Asimwe's Desk Study on Access to Justice for the Poor in Uganda, of 2004, the 1997 Criminal Justice Review, the Uganda Integrity Survey of 1998 and the Crown Agents Legal Sector Review (1999).

⁵ Allen Asimwe, John Fox, Stella Mukasa (June 2005), *Justice Law and Order Sector Technical Note on Developing Sector-Wide Output and Impact Indicators*.

⁶ Laur-Hélène Piron with Andy Norton (March 2004), *Politics and the PRSP Approach: Uganda Case Study*, Overseas Development Institute, p 31.

⁷ Some development partners interviewed for this case study reported however that in practice the allocation of resources has been determined less by PEAP compliance than by State House priorities. Interview with donor official, 11 August 2008.

established in August 2000. The Secretariat's first major task was to develop a Strategic Investment Plan for the period 2001-6 (now known as SIP I), launched in November 2001. SIP I clearly articulated a common goal for the sector: '*The improved safety of the person, security of property and access to justice that ensures a strong economic environment to encourage economic development and benefit poor and vulnerable people.*'⁸ Agreed 'policy objectives' designed to further this goal were:⁹

- Fostering a human rights culture across the JLOS institutions;
- Promoting the rule of law;
- Securing access to justice for all people, particularly the poor and other marginalised 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 voices and community involvement across all JLOS institutions;
- Strengthening structures for commercial justice, particularly at grassroots level.

At that time JLOS comprised the following ten institutions:

<ul style="list-style-type: none"> • Ministry of Justice and Constitutional Affairs (Lead Institution) • Ministry of Internal Affairs, including: <ul style="list-style-type: none"> ○ Government Chemist ○ Immigration Department ○ Community Service Programme • The Judiciary • Uganda Police Force 	<ul style="list-style-type: none"> • Directorate of Public Prosecutions • Uganda Prisons Service • Uganda Law Reform Commission • Judicial Service Commission • Ministry of Local Government - Local Council Courts • Ministry of Gender, Labour and Social Development - Probation Department
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In order to align the work of the ten institutions, a number of management and co-ordination mechanisms were mandated under SIP I (with most being retained within SIP II). These included:

- A *National Council for Justice, Law and Order* to act as the oversight body for JLOS and provide political support and policy guidance across the sector. This Council was however never established, and instead, under SIP I, a Leadership Committee was constituted, comprising the Chief Justice (Chair), Minister for Justice and Constitutional Affairs, and the Minister for Internal Affairs. The Leadership Committee was retained under SIP II and its membership expanded, to include the Minister of Finance, Planning and Economic Development; the Chairperson of the JLOS Steering Committee; and the Head of the JLOS Secretariat.
- A *Steering Committee*, which is composed of the highest level officials within JLOS institutions, including heads and accounting officers (permanent secretaries for the ministries). The Steering Committee is chaired by the Solicitor General and is the most active level of senior JLOS decision-making. It takes policy decisions and is tasked with monitoring policy co-ordination, while also directing and guiding the Technical Committee.
- A *Technical Committee* comprising some forty persons (including accounting officers, under-secretaries, senior management and staff from within the JLOS institution's Policy and Planning Units - PPU), which bears responsibility for implementation. Donors with bilateral programmes are represented by Technical Advisors on the Technical Committee (eg Danida Support to Judiciary, DFID Support to Commercial Court, and GTZ support to Community Service).
- The JLOS *Secretariat*, responsible for promoting and managing programming on a day-to-day basis, for providing the Steering and Technical Committees with quarterly reports on progress, and for ensuring close liaison with donors.

⁸ Justice Law and Order Sector Strategic Investment Plan for the Medium Term, 2001-2006 (SIP I), Part II, p 6.

⁹ *Ibid.*

- A *National Forum on Justice Law and Order* held annually, bringing a range of stakeholders together to debate JLOS issues and concerns and provide outreach to civil society.

As outlined above, JLOS and SIP I were more than internal co-ordination mechanisms for the sector's constituent institutions. They also represented the fact that there was agreement between the sector and the MoFPED, key donors¹⁰ and the Office of the Prime Minister (OPM), over the provision of long-term direct budget support and the alignment of the sector with the PEAP.¹¹ In support of the PEAP, the GoU developed a comprehensive Poverty Monitoring and Evaluation Strategy (PMES) in 2002, which included indicators related to JLOS's contribution to the overall goal of poverty eradication.¹² The JLOS institutions, like other sectors of government, were then urged to design institution-level indicators to track progress at all levels from inputs to activities, processes, outputs, outcomes and even reach (to indicate the level of beneficiaries' access to JLOS institutions). Each institution and sector was told to budget for and include M&E activities in the Budget Framework Papers that are presented annually to the GoU (and used as a basis for developing the national budget) and advised to establish PPU's to handle M&E and progress reporting.

JLOS's attempts to establish suitable indicators for its work, which began in 2000 under SIP I, have proved challenging. M&E was initially designed to focus on tracking progress against both Purpose¹³ and Output level indicators set out in SIP I, with the Secretariat being responsible for producing key statistical and management information that would feed into this; but progress was slow. Indicators were gradually developed at the level of institutions and eventually sector-wide through a learning process aided by the 2004 MTE. These indicators were in turn complemented by the gradual growth and consolidation of management information arrangements needed to collate, store and disseminate the relevant information on progress (though much remains to be done in this regard).

Under SIP I, JLOS had two sub-sectors on Commercial Justice and Criminal Justice, which were treated quite separately.¹⁴ For planning and M&E purposes, eight so-called 'Key Result Areas' (KRAs) were identified for each sub-sector, together with output performance indicators and means of verification. However, as later identified, this system provided no obvious means through which to track the performance of the sector as a whole, or indeed of individual institutions in terms of higher order objectives (i.e. purpose / impact).

In June 2003, the Steering Committee adopted JLOS indicators (developed by consultants) for monitoring progress within the two sub-sectors (see annex one).¹⁵ This was a positive step, but a number of problems existed in relation to these sets of indicators. For example, many of the June 2003 indicators lacked baselines or were not specific enough to provide concrete targets for those working with the sector; thus they were of limited value in terms of monitoring progress and impact. Further, as noted in the MTE (see section 2.2 below), the fact that the indicators were not sector-wide also created room for perverse indicators, whereby progress towards certain indicators at institutional level might not in fact contribute towards overall sector objectives. For instance, an indicator was included which measured reduction of convicts on custodial sentences, an output that in itself might not necessarily indicate a reduction in crime overall, but could rather be the result of a failure of the judicial system or a

¹⁰ The Governments of Sweden, Denmark, the Netherlands, Ireland, Austria and Norway currently support the sector via basket funding. Others contribute bilaterally (e.g. DANIDA). Interview with donor official, 09 August 2008.

¹¹ However in contrast to other sectors, JLOS has a minimal amount of donor support, (4-5% of the annual sector expenditure in contrast to approximately 60% for Water, 80% for Health, 65% for Agriculture. Interview with donor official, 11 September 2008. The relevant PEAP components are: Pillar 2: Enhancing production, competitiveness and incomes, Pillar 3: Security, conflict resolution and Disaster management, Pillar 4: Good Governance- promoting human rights and good governance.

¹² Ministry of Finance (June 2002), 'Planning and Economic Development', *The Poverty Monitoring and Evaluation Strategy*, p8.

¹³ 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.

¹⁴ On the criminal side, focus areas included Legal services reform, Administration of justice reform, Law Reform, Civic and Legal Education. On the commercial side: Commercial courts, Commercial Registries, Commercial Laws and Commercial Lawyers.

¹⁵ Following this, in October 2003, JLOS developed the Policy Matrix: Justice Law and Order Sector's Reform Strategy (Objectives and Actions) and Progress Indicators (Outcomes and Outputs).

progressive failure of the police, or, conversely and perversely, an increased tendency of the police to shoot and kill perpetrators.

Reporting did not change to take account of those indicators either, a problem attributed to lack of capacity within the Secretariat and institutional PPU's (this point highlighting the fact that monitoring frameworks are ultimately dependent upon the capacity of national actors to collect, collate and analyse data effectively. Consequently, development partners and the GoU should give greater priority to strengthening national capacity – see sections 2.4.3 and 2.4.4 below).

At the time that these indicators were developed, three over-arching reporting themes were also introduced at the behest of the MoFPED: Access to Justice; Efficiency and Effectiveness; and Quality of Justice. In part this was an attempt to align JLOS's reporting with an overarching poverty monitoring process developed by the GoU's Poverty Monitoring and Analysis Unit. JLOS also adopted these themes for a brief period to guide its activity planning and budgeting at the institutional level. However, as highlighted by the 2004 MTE, this was problematic for a number of reasons: it diverted from the structure of the SIP; the three themes were never clearly defined; and the lack of an M&E framework meant that it was not possible to accurately measure how far outputs contributed to these three themes. The consultants hired in 2005 to revise the JLOS indicators (see section 2.3.2 below) consequently recommended that JLOS should use its own KRAs as its primary planning framework, and revert to using the three themes (Access to Justice, Efficiency and Effectiveness, and Quality of Justice) for M&E purposes only. The consultants also recommended that the list of M&E themes be revised and expanded in line with the five OECD/DAC development evaluation criteria.¹⁶ This recommendation was taken up within SIP II, which stated that reporting would be centred on the KRAs, with the M&E themes being used for monitoring purposes only. It is not clear, however, how the OECD-DAC evaluation themes are being reflected within current sector progress reports.

2.2 *Mid-term evaluation (2004)*

The MTE of SIP was carried out in 2004, the purpose being to review programme management and implementation since the launch of SIP I in November 2001.¹⁷

The MTE was commissioned by the Embassies of the Netherlands and Ireland, co-chairs of the sector's Development Partners Group (DPG).¹⁸ This reflected the fact that funds for an evaluation had not been allocated in sector budgets at that time and suggests a less than desirable level of national commitment to, and ownership of, M&E. However, the establishment of an evaluation committee, jointly made up of the GoU, JLOS Secretariat staff and donors, provided guidance to the evaluators, and served to increase the extent of government ownership. Encouragingly, the situation has now changed and funds for the next MTE (planned for 2009) and for other M&E activities (such as GoU - Donor Review meetings (see below) are now included within sector budgets.

The Terms of Reference for the MTE stipulated that at least two of the envisaged team of four consultants should be locally based, but that the team leader would be an international consultant. In practice, the team of consultants was a mix of Ugandans and foreigners and comprised an M&E specialist; legal, criminal and commercial justice experts; a specialist in financial management; and someone skilled in organisational development.

The consultants were given several objectives, including assessing achievement against agreed targets both at process and implementation levels and evaluating the outcomes of activities carried out within the framework of SIP I. They were also asked to couch their findings in such a way as to suggest a strategy for increased influence of legal sector reform on the poverty eradication agenda of GoU. The focus was primarily on the sector and its functioning rather

¹⁶ The five OECD-DAC evaluation themes are relevance, efficiency, effectiveness, impact and sustainability.

¹⁷ Justice, Law and Order Sector Strategic Investment Plan, Mid-term Evaluation, 2001/2 -2005/6, Vol. 1, Final Report December 2004.

¹⁸ Interviews with donor officials, 12 September 2008 and 09 August 2008.

than the contribution made by different programme activities or by donors. More specifically, the evaluators' Terms of Reference stipulated five focus areas:¹⁹

1. Assess efficiency and effectiveness of JLOS management structure (programme and financial); including the monitoring & evaluation system;
2. Assess JLOS 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, JLOS;
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 JLOS donors;
5. Assess actual/likely JLOS quantitative/qualitative contribution to the PEAP aims (especially addressing poverty, human rights and good governance).

The evaluation was from the beginning earmarked as a tool to assist the GoU and donors in strengthening the JLOS management arrangements, including M&E. This provided the consultants with the mandate to include a strong focus on technical matters, in the knowledge that they had support to constructively critique the sector's management arrangements. The evaluators were told to focus on the sectoral level, while referring to examples from institutions only where they illustrated a sectoral issue. Nevertheless the work was technically challenging. For example, the evaluators were tasked with evaluating the impact of the sector as a whole: however, they were not offered a meaningful definition of impact and could find little relevant information on outcomes and impact at the sectoral level, because the JLOS monitoring system tracked performance and outputs at the institutional level only. Untangling the sector's financial arrangements also proved time-consuming because the sector was and still is funded by a combination of donor and government sources, with some donors using direct budget support but others providing substantial allocations to specific institutions. In the end the evaluation ran significantly over time taking five months and requiring several extensions.²⁰

The final MTE report cited a number of achievements for JLOS, in particular progress made in establishing the 'three Cs' within the sector and between the sector and donors: increased co-ordination, communication and co-operation. However, another key finding of the MTE, one which is elaborated on at length, is that under SIP I, the JLOS M&E arrangements were significantly lacking, leaving the evaluators largely unable to identify attributable impacts on safety, security and access to justice in Uganda (over the review period) to JLOS actions.²¹ This was another reason why the MTE report dwelt heavily on issues of management, process, M&E and reporting rather than outcomes or impacts achieved. The main weaknesses and challenges it cited for JLOS under SIP I in relation to M&E were as follows:²²

- Lack of capacity in the JLOS Secretariat and institutional PPUs;
- Inadequate public feedback;
- Overlapping reporting systems;
- Insufficient user surveys;
- Institution based [as opposed to sector-wide] reporting;
- Information flow between the sector and the institutions not harmonised;
- Ineffective and underutilised complaints mechanisms;
- Management Information System and case management systems not integrated;
- Inappropriate indicators.

The MTE devoted significant space to critiquing the JLOS indicator set, recommending substantial changes. It highlighted that only some of the indicators (revised in 2003, and found in annex one) had accompanying baselines and targets according to which they could be measured, and further noted that:²³

¹⁹ *Ibid*, p v.

²⁰ Interview with consultant, 08 September 2008.

²¹ The Chain Linked pilot project was however singled out as being able to show progress at this level.

²² Abbreviated version of a list later outlined in JLOS Strategic Investment Plan II (2006/7 – 2010/11), April 2006, p 51.

²³ Mid-Term Evaluation, *op cit*, p 145.

- '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 JLOS 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 JLOS impact on civil cases.'; and
- 'The indicators selected contain 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.'

The evaluation was generally well received within the sector, and as a result of its critique of the JLOS indicator set, another consultancy was awarded to recommend revisions to the indicators, (see below).

The MTE's findings in relation to the JLOS indicators are some of the most telling in what is a long report. They illustrate well a point made by one of the MTE evaluators in an interview conducted for this study, namely that at the time of SIP I, JLOS was not truly functioning as a sector. Field-visits attended by the evaluators found that many of those they met within JLOS institutions showed little awareness that they formed part of a sector and should be working towards a set of shared objectives. This meant that the problems facing institutions tended to be interpreted in narrow institutional terms rather than sector terms, (for example, prisons are congested leading to the conclusion that more prison space is needed.). It seems that at this stage JLOS was more a convening of institutions to share and access resources than what was intended, that is a joint working arrangement which would help address common problems.²⁴

While, the main focus of the MTE was on technical factors, it did also raise some important broader issues. For example, the MTE stated that, *"Uganda's military and intelligence agencies are increasingly performing law enforcement roles normally the preserve of the civilian police"* and that, *"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 JLOS"*.²⁵ Factors such as these are significant in terms of monitoring and evaluating the impact of JLOS for several reasons. The extent to which JLOS is able to achieve its policy objectives as measured in terms of indicators, such as, *"percentage of public that feel assured of safety of the person and security of property increased by 2010"*,²⁶ will inevitably be determined in part by the behaviour and role of actors who are outside the JLOS sector. As noted by interviewees, in large parts of Uganda the experience and perception of the public with regard to their safety and security will be determined as much by the actions of UPDF and other actors as it will by JLOS institutions; thus making it difficult for JLOS and its institutions to achieve, or to measure performance against, their objectives. The MTE notes that these factors are undermining the sustainability of JLOS reforms and that, *"security sector actors which have a direct bearing on the achievement of SIP policy objectives should be part of the JLOS human rights based planning and monitoring"*.²⁷ Limited dialogue appears to have occurred to date on this issue however, with some donors who support the sector arguing that this is a political issue which cannot be addressed at the primarily technical level at which the sector operates.²⁸ Given the significance of this issue in terms of the realisation of JLOS objectives, it is however vital that sustained attention is given to this point and that it continues to be raised as part of JLOS' M&E processes, which should not be limited to technical concerns but should also look more

²⁴ Interview with consultant, 12 September 2008.

²⁵ Mid Term Evaluation, p 82.

²⁶ Nordic Consulting Group (June 2005), *JLOS Technical Note on Developing Sector-Wide Output and Input Indicators*, p 5.

²⁷ *Ibid.*

²⁸ Interview with donor official, 09 September 2008.

broadly at the overall constraints and opportunities affecting the success and impact of the sector as a whole.

2.3 Strategic Investment Plan II

2.3.1 M&E priorities under SIP II

Many of the more technical recommendations arising from the MTE were clearly taken up in the sector's next investment plan, SIP II (2006/7 – 2010/11), including the recommendation to establish a better M&E framework. Importantly, this signalled enhanced recognition of the need for evidence based planning, reporting and decision making, which, as stated in the SIP II, was required in order to ensure:²⁹

- A rational case for resource allocation;
- An assessment of impact – particularly in relation to the JLOS contribution to the PEAP;
- Motivation of JLOS staff;
- Sufficient flow of information to the Ugandan public in order to stimulate the 'demand side' related to JLOS reform initiatives;
- Sufficient flow of information to the development partners so that they will be encouraged to maintain support to the sector.

A key aim of SIP II was to use its strengthened M&E system as a means by which to improve the performance and added value of the sector as whole, through focusing on a shared set of objectives and indicators, the achievement of which required the effective co-operation and co-ordination of all its institutions. This can be seen as a response to the finding of the MTE that under SIP I the sector had suffered from the lack of a shared vision and a planning framework which could unite and motivate JLOS officials and institutions, and enhance their appreciation of the value of a sector-wide approach. The sector itself was also maturing and expanding at this point, drawing in new institutions and expanding the thematic focus (under SIP I) on Criminal Justice and Commercial justice to also include, under SIP II, Land and Family Justice.³⁰ Priority actions under SIP II with relevance to M&E therefore included:³¹

- Establishing baselines through a JLOS wide baseline/follow-up survey which will also enable the sector to review the proposed indicators and targets;
- Improving / standardising data collection formats and registers across the sector;
- Improving record keeping through training of records staff and computerisation;
- Linking institutional Management Information Systems and Case Management Systems across the sector;
- Reviewing management structures from local to the national level to facilitate structured inputs from the public and from advocacy groups;
- Enhancing analysis and use of existing data among management for decision making and policy formulation;
- Conducting regular surveys to gauge user perceptions and experiences and track changes; and
- Developing and implementing a dissemination strategy for reports generated.

As suggested by this list and stated within the SIP II document, the process of developing the M&E framework was to be ongoing throughout the plan's duration. The following section describes progress made since 2004 in developing the JLOS M&E framework in line with these priorities.

2.3.2 Revising indicators

²⁹ Strategic Investment Plan II, p 50.

³⁰ The original ten institutions were joined by the Human Rights commission and there are also now 'Allied' institutions including the Ugandan law Society, Tax Appeals Tribunal and the Law Development Centre. Interviews with JLOS Secretariat official, 10 September 2008 and donor official, 09 August 2008.

³¹ *Ibid*, p 52.

In 2005, prior to the drafting and launch of SIP II, a consultancy exercise was undertaken to refine the JLOS indicators, in line with recommendations of the MTE. After some debate, the consultants were asked to focus only on sector-wide indicators since most JLOS institutions were still developing their own objectives and outcomes. Thus, it was too early to develop refined indicators at institutional level to measure performance against these objectives. The revised set of sector-wide indicators included improved purpose level indicators and sector-wide impact indicators under each of the revised set of KRAs. (In developing these indicators, the consultants took note of materials developed by the Vera Institute of Justice.) Whereas under SIP I the KRAs were divided under the two headings of Commercial Justice and Criminal Justice, the consultants recommended that this division be removed and that a new set of five *sector-wide* KRAs be developed in line with the SIP policy goal and objectives, under which the new indicators could be grouped.³² It was also proposed that a select number of sector-wide purpose-level indicators (so-called 'golden indicators', sitting at the level above KRA indicators) be developed and tracked over the long-term to measure factors such as perceptions of safety and access to justice. The new set of indicators was seen to be truly impact focused and sector-wide, and well equipped to avoid any perverse incentives or knock-on effects. The consultants proposed that the next stage would be to develop annually-focussed institutional-level indicators, which would be linked to this new sector-level indicator set.

Subsequent to the 2005 consultancy, the same group of consultants (some of whom, as noted above, had also been part of the team undertaking the MTE) were tasked with developing SIP II. Perhaps not surprisingly, therefore, SIP II reflects many of the recommendations from the MTE and also the 2005 consultancy. The KRAs and indicators recommended by the 2005 consultancy were largely adopted within SIP II, with some amendments. SIP II thus has a logframe containing a robust set of both 'purpose indicators' (measuring progress in terms of the SIP II's purpose) and 'performance indicators' (grouped under, and measuring progress in terms of, the five KRAs), which marked a significant progression from SIP I. During the implementation of SIP II, work has remained ongoing to tighten up this framework. This has recently resulted in a draft 'JLOS Policy Matrix', which extrapolates from the SIP II logframe and incorporates the baseline data captured through the 2007 Baseline and Follow-up Survey (see section 2.3.3). The draft JLOS Policy Matrix, reproduced here in full in annex two, builds upon the logframe by identifying particular 'policy actions' to be undertaken against each of the KRA-level indicators. In this way it promotes a model of ongoing planning which is tightly linked to the sector's overall benchmarks.

Alongside the sector-wide JLOS Policy Matrix, a draft 'Institutional Policy and Indicators Matrix' is also currently being developed, encapsulating the new institutional-level indicators. This matrix is a compilation of matrices prepared by each institution within the sector.

Within the draft Institutional Policy and Indicators Matrix, each institutional sub-matrix is arranged under the same five KRAs that exist at the sector-level and focuses on those interventions which are relevant to that institution. Alongside each intervention, the institutional matrices then list both the relevant sector-wide indicator and also an institutional indicator. This illustrates the change that needs to be achieved by that particular institution in order to contribute to the sector-wide indicator. The institutional indicators are primarily performance indicators (that is number of offices established/lawyers recruited; annual percentage increase in disposal rate of cases registered against judicial officers). As the entire matrix runs to 29 pages, the table below shows an excerpt from the draft sub-matrix for the Directorate of Public Prosecutions (DPP), focused on a specific intervention under KRA three.

INTERVENTION	JLOS INDICATORS	POLICY ACTIONS	INSTITUTIONAL INDICATORS
KEY RESULT AREA 3: ENHANCED ACCESS TO JUSTICE FOR ALL ESPECIALLY THE POOR AND MARGINALISED			
3.1 Rationalised	• %age of	• Prioritised	• 2 regional offices

³² Nordic Consulting Group, *op cit.*

physical access and availability of JLOS institutions and functions ensured.	public with access ⁱ to JLOS institutions increased by 2010	renovation, construction and equipment of offices <ul style="list-style-type: none"> • Phased recruitment, induction, and training of staff • Availability of services 	established and equipped annually (3 in Northern Uganda, 2 in Eastern Uganda, 2 in Western Uganda and 3 in Central/Buganda) <ul style="list-style-type: none"> • 30 lawyers/state attorneys recruited annually (87% of establishment total filled by 2010) • Reduction in average case load per state attorney from 50 per month • Prosecutions • Advisory services to District Local Governments. • Supervision of police investigations
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The intention is that the Policy Matrix and the Institutional Policy and Indicators Matrix will be combined to form an overall monitoring framework for the sector. This process is yet to be finalised but is due to be completed by August 2009. This process is likely to be accelerated once the JLOS Secretariat has recruited an M&E expert (and at the time of writing it was hoped that this appointment would take place in January 2009).

The sector has thus now progressed to the stage of having specific impact focused sector-wide indicators and also output focused institutional level indicators under each of its five KRAs, and it is beginning to use this framework as basis for its planning as well as M&E. It has taken a number of years and several attempts at indicator sets to reach this stage, but the positive aspect of this is that the current indicators and related M&E framework have been developed not only on the basis of the expertise of consultants and officials within the sector, but also as a result of the evolving experiences of the sector as it has gradually matured. The process of elaborating indicators for SIP III (assuming that there will be a SIP III) should be eased by the learning from this process and by the existence of this improved set of SIP II indicators. Further, it should be possible to elaborate institutional level indicators from the outset of SIP III, rather than has been the case under SIP II whereby the development of indicators is only now occurring although implementation is well underway.

The JLOS indicator set is also now linked to higher level processes. The PEAP, to which JLOS has been aligned since the creation of the sector, is being replaced by a National Development Plan (NDP) which, *“place growths and employment as focal strategies for poverty reduction and increased incomes for all.”*³³ A central tool by which to monitor the impact of the NDP and to ensure that it is results oriented will apparently be the Uganda National Panel Survey (UNPS), through which data will be continuously collected through an annual cycle over a period of 10 years. A November 2008 draft document on the UNPS suggests that data will be collected across a range of areas such as agriculture, housing and water and sanitation, but does not appear to cover issues relating to justice and security. According to the chair of the JLOS DPG, the intention is however that UNPS could in future start to measure some of the more relevant (income and poverty reduction focused) of the JLOS indicators too. This could be a welcome development in terms of ensuring that regular information is collected against parts of the JLOS indicator set, but care needs to be given to ensuring that related M&E

³³ Draft Uganda National Panel Survey (UNPS), November 2008.

frameworks are feeding effectively into each other, and ensuring that efforts pool rather than stretch Uganda's limited human and technical capacity.

2.3.3 *Establishing baselines*

As noted above, developing baseline/tracker surveys was identified as one of several M&E-related priorities for JLOS following the 2004 MTE. Prior to this, relevant information had been available from a number of sources, including two separate Criminal Justice and Commercial Justice Baseline Surveys commissioned in 2000 and 2001 under SIP I. The value of these surveys was compromised by the fact that they took place after the finalisation of SIP I, thus not directly contributing to the initial identification of priorities and activities by the sector. These surveys were also criticised by some in the sector for offering only a partial picture, being narrowly focussed, failing to deal with cross-cutting issues such as HIV, and dealing only moderately well with issues relating to perceptions of safety, security and access to justice. Nevertheless, according to the MTE report, they did make a substantial contribution to the subsequent setting of indicators (in that they allowed baselines and targets to be set for at least some of indicator set).

The 2005 consultancy commissioned to refine the indicators (see above) highlighted, however, the need for a follow-on *sector-wide* baseline survey. This recommendation was included as a priority area for action under SIP II, with the survey duly being carried out at the outset of SIP II implementation, in 2006-7. The purpose of the survey was to:³⁴

- Generate current baseline information in each of its sector measurement areas to inform the choice of indicators;
- To provide a basis for the setting of targets across the JLOS programme areas;
- To establish a functional M&E system for tracking progress, moving from baseline findings to actually achieved targets.

The sector-wide survey was thus designed to capture data, which could provide a baseline for the indicators included within the SIP II logframe. Those interviewed for this case study were broadly satisfied with the survey. In addition to capturing baseline data against the SIP II indicator set, the Steadman Research Group, which undertook the study, also identified cases where they felt that specific indicators provided to them were not fully serving their purpose and made recommendations as to how they could be improved so as to enable more effective tracking of progress and change.³⁵

SIP II provides for follow-on sector-wide surveys to be conducted every three years, and it is to be hoped that this will be the case and that this may also be co-ordinated with the NDP – see above. Also, priority should be given to building the capacity of national institutions to conduct such surveys themselves (as appears will be the case with the UNPS to be undertaken in support of the NDP), as part of broader efforts to establish national capacity and reduce reliance on external consultants. As outlined elsewhere in this paper, this is crucial to the sustainability of M&E processes and is likely to influence the extent to which the GoU and JLOS truly internalise and act upon the findings of this and other monitoring processes.

2.3.4 *Monitoring activities*

In addition to the planned surveys listed above, a range of monitoring activities now take place to assess the progress, outcomes and impact of SIP II implementation. Some of these activities were also provided for under SIP I, but the enhanced M&E framework under SIP II, including sector-wide impact indicators and baseline survey, greatly enhances the extent to which it should be possible to measure the impact of the sector.

The main elements of SIP II's monitoring arrangements (and accompanying reporting activities) are described and analysed below.

³⁴ Steadman Group (2007), *National Integrated Household Baseline Study on the Demand, Use and Access to JLOS Services in Uganda for Ministry of Justice and Constitutional Affairs*, p 5.

³⁵ *Ibid.*

a) Annual and quarterly workplans

Key reference points for planning and monitoring are JLOS' annual workplans that are developed jointly by all member institutions and the Secretariat with planned activities prioritised in line with sector-wide objectives. In line with the annual workplans, JLOS institutions submit quarterly workplans which feed into a quarterly sector workplan, which is forwarded to MoFPED as the basis for the release of funds for that quarter. Though having sector-wide objectives does not eliminate tensions and competition for resources between the sector's institutions, it does encourage co-operation in terms of priority setting and force some consideration of the input and co-ordination required by each institution to realise common goals.

b) Six-monthly progress reports

The production of progress reports does not constitute a monitoring system per se, but it is one component within the JLOS M&E system.

Six-monthly progress reports are prepared by the sector, and are used as the basis for discussion at the Joint GoU-Donor Partner Reviews (see below). Under SIP I, reporting primarily focused at the level of inputs – recording the extent to which, under the two separate sub-components of SIP I, the inputs listed under each KRA had been implemented. This meant that the focus was largely on activities that had taken place, documents that been produced, or strategies that been implemented, rather than on analysing the effect and impact of these interventions. These SIP I progress reports also required reporting against performance indicators, but this was at the level of institutions rather than the sector and was based on performance rather than impact indicators; that is looking at whether community service schemes had been rolled out or a national strategy for juvenile justice had been implemented, rather than examining the impact of these activities for instance in relation to public perceptions of safety and security or levels of confidence in the justice system. Further, this reporting did not take place against specified baselines or targets. Thus these reports were of limited value in terms of accurately assessing whether JLOS was meeting its SIP I Goal or Purpose.

Under SIP II, the format of the progress reports has changed. This reflects the integration under SIP II of the reform components on Commercial Justice and Criminal Justice and of the new components on Land and Family Justice. It also reflects the conscious shift under SIP II towards evidence-based planning and impact-focused M&E. Since the June 2007 report, the new sector-wide and institutional indicators (included within SIP II and expanded upon within the Draft Policy and Indicators Matrix – see section 2.3.2) have been used as the basis for reporting. These reports are thus organised under the five integrated KRAs under SIP II and, 'combine progress on interventions during the year with the cumulative impact of the ongoing reform. The analysis of the progress across the entire sector is informed by data obtained from the institutions that implement the activities and from the sector-wide baseline and follow up survey'.³⁶ Therefore, under each KRA, information is arranged under the relevant indicators for that KRA and reference is made to the baseline survey data as a means by which to measure progress and impact to date and to identify priority actions needed in the coming period.

These reports also contain additional narrative on financial performance, challenges and recommendations, and progress against agreed undertakings (see sub-section c below).³⁷ The individual reports from each institution (which are used as the basis for compiling these progress reports), are included as annexes. These reports provide a structured basis for discussion (at the Joint GoU-Donor Review meetings) and are influential in determining the contributions from development partners towards the JLOS budget for the following year. The fact that these reports play a part in determining financial contributions towards the sector highlights the importance of having workable, timely and results-focussed M&E and reporting

³⁶ JLOS Progress Report Presented to the Twelfth Joint GoU / Donor Review, June 2007, p 2.

³⁷ SIP I reports also contained a section on sector-wide policy concerns, the need for which appears to have been removed under SIP II, within which all reporting is sector-wide.

arrangements. Sectors that are less able to present evidence of their efficiency and contribution towards the realisation of PEAP objectives (or presumably in future the NDP) are more likely to suffer budgetary cuts, either targeting specific institutions (through what is known as the 'basket fund workplan'), or within the overall national budgetary process which MoFPED leads. Unfortunately for JLOS, its initial lack of PEAP-compliant monitoring indicators meant it was less able to demonstrate its contribution to poverty reduction at a time when this was the overriding national political priority.

The fact that these reports are based upon, and reliant on, progress reports submitted by each of the institutions is also problematic in terms of their accuracy. As noted in the June 2007 progress report reviewed for this case study, there is limited ability within the institutions to provide accurate or reliable data in a timely manner and, *'if the performance assessment framework of the JLOS is to bear relevance as a basis for measuring progress, management information systems must be strengthened.'*³⁸ Further, the limited staffing and capacity of the JLOS Secretariat presumably makes it difficult to verify the information provided by the institutions. The size and scope of the reports is also such that the task of the Secretariat in analysing the information received from the institutions and compiling it in accordance with sector-wide indicators is very time-consuming.

c) Joint GoU-Donor Review Meetings

Joint GoU-Donor reviews (also referred to as 'JLOS Reviews', particularly by donors/development partners, in recognition of the contribution that they would like other stakeholders [including CSOs and the private sector] to also make) take place annually under SIP II (reduced from biannually under SIP I) and are informed by the six-monthly progress reports (see above). The review meetings are now catered for through the regular planning and budgetary processes, which is positive since it reflects the fact that M&E has become a central facet of JLOS work. They provide an important opportunity to analyse and critique the sector progress reports and identify priority actions and undertakings required to address gaps or challenges. They are also a forum through which development partners can seek to hold the GoU to account for its spending of their contributions to the sector. Additionally, these JLOS Reviews provide a space to consider some of the more political considerations, impediments or opportunities relevant to JLOS (such as the role that can or should be given to local transitional justice systems in Northern Uganda in the resolution of, and recovery from, the LRA conflict). In this regard, and relating to the findings of the MTE on this issue (see section 2.2 above), consideration should perhaps be given to discussing the significant issue of the sector's relationship with actors relevant to the sector but not included within it, such as the military.

JLOS-Development Partner Technical Meetings take place every six months to allow detailed discussion of the progress reports ahead of the annual review. Preparation for the JLOS Review is co-ordinated by the Secretariat and it is attended by JLOS institutions, development partners and selected stakeholders. At the Technical Meetings and the Reviews, development partners critique the progress reports, firstly from a political and then a technical perspective. Topical issues are also identified for further discussion. Development partners and the GoU then sign an *aide memoire* listing 'undertakings' against which they are to be measured at the next review meeting, and progress against these undertakings is included in the next semi-annual progress reports, alongside the regular reporting against sector KRAs and indicators. Undertakings can be either output or process focused. Past examples include, 'Eliminate case backlog at the Commercial Court by January 2008' and, 'Re-introduce the Companies Bill, the Insolvency Bill and the Trade and Service Marks Bill in Cabinet by June 2007'.³⁹

Reporting against these undertakings is an important factor in triggering the release of funds by donors. However, one donor with an important and influential role in relation to the sector has suggested that too great a focus is placed on reporting against undertakings at a cost to the value and focus given to the regular M&E processes and indicators. Consequently, this interviewee suggested that greater value is placed on reporting against specific undertakings agreed between the GoU and development partners on an annual basis than is placed on

³⁸ JLOS Progress Report, June 07, p 2.

³⁹ *Ibid*, pp 30-31.

ongoing progress against objectives and indicators as contained in SIPs I and II.⁴⁰ This is concerning because, if this is the case, it would appear to detract from the need to monitor progress in the sector across the board and at impact level, in line with the KRAs.

Another possible criticism of these Reviews is that the focus appears to be on the development partners holding the GoU to account, with limited emphasis given to the additional need for the GoU and others to be able to hold development partners to account in relation to their support for and engagement with the sector. This is important for the principle of mutual accountability, which has been highlighted within the Paris Declaration and Aid Effectiveness agenda. (See further discussion on this point in section 2.4.8 below).

As noted in the MTE, these meetings could also provide an opportunity for peer review among the JLOS institutions themselves, with each institution having a chance to question others on the content of their reports, but it appears that currently this is not taking place due to the focus on reporting to development partners.

d) National Justice Forum

An annual National Justice Forum also takes place, which (in terms of M&E) is aimed at: informing the public about the performance, problems and potential of the sector; and receiving feedback from civil society, the private sector and the development partners who support JLOS.⁴¹ The National Justice Forums bring together JLOS members and key stakeholders to reflect on JLOS performance for the year ending and to indicate priorities for the year ahead. A particular focus is given to discussion of a priority issue of emerging importance to the sector (again providing a potential opportunity to look at the sector's relationships with significant actors outside its membership).

The 2007 meeting focused on the issue of case backlog, and the 2008 meeting on Transitional Justice. These fora are an important opportunity for the sector to give and receive feedback to/from the public and civil society, which is crucial in terms of its accountability and in promoting a sector, which is responsive to the need of its beneficiaries. They are also a space in which to engage in targeted and in-depth discussion on particular issues, and to gain from the expertise and opinions of stakeholders from beyond the sector itself. However, the space for genuine input from CSOs at these meetings is, according to one particular CSO, limited, since CSOs are the smallest players present and much of the discussion takes place in plenary format with limited potential for in-depth debate (see further discussion of the role of civil society in section 2.4.7 below).⁴²

e) Regional / District Reviews

According to SIP II, Regional/District Reviews are to be held annually in selected regions and districts of the country to enhance planning, implementation and monitoring of the SIP II and to obtain feedback for the national JLOS Review. The JLOS Technical Committee, with support from the Secretariat is intended to liaise with the JLOS Co-ordination Committees (JCCs) at the district level to organise these JLOS reviews. The JCCs are mandated under SIP II with: generating information at the district level concerning implementation constraints and challenges; and feeding local responses and concerns into JLOS progress reports.⁴³ So far, the district level JCCs have been established in Northern Uganda, which is being treated as a pilot area, but are yet to be rolled out across the country.

The Regional/District Reviews should involve JLOS institutional representatives at the district/regional levels, CSOs, the private sector and members of the public. In this regard they should provide an important link between the national and local level and promote effective and accountable service delivery, which addresses local needs. They could also serve to raise awareness of the sector and local ownership amongst JLOS institution officials at the local

⁴⁰ Interview with donor official, 11 September 2008.

⁴¹ Strategic Investment Plan II, p 54.

⁴² Interview with CSO representative, 17 September 2008.

⁴³ Strategic Investment Plan II, p 55.

level, which is reported to be low. Yet at the time of writing, the reviews are not taking place. Neither is it clearly stated within SIP II exactly how these reviews are intended to link to the other components of the M&E framework. Further elaboration in this regard (presumably by the Secretariats' pending M&E specialist below) may help to demonstrate the value of these reviews and get them started. But these Regional/District Reviews, and the roll out of the JCCs, will also have cost implications.

f) *Joint Inspections*

The Joint Inspections provided for in SIP II (also referred to as M&E visits and Field Visits) are intended to complement the Regional/District Reviews. These inspections are conducted by the Secretariat, plus representatives from the institutional PPU, the Development Partners Group and MoFPED. This team agrees on a geographical area to visit and analyses recent funding allocations, workplans and progress reports that are of relevance. This information is then compiled into a matrix, which the team takes with them to the field and uses as a basis for monitoring and verifying progress on the ground. The team assesses whether activities have taken place and the speed and quality of implementation (that is, has construction taken place or training been delivered, how quickly, and to what quality?) and, according to the JLOS Secretariat, also seeks to analyse progress against institution and sector-wide indicators.⁴⁴ These visits represent an important attempt to verify reporting and data and are also an opportunity for officials normally stationed in Kampala to go to the field and appreciate some of the challenges faced by JLOS institutions on the ground, which need to be taken account of in national planning processes.

Unfortunately, to date these visits have not taken place as regularly as planned for – according to the JLOS Secretariat they are supposed to occur every six months but there have been only three since 2003.⁴⁵ The Secretariat however plans to regularise these visits once the Secretariat has recruited its M&E specialist. One donor official however reported that these trips have been too donor-led and that the emphasis is skewed towards the GoU holding itself to account to the donors rather than to itself and its public. This official suggested that greater emphasis needed to be placed on involving stakeholders on the ground in these visits and that greater attention should be given to identifying the added value of JLOS interventions, rather than focusing primarily on inputs and activities.⁴⁶ Another donor official also criticised these visits for having insufficient focus on the beneficiaries – citing one particular trip which focused on prisons, but apparently entailed only inspection of the buildings rather than any dialogue with prisoners regarding their treatment or conditions.⁴⁷ Several donor officials indicated that the visits would benefit from a clearer ToR and that their value could be greatly enhanced if they were better focused and organised, as well as being conducted regularly.

2.3.5 *Information sources and management systems*

While it is possible to develop sophisticated frameworks for M&E, their utility will always depend upon the collection, storage and effective usage of relevant and accurate data and this remains a big challenge for JLOS. JLOS monitoring currently relies heavily on the quarterly reports, which are submitted by each institution and compiled into the six-monthly sector-wide progress reports. It is right that the institutions should play a role in M&E, since they are the primary implementers of the SIP and should prioritise efforts to monitor their performance and ensure that they are performing effectively and efficiently. The institutions also have an overview of inputs and outputs and are present at the local level, therefore closer than either the Secretariat or the development partners to the beneficiaries whose points of view and experiences are a measure of the sector's impact. However, the linking of these institutional progress reports to the release of funds by donors to the sector creates the potential temptation for institutions to overstate their needs and/or successes. This presents a dilemma since it is important to create incentives for good performance and to link M&E to budgetary processes, but at the same time this may influence the content of monitoring reports.

⁴⁴ Interview with JLOS Secretariat official, 10 September 2008.

⁴⁵ *Ibid.*

⁴⁶ Interview with donor official, 11 September 2008.

⁴⁷ *Ibid.*

It is therefore vital to have in place a system of checks and balances which can minimise this risk. This should entail the verification of reported progress, stringent peer review, and the supplementing of data with information collected through other means and sources. Utilising a range of data sources and collection methods is further important not only to enable the cross-checking of data but also to gain a variety of information types. For instance, while the institutions are well placed to report on inputs and outcomes, in terms of measuring impact it is important to also collect information from those groups who are the intended beneficiaries of JLOS programming. This could be achieved through user surveys and public feedback mechanisms. The range of data feeding into JLOS M&E processes is currently limited, in that envisaged mechanisms such as the Joint Inspections, District / Regional Reviews, and JLOS User Committees are either, not established or taking place (in the case of the Reviews and User Committees) or occurring infrequently (in the case of the Joint Inspections).

The 2006/7 sector-wide baseline survey was one significant step forward in this regard and it is to be hoped that follow ups are conducted every three years, as planned. Further consideration should also be given to undertaking regular user surveys, which were also planned for within SIP II but do not appear to be taking place.

While, as suggested above, there may be some incentives for institutions to subvert their reports for financial or other reasons, concerns also exist regarding their technical capacity for accurate data collection and management. Weak and unco-ordinated Management Information Systems (MIS) were identified as a problem in the 2004 MTE and it appears that only limited improvements have since been made.⁴⁸ The MTE recommended a new sector-wide MIS, but this would prove very expensive. So far, some progress has been made towards developing a standard sector-wide reporting format for collecting and submitting information within the police, to enable the tallying of information between districts and with Police Headquarters. However, the sector still lacks an integrated record keeping system that would enable the accurate tallying and analysis of information over time and between institutions.

2.3.6 JLOS management structures

Improving the workings of JLOS management structures is obviously key to improving M&E, for as illustrated in the above sections, JLOS structures have vital roles in monitoring and reporting performance, setting indicators, guiding evaluations and actioning their findings. The functioning and performance of key JLOS M&E structures, and some potential areas for improvement, are described briefly below.

a) Policy and Planning Units (PPUs)

Both SIP I and II allocated a central role to the PPU within each of the JLOS institutions. According to SIP II, the role of the PPU in relation to M&E is to: collect, review and evaluate performance data at institutional level; and monitor and evaluate policy development and programme implementation based on agreed sector-wide activities and indicators.⁴⁹ At the time of the MTE, it was reported that not all PPUs had been established and that this delay had been a significant constraint to the evolution of JLOS.⁵⁰ The MTE further noted that there was not a uniform structure for the PPUs, that they were in need of capacity-building, and that most did not include M&E specialists, despite having a central role in the sector's M&E. Too few interviews were carried out for this case study to determine for sure whether all PPUs are now in fact functioning and whether the operating problems of those that existed in 2004 have now been solved. However, informal discussions with a number of stakeholders suggest that in most institutions significant room for improvement remains.

b) JLOS Secretariat

⁴⁸ Mid Term Evaluation, 2004, p 147.

⁴⁹ Strategic Investment Plan II, Annexes, p 18.

⁵⁰ Mid Term Evaluation, p 113; Interview with consultant, 12 September 2008.

The Secretariat is tasked by SIP II with managing the sector wide M&E function, in collaboration with the institutional PPU's.⁵¹ In practice, the Secretariat's role includes compiling the six-monthly sector progress reports and organising and co-ordinating the Joint GoU-Donor Reviews, the National Justice Forum and the Joint Inspections. The Secretariat thus has a demanding task with regard to M&E.

The MTE highlighted the human resource constraints of the Secretariat and recommended the recruitment of an M&E specialist. This was provided for within SIP II and a ToR for the role developed, but to date this recruitment has not taken place. Given the Secretariat's importance to the sector and reform process, including M&E, it is vital that this appointment be made without further delay (and indeed at the time of writing it was hoped that this person would be in position in January 2009).

c) JLOS Development Partners Group

SIP II identifies a range of collaboration and co-ordination mechanisms designed to ensure an effective contribution by the Development Partners Group (DPG) to the JLOS reform process. These include JLOS Review and the Joint Inspections/Field Visits (see above). During SIP I, the JLOS Steering Committee wrote to the Donor Group raising concerns regarding the technical capacity of some of the donor representatives. As highlighted in the MTE, this suggests a need for tailored capacity building support for those donors engaging with the sector, in addition to the ongoing need for capacity building within the JLOS institutions themselves.

Suggestions as to how this could be achieved have included training, including a focus on how to measure and determine impact, and the development of a 'Nutshell Guide' to the sector.⁵² Although these steps do not appear to have been taken, the arrival of international guidelines for donors on justice and security sector programming via OECD-DAC in April 2007 can be counted as an important resource to draw on and improve skills and awareness where it is lacking.⁵³ Unfortunately, not all donor agencies interviewed during this research were aware of this resource – an indication that more remains to be done in this area.

2.3.7 Public participation

SIP II recognises the importance of engaging the public in order to ensure that they participate actively in the 'demand side' of justice reform, that is as reporters of crime, witnesses, enforcers of laws etc, and outlines various measures to be taken in this regard, such as community policing, user-friendly guides to JLOS, and the establishment of user committees. While it does not clearly state the role of the public in terms of M&E or the means by which their experiences would be captured for monitoring purposes, a number of SIP II's indicators are framed from the point of view of beneficiaries. These include, 'percentage of public with access to JLOS institutions increased from 25% to 50% by 2010' and 'perceptions of safety and security of person and property/investments increased at local at local and international levels by 2010'.⁵⁴ It is therefore important that the sector has in place processes and structures through which the experiences and perceptions of the public (particularly the poor and vulnerable) can be captured, monitored and used to inform future programming. The baseline/follow-up survey of 2006/7 captured data against the SIP II indicators, including those relating to the experiences of the public, and the next survey will enable tracking of this data. It is also important however to track the experiences of the beneficiaries and users of the sector on a more regular basis, both in order to enable ongoing monitoring and as a demonstration to the public of the importance that the sector attaches to them. There are a

⁵¹ Strategic Investment Plan II, p 54.

⁵² Mid Term Evaluation, p 88; Interview with consultant, 12 September 2008.

⁵³ OECD-DAC, *op cit*.

⁵⁴ SIP II does not define specifically its beneficiaries, but states its purpose as to, 'improve the safety of the person, security of the property, and access to justice in order to encourage economic development and benefit poor and vulnerable people'. SIP II, p xii. It can therefore be deduced that JLOS is intended to benefit all citizens of Uganda, but particularly the poor and vulnerable, and this is in line with the goal of the sector in ensuring that quality of life is improved and poverty eliminated.

number of mechanisms through which this might be achieved, although none of them appear to be fully used at present:

Regional / District Reviews: These reviews are supposed to take place annually and to enhance monitoring of progress at the local level, though as noted above they are not yet taking place. When these reviews do start to occur, it will be important to consider how best beneficiaries can be involved.

JLOS Co-ordination Committees: JCCs are being rolled out gradually and are to include representatives from Civil Society Organisations (CSOs) and civil and local leaders. CSO and civic and local leaders' participation in these committees should assist to some extent in monitoring impact on beneficiaries. However, if these committees are to serve as means by which to strengthen users' voices and contribution to M&E, care must be taken to ensure that selected CSOs and leaders have a genuine local constituency and reflect the concerns and experiences of local communities.

User Committees: Whereas the JCCs include representatives from CSOs but not members of the public as such, some donors and others within JLOS have been calling for the establishment of Users Committees, comprising members of the public who 'use' or are affected by JLOS, its services and its performance.⁵⁵ User committees were provided for within SIP II but have not yet been established, and there are differing opinions as to the utility of establishing these as independent structures, with one prominent donor official suggesting that all local level input should be integrated within the JCCs, with user committees potentially being attached as sub-committees.⁵⁶

Either way, it is vital for effective M&E and the performance and accountability of the sector that further steps are taken to ensure the collection of data regarding the sector's impact on users and beneficiaries. Other potential tools proposed by one interviewee from within the sector include user boxes, focus groups and/or random surveys. All could potentially be considered providing the tool is appropriate in each case to the particular user and institution in question.⁵⁷

2.4.7 *The role of civil society*

SIP II also recognises the importance of civil society and private sector input, stating that, *"both CSOs and the private sector have a monitoring, advocacy and feedback function within JLOS. Both categories also play a critical complementary role to JLOS in service delivery. Creating a conducive environment for civil society and private sector involvement in these dual roles is therefore imperative"*.⁵⁸

SIP II indicates that CSO involvement will be achieved through membership of certain structures, namely Working Groups⁵⁹ and the local level JCCs, and through attendance at the National JLOS Forum, District/Regional Review and Joint GoU-Donor Review. This implies an important role for CSOs in M&E. In practice, CSOs have indeed been included as members of Working Groups and have participated in the National Forum and Joint Review. This is certainly a welcome recognition of the role of CSOs in monitoring and holding the sector to account, as well as making a contribution towards service delivery. In interviews undertaken for this case

⁵⁵ The initial idea was to establish committees for the users of commercial courts only, to be convened by Chief Magistrates. It was pointed out that committees could work but would need to be well linked into national M&E arrangements and co-ordination structures and have robust reporting procedures. Nevertheless, identifying whom gets to participate and on what terms is not unproblematic. Interview with donor official, 09 August 2008.

⁵⁶ Interview with donor official 09 September 2008.

⁵⁷ As the interviewee pointed out, tools such as suggestion boxes work fine in commercial courts where there is a clear user and the motivation for submitting views obvious. In the case of criminal courts, this may not be suitable since many potential respondents would in fact be prisoners.

⁵⁸ Strategic Investment Plan II, p 39.

⁵⁹ Working Groups are sub-groups within the Technical Committee, through which the Technical Committee largely operates. There were two Working Groups under SIP II (on Commercial Justice and Criminal Justice) and are four under SIP II (Criminal Justice, Commercial Justice, Land Justice, Family Justice, and a Budget / Finance Working Group) – SIP II, p 45.

study, some CSO representatives however felt that more could be done to maximise the potential contribution of civil society, suggesting that currently they are invited to attend meetings but that the space for their active and critical participation is limited. One CSO interviewee was of the opinion that CSO involvement in JLOS was facilitated largely due to donor insistence, and that their engagement with the GoU was rather one-sided in that JLOS was willing to listen to information and recommendations provided by CSOs but did not promote in-depth dialogue. This interviewee did however report that CSOs have stronger relationships with the institutions comprising JLOS than with the JLOS structures themselves, and such relationships are important given that it is at the level of the institutions themselves that perhaps the greatest need for accountability resides.

The view of the development partners meanwhile is that they have consistently called for greater participation by CSOs and the private sector and sought to enable it. They have stated that it is critical to create a space for non-state actors to play a role in promoting mutual accountability (ie enabling CSOs and others to hold development partners to account for their role in Uganda, in line with the principles of the Paris Declaration). In a 2007 paper presented to the Dublin Workshop on Development Effectiveness in Practice, the then JLOS Senior Technical Adviser and the then Development Specialist with Irish Aid (Uganda) recognised the need for greater mutual accountability in relation to the sector. Their paper however stated that while much emphasis has rightly been put on 'opening doors' for greater participation by private sector and civil society actors, 'opening doors does not mean that the private sector and civil society actors will walk through them, occupy the space available, or do so effectively'.⁶⁰ According to this paper, a number of factors hamper the participation of civil society, including: overall lack of capacity within Ugandan civil society to engage with policy processes; the difficulty faced by CSOs in keeping pace with the large number of opportunities available to them to engage in policy and strategy processes across a range of sectors; the fact that many NGOs in Uganda are still engaged in service delivery rather than policy monitoring and advocacy; and the fact that participation in NGO networks is often time-consuming and problematic.

It appears that both CSOs and development partners are keen to increase the role of civil society in terms of JLOS monitoring and accountability, but that to date the relationship remains somewhat problematic. This could perhaps be explained by a less obvious commitment to the role of civil society on the side of the GoU and the sector itself and its institutions, as well as the above points in relation to civil society focus and capacity. It is important that this is addressed and that ways are found by which to increase the active participation of civil society. One solution could be to agree the set of Partnership Principles which were provided for within SIP II (but have not yet materialised) as a basis for collaboration between JLOS and CSOs.⁶¹ Agreement on these principles could help to strengthen and guide CSO input into the sector and draw the GoU into a constructive dialogue with civil society. Presumably the Partnership Principles could include a specific section regarding the role of CSOs in M&E, as well as looking at their role in advocacy and service delivery. According to the Dublin workshop paper, consideration has been given to this idea but the challenge lies in identifying how and which organisation (NGO or umbrella organisation) to involve and ensuring that the chosen group(s) has legitimacy.⁶² This point may be valid but should not serve to block the agreement of the Principles, since the process of developing these, as well as their content, could greatly serve to harmonise and strengthen the relationship between sectors, development partners and civil society.

2.4.8 Mutual accountability

In terms of promoting mutual accountability in line with the Paris Declaration, other methods should be tried alongside efforts to increase the role of civil society, including strengthening

⁶⁰ Results Framework and Accountability for Cross Cutting Issues – Lessons from the Justice, Law and Order Sector (JLOS) in Uganda: Paper Presented to the Workshop on Development Effectiveness in Practice: Applying the Paris Declaration to Advancing Gender Equity, Environmental Sustainability and Human Rights, Dublin, 26-27 April 2007, p 4.

⁶¹ Strategic Investment Plan II, p 39.

⁶² Results Framework and Accountability for Cross Cutting Issues – Lessons from the Justice, Law and Order Sector (JLOS) in Uganda, *op cit*, p 4.

dialogue between the DPG and JLOS itself. According to the co-chair of the DPG, there is no formal mechanism for promoting mutual accountability in Uganda, though there is an informal peer review approach between the donors and the sector, with the sector taking a strong role (with support from the DPG chair) in challenging the role of donors where necessary. An example cited was an occasion whereby the JLOS Secretariat challenged a particular donor for providing training to police in Northern Uganda without co-ordinating or consulting with the sector or police headquarters.⁶³ Consideration should however be given to the creation of formal mechanisms for promoting mutual accountability, such as including a specific section in the next MTE on evaluating the donors' role within the sector. As suggested by a prominent development partner, this could include asking the GoU what they think of the donors' role and what could be improved upon in line with Paris Declaration and Accra Agenda for Action.⁶⁴

3. Lessons and conclusion

Commitment to M&E appears strong within the sector, particularly within the Secretariat and development partners but also increasingly among the institutions. Many of the managerial and process difficulties of the SIP I period have been overcome in the course of the sector pursuing its 2004 evaluation seriously and then responding to findings in the course of developing SIP II. And many of the priorities specified in SIP II have been met, including the sector-wide follow-up/baseline survey conducted in 2006/7, the development of impact-focused and sector-wide indicators, and some progress towards standardised formats for data collection. The challenge for JLOS now is to address the remaining challenges, or at least the higher priority ones, while ensuring that M&E does not become an all-consuming task which detracts from the other business of the sector and its institutions. A number of lessons that the JLOS experience offers for others seeking to create workable M&E frameworks for justice/law and order programming are listed below. The lessons outlined in this section are formulated by the research team on the basis of the analysis outlined above. They relate to both the monitoring and evaluation of the project.

Forge links with poverty reduction and national development frameworks: JLOS has been required to make this link (first with the PEAP and in the future most likely with the NDP) and has taken some steps towards doing so, including through the use of high-level progress indicators linked with those of the PEAP and through budgetary allocation processes. There is both a technical and political point here. In technical terms, it may be theoretically possible to link justice and security sector programming to poverty reduction or economic growth. However, the link will generally be indirect, (for example, growth rates improve due to increased business confidence and improvements in law and order generally, facilitated in turn by functioning criminal and commercial justice systems). Efforts are planned to potentially link monitoring of JLOS with that of the NDP through the UNPS. However, routine monitoring and reviewing may not always yield convincing proof of the sector's contribution to growth/poverty reduction, because of timing and attribution problems. It is perhaps more plausible that *post hoc* impact evaluations and comparative international studies, (c.f. the World Bank's *Voices of the Poor* study) will provide evidence of a positive link and use of this studies should therefore also be considered. Politically however, it will often be essential to make the case for this link, particularly in developing countries with established poverty reduction frameworks.

Address political as well as technical issues as part of M&E: M&E can sometimes be reduced to a technical exercise which becomes overly focused on the collection of statistics and the compilation of monitoring reports. It is important however that attention is also given to the need to evaluate progress on a higher level and to adapt programming or approaches where necessary. For instance, the JLOS MTE highlighted the difficulties faced by the sector in terms of its relationship with other actors, including the military, whose actions impact on the extent to which it can achieve its policy objectives. Such issues must be taken up and addressed by reform programmes in order to make M&E a meaningful process, which identifies and facilitates action on substantive issues and does not focus on technicalities only. It is also of course important to attend to questions of donor performance as part of M&E.

⁶³ Interview with donor official, 11 September 2008.

⁶⁴ *Ibid.*

Provide incentives for M&E: In JLOS's case, where national budgetary processes are fundamental, output-focussed budgeting has acted as an incentive for M&E. This suggests the importance of providing incentive structures to encourage adherence to M&E systems. Other plausible incentives might include reducing the extent or intrusiveness of donor reporting requirements in return for self-assessment by institutions or including M&E responsibilities in the job descriptions of relevant government employees as part of broader public sector reform initiatives (as has been the case for some staff within the JLOS PPUs).

Supplement national-level M&E systems with local ones: A number of factors dictate that JLOS establish local-level M&E systems to feed into and complement national-level arrangements. These include its ambitious statement of purpose, which clearly states the objective of improving conditions for ordinary Ugandans, including the poor. The fact that JLOS brings together a number of agencies with local-level reach (for example, police, magistrates courts) is also important: the reform and development of such agencies needs to be measured at this lower level and while periodic national surveys disaggregated by region are valuable, they can only provide a snap-shot of conditions and progress at this level. It should however be recognised in any reform programme that justice and security institutions will have different geographical reach and varied jurisdictions (for example, commercial courts may be located in regional centres; police will hopefully be widely dispersed), a fact to take into account when establishing and synchronising local M&E with national M&E.

Develop data collection, analysis and handling capacities: JLOS's sector-wide approach to M&E, which places GoU mechanisms and institutions at its centre, carries both strengths and limitations and it is important to recognise that the system relies heavily on self-reporting by member institutions, with limited verification or supplementing of this data with information collected through other means and sources. As the 2005 JLOS consultancy on indicators concluded, there is 'need to review and strengthen systems for collection, flow and management of data through the sector with inbuilt mechanisms for peer review to ensure the authenticity and reliability of data.'⁶⁵ In addition to increased peer review, support is also needed to build technical capacity for data collection and management. Developing and standardising simple data collection formats, providing training in collection, handling and analysis, and supplying staff with simple checklists and guidelines will help to strengthen monitoring efforts and priority should be given to building national capacity to undertake routine monitoring (though the use of external, independent consultants will remain relevant with regard to evaluation processes).

However it is arguable that outside agencies supporting security and justice sector programming should not forge too far ahead in strengthening national M&E arrangements in their own area of interest without also attending to wider governmental practices and capacities. If one recognises that nationally-led M&E in one sector will reflect the strengths and weakness of governance generally, the solution may lie in building capacity across the board or at least in a co-ordinated fashion.

Resource M&E adequately: The time, money and staff allocated towards M&E needs to be commensurate with the size, duration and ambition of programmes. JLOS has a fair record in having established dedicated structures for M&E and set time and resources aside for evaluations and other M&E-related consultancies. More remains to be done however, including recruiting a full-time M&E specialist to the Secretariat and maintaining an adequate budget-line for M&E activities. A single numerical estimate of JLOS's required budgetary allocation for M&E would be difficult to arrive at, but a sensible target range would likely be 10-15% of overall spends. This may seem large, but the complexities of the justice sector require this.⁶⁶ The experience of JLOS has also shown the need to adequately resource, and build capacity of, institution-level planning and M&E structures (PPUs) and district structures (JCCs).

⁶⁵ JLOS Technical Note, 2005, p 14.

⁶⁶ The Education Sector has set the percentage for monitoring at up to 25% of programme funds. JLOS Technical Note, 2005, p 25, footnote 45.

Carry out baseline and tracker surveys: JLOS has demonstrated the value but also the difficulty in developing baseline surveys and drawing suitable analyses from them. Such surveys are probably the most reliable means of gauging public perceptions of safety; access to justice and perceptions of the sector; as well as, track changes over time, provide tailored and disaggregated questions to deal with cross-cutting issues (including gender and HIV/AIDS); and pick up geographical variation in sector performance. Within the field of security and justice sector programming, surveys should be further developed and utilised with a recognition that data needs will change over time, but that a degree of consistency on basic matters (for example, sampling techniques, units of analysis) should be maintained so that time-sequenced comparisons are still possible. A combination of dedicated surveys, linkages to related surveying processes (such as the UNPS in Uganda) and use of the work of others, (for example, World Bank Reports and International Crime Victim Surveys, Poverty Reduction surveys), should also be considered, though great care will need to be taken to ensure co-ordination and clarity.

Promote public and civil society engagement: Some innovative methods have been envisaged in Uganda to secure public and CSO involvement in programming and M&E. While JLOS should redouble these efforts and establish those structures and mechanisms which it has not yet put in place, others should also take note. CSO/public involvement is both possible and desirable, if challenging. Barriers to informed and relatively inclusive involvement will exist in most environments and capacities, and confidence and legitimacy may need to be built in this domain as in the formal sector. However, building capacity and voice on the 'demand side' of the justice and security programming is both practically useful and an end in itself. Empowered users and CSOs are more likely to provide a check on the sector and to agitate for and sustain changes. Their views also provide a useful counter to what may otherwise be an inward-looking M&E system. Moreover, international human rights standards explicitly require both that justice systems function effectively and fairly, and that the public has confidence in them. A range of techniques can and should be used to facilitate this involvement, including surveys as well as routine monitoring processes at national and local levels, such as: user committees, suggestion boxes and similar.

Develop and apply indicators: JLOS provides a rich set of lessons in this area:

- *Develop indicators at the right level:* Under SIP I, JLOS was rightly criticised for having developed a framework of indicators that was not sector-wide, with indicators developed separately under SIP I's two focal areas of Criminal Justice and Commercial Justice Reform. While this provided a means by which to measure performance in these two areas, it gave limited sense of common purpose for the sector as whole, prevented lessons on unintended negative effects of programming being measured, omitted to measure improvements in actual access to justice and safety levels for users and so on. At one level this was defensible: it is not implausible to assume that if institutions improve performance, the quality of service and access to it will also improve. But arguably, 'what gets measured gets done', and by inference, what is not measured is often left untouched. In other words, indicators create incentives to measure and improve performance in some areas and not others. Higher-level, cross-sectoral indicators that encourage some holistic thinking within the sector should therefore be encouraged.
- *Eliminate and/or minimise perverse incentives:* Any indicator set will incentivise certain actions, outcomes, ways of working and institutional priorities over others. Justice sector programming is well known for its perverse incentives, (for example, prioritising case backlog reduction, which inadvertently reduces the quality of justice; targeting reductions in crime rates resulting in illegal arrests), and planners and M&E specialists need to be aware of this. In the 2005 Technical Note developed as part of the consultancy to revise the JLOS indicator set, external consultants warned of the risk of perverse incentives arising from JLOS's indicator set, as much by omission as commission, noting for example that no sectoral level indicators had been chosen for the conditions or treatment of prisoners.⁶⁷ The lesson is that indicators need to be combined in a way that minimises the

⁶⁷ *Ibid*, p 17.

risk of perverse incentives. International human rights standards would provide one reference point here since no indicator set should lead to them being compromised or weakened.

- *Use specific, measurable indicators:* Particularly during early phases, JLOS indicators tended not to be based on baseline measures and not to provide clear targets and measurable benchmarks for institutions to work towards. Recent moves to refine and elaborate indicators in this way are welcome. Where possible, targets should synchronise with M&E and reporting timetables.

Define M&E terminology: JLOS documents and interviews conducted for this case study suggest that JLOS has at times struggled over M&E terminology; with those working in the sector's institutions and Secretariat sometimes being at cross-purposes with each other, as to what constitutes 'impact', 'outputs', 'outcomes' and similar. After much discussion, the sector appears to have come to grips with these terms in its own way, reaching common understandings. Clarity of meaning and broad-based agreement on key terms at the national level is arguably the desired outcome. External definitions may help but should not be allowed to hinder this process unduly.

Evaluate donor as well as sector performance: The use of direct budget support by donors in the case of JLOS means that the task of evaluating donor performance and sector performance need to be clearly distinguished. Should one wish to do so, an evaluation of donor performance in the context of sector-wide modalities would be possible, provided it is couched in terms of recognisable criteria and standards of good donor-ship and aid effectiveness such as the Paris Declaration and Accra Summit commitments, (indicators would then include transaction costs, numbers of intrusive visits and missions etc.). Unless donors are also carrying out project activities and supporting clearly identifiable programmes of work along more traditional lines in the justice and security sector, it is perhaps through this lens that donor performance can best be judged.

Balance the requirement for M&E with other priorities: While M&E is a priority for reasons already established, it is one priority among many in a challenging area of programming. One needs to ensure that M&E does not become an all-consuming task that detracts from the other business of the sector and its institutions. M&E must be designed and implemented in such a way that it supports and enhances the work of the sector and strengthens its efficiency without unduly increasing the burden placed on its officials and institutions. To date JLOS remains at the stage where further work is required to establish the optimum M&E framework (for instance operationalising the planned-for Regional/District Reviews), and thus care must be given to ensuring that the task of strengthening this framework is well managed and not overly draining on the sector's limited capacity.

Allow M&E systems and culture time to develop and mature: The JLOS experience demonstrates how integral M&E is to justice sector programming. It arguably also counsels that M&E, like other aspects of programming and programme management, needs to develop incrementally. Particularly at the institutional level, but also sector-wide, JLOS has discovered how long it takes to create an appropriate M&E framework, ranging from indicators to monitoring and reporting procedures and data formats. Much of this task is technical, requiring rigour, skill and careful analysis. But there are also cultural and personal aspects in so far as M&E is about accountability of individuals and institutions to each other.

Annex 1A: SIP I Criminal Justice Indicators⁶⁸

CRIMINAL JUSTICE COMPONENT	INDICATORS	BASELINE	MEDIUM TERM TARGET FY 2006/07	FY 2003/04	FY 2004/05	FY2005/06
CRIME STATISTICS	Crime rate disaggregated by gender, age and value of loss	30 cases/10,000 people	20 cases/10,000 people	27 cases per 10,000 people	25 cases per 10,000 people	23 cases per 10,000 people
	# of convicts on custodial sentences	3534	3000	3,300	3,000	3,000
	# of convicts on Non-custodial sentences	TBC	1000 (community service) per annum			
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%
ACCESS TO JUSTICE						
	Actual time and financial cost of accessing JLOS institutions disaggregated by Gender & age	To be determined through case studies	To be agreed			
	% of HH "easy access" to JLOS institutions gender and age	25% of HH believe access to be easy	45%	30%	35%	40%
QUALITY OF JUSTICE						
	# of Criminal Appeals upheld	TBC	70%	To be agreed	To be agreed	To be agreed
	# of Criminal Appeals reversed	TBC	30%	To be agreed	To be agreed	To be agreed
	% of suspects held beyond 48 hours w/o charge	TBC	50%	To be agreed	To be agreed	To be agreed
	# of prisoners exceeding statutory remand period	660	450	600	550	500
	% Rate of recidivism	40%	30%	34%	36%	38%

⁶⁸ Agreed at JLOS Steering Committee Meeting June 2003, completion of benchmarks and targets outstanding, along with monitoring of compliance at JLOS-wide level.

	Proportion of HH feeling safe from crime and violence	65.8% in rural areas and 61.5% in urban areas	85% in rural areas 80% in urban areas	No applicable	70% in rural areas 65% in urban areas	Not applicable
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Annex 1B: SIP I Commercial Justice Indicators⁶⁹

IMPACT	INDICATOR	BASELINE	TARGET	MEANS OF VERIFICATION	FREQUENCY	CRITICAL ASSUMPTIONS
1 Efficiency And Effectiveness	1.1 Extent to which geographical allocation of resources is made on the basis of need.	Need to calculate resource allocation; compare to PMAU figures for 'need' (80% population, 20% poverty, 20% area).	To be agreed	Agencies' annual reports (staffing levels) and budgets. PMAU figures for 'need'.	Annual	Agencies calculate figures for resource allocation on regular basis.
2 Access to justice	2.1 Business perceptions of accessibility of commercial justice system disaggregated by size and formal/informal sector.	Commercial Justice Baseline Survey November 2001	To be agreed	Commercial Justice Follow-up Survey.	Every two years.	Availability of funds.
	2.2 Level of use of Commercial Courts.	Commercial Justice Baseline Survey November 2001	To be agreed	Court statistics.	Annual	Internal capacity to collect statistics.
	2.3 Level of use of ADR	Uganda Commercial Justice Baseline Survey, November 2001.	Increase in number of cases at CADER.	CADER Statistics.	Annual	Internal capacity to collect statistics.
	2.4 Actual time and financial cost to businesses of accessing commercial justice system institutions, disaggregated by size and formal/informal sector.					
	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	Retrospective or 'live' tracking case studies of selected cases.	Annual	Availability of funds (to contract consultants) or internal capacity (to carry out case studies).

⁶⁹ Agreed at JLOS Steering Committee Meeting June 2003, completion of benchmarks and targets outstanding, along with monitoring of compliance at JLOS-wide level.

			25%			
	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 b)Speed c)Accuracy d)Fairness	Commercial Justice Baseline Survey, November 2001.	All institutions achieving satisfaction scores at the level achieved by the Court of Appeal and Supreme Court at the time of the Nov. 2001 Baseline Survey.	Commercial Justice Follow-up survey; anecdotal reporting from Commercial Court Users Committee and statistical information from people who used the services of the institutions.	Every two years.	Availability of funds.
	3.2 Corruption levels	Commercial Justice Baseline Survey, November 2001	Reduction to level of Government institutions perceived to be the least corrupt in the National Integrity Survey.	Commercial Justice Follow-up Survey; anecdotal reporting from Commercial Court Users Committee and statistical information from people who used the services of the institutions.	Every two years.	Availability of funds.
	3.3 Number of commercial laws reformed.	Commercial Justice Baseline Survey, November 2001.	Key commercial laws reformed.	Uganda Law Reform Commission reports; Parliament reports.	Annual	Parliamentary priorities.

Annex 2: JLOS Draft Policy Matrix (ie SIP II sector-wide indicators at time of writing)

KEY RESULT AREA	OUTCOME/INDICATORS ⁱⁱ	BASELINE 2006/7	TARGET 2010/11	POLICY ACTIONS
JLOS OVERALL GOAL				
To Enhance quality of life and ensure that poverty in Uganda is eliminated	PEAP indicators e.g. Poverty reduced Real GDP growth increased annually	38% 5.2%	28% (by 2013) 7% (annually)	<ul style="list-style-type: none"> ▪ Effective Implementation of all PEAP Pillars ▪ Strengthening monitoring and evaluation framework
JLOS PURPOSE				
To improve the safety of the person, security of property and access to justice, in order to encourage economic development and to benefit all people, especially the poor and vulnerable	<ul style="list-style-type: none"> • % of public that feel assured of safety of the person and security of property increased by 2010ⁱⁱⁱ • Increased % of public have effective knowledge of their rights and duties vis-a-vis formal and informal JLOS institutions and how to demand for/ pursue them by 2010^{iv} • Improved confidence in the justice system by 2010^v • JLOS strategy for conflict-affected areas developed and operational by 2008^{vi} 	62% To be determined in a JLOS wide survey ^{vii} 34% No unified, costed strategy	70% 70% (to be revised after JLOS Survey) 55% Unified, prioritised and costed strategy in line with overall GoU strategy under OPM	Impact- outcome of all policy actions
KRA 1: RULE OF LAW AND DUE PROCESS PROMOTED				
1.1 Certainty of laws and procedures	<ul style="list-style-type: none"> • Key^{viii} laws initiated by JLOS that are enacted and enforced by 2010^{ix} 	Status of pending laws at various stages	Key laws passed	<ul style="list-style-type: none"> Implement lobbying strategy for enactment of laws Publish laws Publish law reports
1.2 Due process	<ul style="list-style-type: none"> ▪ Increased % of investors and private sector and the public confident of enforceability of contracts, judicial decisions and the law by 2010 	To be determined in JLOS survey	To be determined	<ul style="list-style-type: none"> ▪ Timely delivery of judgements ▪ Enforcement of judgements and regulations ▪ Sensitisation of government agencies on breach of contract
1.3 Independence of the judicial process	<ul style="list-style-type: none"> • Respect for the independence of the judiciary by all arms of government and the public enhanced by 2010 	Independence of the judiciary not always guaranteed, attacks on the judiciary	Independence guaranteed by law and in practice-respect of judicial decisions	<ul style="list-style-type: none"> ▪ Enact law of Administration of the Judiciary ▪ Capacity building for Judicial officers

KEY RESULT AREA	OUTCOME/INDICATORS ⁱⁱ	BASELINE 2006/7	TARGET 2010/11	POLICY ACTIONS
1.4 Accountability	<ul style="list-style-type: none"> % reduction in index of perceived corruption within JLOS institutions by 2010^x 	Sectoral baseline N/A	To be determined by JLOS survey	<ul style="list-style-type: none"> Enhance institutional and individual accountability through prosecution/strengthened disciplinary mechanisms Codes of Conduct disseminated and enforced
KEY RESULT AREA 2: HUMAN RIGHTS CULTURE FOSTERED ACROSS JLOS				
2.1 Human rights awareness and practice	<ul style="list-style-type: none"> Reduction in incidence of specific human rights violations categorised by type and institution by 2010^{xi} 	<ul style="list-style-type: none"> Sectoral baseline to be determined under JLOS survey 	<ul style="list-style-type: none"> To be determined under JLOS survey 	Human Rights Awareness raising for JLOS staff
2.2 Incidence of specific human rights violations				Improve conditions in facilities of detention Cooperation framework with UHRC and security agencies
2.3 Conducive environment for human rights CSOs and the private sector to effectively participate in JLOS fostered	<ul style="list-style-type: none"> Systematic consultative and feedback mechanisms developed for CSOs and private sector to input into policy formulation processes at local, regional and national level by end 2008 	<ul style="list-style-type: none"> Some feedback mechanisms at national and local level (e.g. User and Chain Linked committees) 	<ul style="list-style-type: none"> JLOS engaging CSOs and Private sector systematically at all levels 	<ul style="list-style-type: none"> Partnership Principles entered into Working Groups formed at National level User committees established Joint Coordination Committees established at local level
KEY RESULT AREA 3: ACCESS TO JUSTICE ENHANCED FOR ALL PERSONS ESPECIALLY THE POOR AND MARGINALISED				
3.2 Physical access and availability of JLOS institutions and functions enhanced	<ul style="list-style-type: none"> % of public with access^{xii} to JLOS institutions increased by 2010 	25%	50%	<ul style="list-style-type: none"> Prioritised renovation, construction and equipment of offices
3.3 Financial bottlenecks hampering access to justice minimised	<ul style="list-style-type: none"> National Policy and costed framework for Legal Aid Provision developed and implemented Increased % of vulnerable groups in need of legal aid who have access to satisfactory and timely legal aid services by 2010^{xiii} 	No Policy Very low quality and awareness	<ul style="list-style-type: none"> Policy and costed framework To be determined 	<ul style="list-style-type: none"> Develop National Policy informed by research and practice Innovative pilots (in conjunction with LABF) Supervision/ regulation of legal aid service
3.4 Use of alternative dispute resolution and innovative mechanisms	<ul style="list-style-type: none"> Increase in use of alternative processes^{xiv} for fair resolution of disputes by 2010 	To be determined in JLOS survey	30% for all 50% for Commercial Court	<ul style="list-style-type: none"> Evaluate Mediation Pilot Project and extend use Support to National Community Service
3.5 Capacity and role of Executive Committee Courts strengthened	<ul style="list-style-type: none"> Increased % of Executive Committee Courts meeting set benchmarks^{xv} for quality and effectiveness by 2010 	To be determined	60%	<ul style="list-style-type: none"> Capacity building for ECCs Supervision and Monitoring Framework
3.6 Quality of justice delivery enhanced	<ul style="list-style-type: none"> Average time spent on remand after committal reduced by 2010^{xvi} Increase in disposal rate for cases and 	3-5 years- Capital 1 year- petty 6 months juveniles	2 years capital 6 months petty 3 months juveniles	<ul style="list-style-type: none"> Develop and enforce minimum standards of service delivery Evaluate and replicate lessons of pilots including chain linked, case

KEY RESULT AREA	OUTCOME/INDICATORS ⁱⁱ	BASELINE 2006/7	TARGET 2010/11	POLICY ACTIONS
	service delivery within set benchmarks for each institution by 2010 ^{xvii}	To be determined at institutional level	50%	backlog <ul style="list-style-type: none"> ▪ Set time standards and indicators at institutional level linked to sectoral
3.7 Technicalities that hamper access to justice minimised	<ul style="list-style-type: none"> • Fast track and small claims systems developed and instituted in all courts/procedures by end 2010 	Pilot	To be advised by study underway at the Commercial Court	<ul style="list-style-type: none"> ▪ Simplification of laws ad procedures ▪ User guides ▪ Information strategy (sectoral)
KEY RESULT AREA 4: INCIDENCE OF CRIME REDUCED AND SAFETY OF PERSON AND SECURITY OF PROPERTY PROMOTED				
4.1 JLOS response to crime enhanced	<ul style="list-style-type: none"> • Incidence of crime reduced from by 2010 • % reduction in index of perceived crime prevalence by 2010 	30 crimes per 10,000 people To be determined by JLOS survey	20 crimes per 10,000 To be determined after survey	<ul style="list-style-type: none"> ▪ Strengthen capacity of crime fighting institutions ▪ Phase recruitment of staff
4.2 Recidivism rates reduced	<ul style="list-style-type: none"> • Rate of recidivism reduced from by 2010 	43%	30%	<ul style="list-style-type: none"> ▪ Crime data base ▪ Rehabilitation programmes
4.3 Crime prevention strategies developed	<ul style="list-style-type: none"> • Incidence of crime reduced • Perceptions of safety and security of person and property/ investments increased at local and international levels 	See above (4.1)	See above 4.1	<ul style="list-style-type: none"> ▪ Review Crime prevention policy ▪ Community policing programme ▪ Partner with regional and international organisations to fight global crime ▪ Partner with private sector and CSOs
4.4 Safety of the person and security of Property enhanced		To be determined by JLOS survey	To be determined	<ul style="list-style-type: none"> ▪ Define and implement costed strategy for conflict affected areas with OPM ▪ Enhance civilian administration of justice in conflict affect areas
KEY RESULT AREA 5: JLOS CONTRIBUTION TO ECONOMIC DEVELOPMENT ENHANCED				
Conducive strategies developed to support production, competitiveness and wealth creation	<ul style="list-style-type: none"> • Improved perception by local and foreign investors of Uganda's legal environment • Improved lender's and borrower's confidence in legal environment (access to credit) (<i>or- improved confidence in instruments for accessing credit e.g. land titles, mortgages</i>) • Reduction in time and cost taken to conduct legal business e.g. register a company, enforce a contract in court, (<i>base lines to be determined from the</i> 	Baselines to be determined in JLOS survey and from other existing surveys including WB- Cost of Doing Business, UIA/ BoU- Private Sector Perceptions/ World Competitiveness Forum	To be determined	<ul style="list-style-type: none"> • Review and revise key processes to minimise costs of doing business e.g. business searches and registration, trial, appeals, land registration, administration of estates • Establish Users Committees • Establish institutional, sectoral and intersectoral linkages with other public and private institutions and organisations which are key players in economic development

KEY RESULT AREA	OUTCOME/INDICATORS ⁱⁱ	BASELINE 2006/7	TARGET 2010/11	POLICY ACTIONS
	<p><i>World Bank- Cost of Doing Business Annual Survey)</i></p> <ul style="list-style-type: none"> Increased confidence (private and public sector) in ability to enforce contracts and business decisions 			
5.2 Non Tax Revenue increased	<ul style="list-style-type: none"> Increased tax revenue from 	Shs. 15bn	To be determined	<ul style="list-style-type: none"> Implement financial management strategy
5.3 JLOS contribution to creating an environment that enables Uganda to comply with and take advantage of the regional, bilateral and international trade agreements strengthened	<ul style="list-style-type: none"> Enactment of laws and procedures that enhance economic development (<i>see annex of prioritized laws</i>) Increased gender parity in JLOS delivery of services that promote economic development 	See KRA 1.1 above	See KRA 1.1 above	<ul style="list-style-type: none"> Develop and implement specialized training programmes, enhance skills and create awareness amongst JLOS staff about the direct linkage between public sector performance and economic development

NB- See end notes at the end of document

Annex 3: Interviewees

Joyce Freda Apio, Hurinet

Catherine Baineomugisha, JLOS Secretariat

Donal Cronin, IrishAid

Niels Hjortdal, Danida

Katja Kerschbaumer, Danida

Esther Loeffen, Embassy of the Netherlands

Stella Mukasa, Nordic Consulting Group

Daniel Muwolobi, IrishAid

Valentine Namakula, Centre for Justice Studies

Livingstone Sewanyana, FHRI

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ENDNOTES

ⁱⁱ Each indicator is to be disaggregated by age, gender, income/employment, geographical region, rural/urban, subject matter/crime type and institution, where relevant. Other factors that could be considered include level of education and nationality.

ⁱⁱⁱ This indicator should further be disaggregated by "Location" which may include the home, public streets, public social places and in contact with JLOS institutions. This categorisation could enable the

sector to identify further causes and reasons for insecurity at a lower level that are within the mandate of JLOS; e.g. to what extent one feels secure at home will take into account incidence of domestic violence. The International Crime Victim Survey put at 40% the people who feel 'somewhat' or 'very unsafe' alone on the street at night in Uganda.

^{iv} There is no baseline on public knowledge and awareness of the sector. Awareness should include law and order aspects, e.g. the right to have police investigate alleged crimes without necessity of bribes.

^v Covers entire Justice Sector, both civil and criminal justice- However, the baseline of 34% only caters for the commercial justice component. Confidence should be measured especially among women, the poor, other disadvantaged populations, and the private sector as complainants/respondents, victims/defendants.

^{vi} After 2008, there will be need to review implementation of the strategy in conflict affected areas

^{vii} A JLOS-wide monitoring and evaluation system would incorporate, among others, sector wide surveys, periodic reports, field visits, reviews, and a streamlined JLOS complaints procedure in place with rigorous & timely response. For the complaints mechanism to be effective, it must be simple, credible, well-known to vulnerable groups (e.g. the women, youth, victims, prisoners) and used by them.

^{viii} This should take into account relevance, impact on access to justice and protection of human rights, quality, gender sensitivity, and participatory process through which the law is identified, developed and enacted.

^{ix} These laws may be either initiated by JLOS or in response to demands of the Public and private sector. It is assumed that these laws will be successfully debated and passed by Parliament, influenced by concerted JLOS lobbying. Under the PEAP 2004, a number of laws have been prioritised, including those related to DRB, Police, Penal Code, Prisons, Magistrates Courts, Sexual Offences – as well as commercial laws, e.g. Companies Act, Insolvency Act.

^x There is no sectoral baseline on the perceived rate of corruption among JLOS staff. Instead, there are institutional baselines, e.g. under the National Service Delivery Survey 2004, 36% of the public perceive the Police as the most corrupt public institution; while in the 2002 Baseline Survey on Judicial Integrity, 29.6% of all respondents admitted to having made unofficial payments to staff of the Judiciary.

^{xi} This refers to specific human right violations which hamper due process including illegal detentions, arbitrary arrests, torture, and conditions of detention; while categorisation by institution should cater for other players such as the security agencies, the local government prisons and police.

^{xii} Access to justice should not only cover availability but include usage of facilities as well

^{xiii} Specifically, those with small civil claims, defendants on capital charges, others in custody, remand prisoners, poor women, men and children. Focus groups should also be held and target both professional groups (e.g. lawyers, social welfare officers) and vulnerable groups (e.g. women, ex- prisoners, juveniles, persons with land disputes).

^{xiv} Includes arbitration, mediation, diversion, restorative justice; community service and other non-custodial measures, e.g. bonds, fines, probation, compensation

^{xv} These benchmarks were established under the LCC Pilot Capacity Building Project and include record keeping, incorporating gender and ethics, ensuring right quorum, and meeting minimum human rights standards (e.g. natural justice, fair trial, gender sensitivity).

^{xvi} Covers stay on remand after committal for capital offences for which there are no stipulated time limits. However, before committal, statutory remand periods are to be adhered to always, e.g. 360 days for capital offences and 4 months for petty offences. As noted, there is a need for prescribed time limits for disposal after committal to address lengthy stays on remand and a huge backlog.

^{xvii} Benchmarks have been set (and are to be revised) at institutional levels for all processes, e.g. investigation, trial, processing of documents.