



MONITORING THE IMPLEMENTATION OF THE CASE BACKLOG STRATEGY Preliminary Findings



BY

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INTRODUCTION AND BACKGROUND

The Judiciary now has a case backlog strategy. Every stakeholder in JLOS is in agreement that case backlog is bad for the Judiciary the sector and the country .

It is, however, important to note that it takes the effort of all of us in the Judiciary, our stakeholders in JLOS and other arms of the state to squarely deal with the challenge.

The case backlog strategy is built on 8 pillars. It is hoped that when embraced by all staff and stakeholders the strategy will help eliminate backlog from was courts case load.

THE CASE BACKLOG STRATEGY AT A GLANCE

- Strategy 1: Deliver all overdue pending judgments.
- Strategy 2: Clear all cases that are more than 2 years old after filing within 20 months .
- strategy 3: Develop and implement case backlog clearance plans for each court.
- Strategy 4: Strengthen existing initiatives such as plea bargaining, mediation, small claims etc

THE CASE BACKLOG STRATEGY AT A GLANCE

- Strategy 5: Develop and implement a judiciary specific anti-corruption strategy.
- Strategy 6: Increase the number of judicial officers and administrative staff at all levels of the courts.
- Strategy 7: Review of procedures that cause delays and advocate for reform of laws
- Strategy 8: Review business processes in the judiciary and computerise filing and storage of documents and introduce critical indicators that could be flagged once deadlines have been missed

COURT LEVEL SPECIFIC STRATEGIES

- **Supreme Court**
 - Dispose all pending judgements by 30th May 2017
 - Clear backlog in 6 months
- **Court of Appeal/Constitutional Court**
 - Automate file allocation
 - Avail records of proceedings from trial courts to the court
 - Review Court of Appeal rules
 - Conduct quarterly sessions up country
 - Deliver judgement where majority judgements are ready
 - Presiding Justices with more than 15 pending judgements should not take on new cases

COURT LEVEL SPECIFIC STRATEGIES Cont..

- **High Court**
 - Induct judges immediately up appointment
 - Appoint new Judges to fill existing vacancies, increase number of Judges
- **Magistrates courts**
 - Operationalize new magisterial areas
 - Inspection and monitoring
 - Requisite administrative staff

CASE BACKLOG MONITORING

- The case backlog monitoring committee was constituted by the Hon. The Chief Justice to foresee the implementation of the case backlog elimination strategy.(The committee has shared the e-copy)
- This committee was constituted arising out of the recommendations of the case backlog reduction committee that was informed by the report of the Committee on the Judiciary national court case census.(The Census Report has been disseminated has been published on the Judiciary website)

CASE BACKLOG STRATEGY MONITORING-Preliminary findings

- The Committee commenced a National Case backlog Monitoring exercise in the last quarter of 2017 with five teams categorized as follows:
- Kampala covering the Supreme Court, The High court Divisions in Kampala, Mpigi High Court Circuit and Magistrates Courts within Kampala, Mpigi, Wakiso and Luwero magisterial areas. (Justice Geoffrey Kiryabwire & Justice Richard Buteera)

CASE BACKLOG STRATEGY MONITORING-Preliminary findings

- North and west Nile covering the High court circuits and magisterial areas of Gulu, Arua and Lira Hon. Lady Justice Esther Kitimbo Kisaakye, Hon. Justice F. Egonda- Ntende.
- East covering Mukono, Jinja, Mbale, Soroti and Karamoja by Hon Justice Musota Stephen and Hon Justice Mike Chibita
- West covering Masaka, Mbarara, Kabale, Rukungiri by Hon Justice Peter Adonyo.
- North-western Uganda(Fort Portal, Mubende, Hoima, and Masindi by H/w the Chief Registrar Paul Gadenya Mr. Gimara Francis President Uganda Law Society.
- All the above teams are supported by Mr. Khaukha Andrew the Judiciary Technical Advisor and Mr. Sam Wairagara the Deputy Senior Technical Advisor JLOS both move to the field with the teams and manage the committee secretariat.
- Only the teams for the north and Kampala have so far been facilitated and both have under taken the monitoring exercise once for the north and twice for Kampala.

CASE BACKLOG STRATEGY MONITORING-Preliminary findings

Delivery of overdue pending Judgements

- There is commitment from the judicial officers to adhere to the CJ Circular on pending judgements and the committee has agreed specific time lines with judicial officers in the stations so visited for judgements that are pending .
- There some specific problems in regard to pending Judgments. In the land division a number of Judgments were inherited from transferred and promoted Judges and from our colleague who is currently unwell. The judgments were shared out amongst the current Judges and most of them have been concluded. A few remaining ones, it is agreed will be concluded before the end of February 2018.

CASE BACKLOG STRATEGY MONITORING-Preliminary findings

Delivery of overdue pending Judgements Cont..

- Commercial division ; some Judgments that are backlog are still pending with Judges that were transferred out of the division to very busy stations. Time should be found for the Judges to conclude and deliver these Judgments . This will be followed by the Committee immediately after this conference.
- It is recommended that Judges who hear case should write and ensure their Judgments are delivered before moving to new stations on transfer , promotion or on retirement.

CASE BACKLOG STRATEGY MONITORING-Preliminary findings

Delivery of overdue pending Judgements Cont..

- some Judgments are pending beyond 60 days at the Supreme Court but this is because of the special nature of those cases and the matter is being addressed.
- Backlog cases are pending at the Constitutional Court / Court of Appeal. The new administration at the Court is attending to this matter.
- A number of Judgments where majority decisions were available have been delivered.

FINDINGS Cont..

Clearance of existing backlog

- Clear all cases that are more than 2 years within 20 months

Findings

- The Committee established that most of the visited courts did not have annual costed work plans with specific implementation time lines and targets
- The committee has since discussed the issue with the visited courts and they have developed court specific costed work plans reflecting the work load and backlog of each Judge with specific time lines and targets. (See Index from Land Division and Criminal Division)

FINDINGS Cont...

Case management

- Templates for court level case backlog clearance planning were developed. The committee however should be facilitated to disseminate the templates and support stations to use them.
- The committee emphasizes that in the process of clearing backlog the pending cases that are not in the category of backlog should not be given limited attention and end up being backlog.
- The committee has developed four templates one on pending case backlog, ageing list, case backlog clearance template and case backlog reporting template.

FINDINGS Cont...

Strengthen existing initiatives

- Roll out and strengthen the use of existing case management systems(e.g Mediation, small claims)
- Establish an early plea bargaining scheme in the criminal justice system
- expand the Justice Centers Uganda to provide legal aid.

Findings

- The committee established that there is need for continuous advocacy on the existing initiatives i.e. Plea Bargaining(Nakasongola Prison visit by PJ), mediation, small claims etc.
- In regards to Mediation, the mandatory aspect of 60 days under the Rules clogs the system (Civil Justice Reform Committee should consider studying this)

FINDINGS Cont...

Findings Cont..

- Limited number of mediators and in some courts. There are no mediators
- mediation discussions i.e. progress is not synchronise with the business court i.e. after every mediation session court does not know what happened by way of updating the records.
- Quite often the parties don't come for mediation, its left to the advocates who at times are not interested
- Small claims, there is need to gazette the remaining parts of the country.

STRATEGIES AND FINDINGS Cont...

Anti-corruption measures

- staff and resource the Inspectorate of Courts
- conduct training on judicial ethics and anti-corruption . JTI has agreed to incorporate the courses in its Training Programme.
- ensure proper and timely investigations of complaints against Judicial Officers. The JSC has agreed to ensure progress in this area.

FINDINGS Cont...

Human resource Management

- Judicial officers are not aware of the structure/establishment in their courts
- One staff performing multiple roles e.g. OS is a clerk, process server, and cashier due to shortage of staff
- No Research assistants for some Judges.

FINDINGS Cont...

Review of procedures and advocacy for reform of laws

- review all rules and procedures that cause delays and make recommendations for legal reform(Civil Justice Reform Committee is in place chaired by the Hon the PJ). The Committee Chair has engaged in the Committee Meetings.
- Review mandatory locus visits
- Enforce the application of order 12 of the CPR

Findings

- We established that one of the causes of backlog is the Law, and this is because from the time of filing to closure of pleadings one needs appx. 45 days, after this 60 days for mandatory mediation, scheduling and fixing the case for hearing which will take 45 days, which brings the total to 150 days appx 5 months(this matter should be handled by the civil Justice committee)

FINDINGS Cont...

Records management system and use of CCAS

- Review business processes and computerize filing(Process is ongoing)
- Implement and upgrade the Court Case Administration System
- rehabilitate all case files and provide sufficient filing cabinets.

Findings

- Not all courts are on the computer CCASS but all courts have manual CCASS
- In both of these the update of records is not done daily.
- The exception was at the Anti Corruption Division of the High Court where we found that the records had been updated a few hours after the Judge had concluded the day's work.(clerk is **Chesha Esther**). The other was in Nakasongola CM Court(Clerk is called **Stephen kyosingira**) this was a case where CCASS is not operational but the manual records are properly maintained and in a timely manner.

FINDINGS Cont...

Findings Cont...

- Main applications and applications for interim orders are counted differently from the main suits from which they arise posing a risk of double counting. This was the case at the Land division and the situation is being rectified.
- A number of Judges and registrars do not have CCASS password, CCASS is left to system administrator
- poor archive managements that makes retrieval and storage of files very difficult e.g. Family Division. The committee has contacted IGM to support re-organization.

FINDINGS Cont...

Findings Cont...

- Yumbe no CCAS and internet connection ,Adjumani the system got spoilt and has not been repaired, Moyo CCASS is faulty and they also need their solar service and no internet connection.
- Need to gradually migrate from the manual registers to managing records electronically because part of the problem is having parallel systems
- daily updating and monitoring of updating CCAS
- Judges and Registrars should have the pass word and continuous access to CCASS
- Need to migrate from the station based to web based. Currently there are two systems normally referred to as old and new CCAS.

CHALLENGES

- The committee has so far established a number of challenges specific to certain courts that will affect effective implementation of the strategies if not urgently addressed. These include;
- Insufficient court halls e.g. Land division has one court hall for five Judges, Aleptong (GI) works in sub county hall and has one small office were the GI and all his staff sit.
- Absence of furniture in the courts e.g. Wakiso,mpigi,Kakiri e.t.c
- Inconsistent power supply Power i.e. power fluctuations affect CCAS operations
- Absence of power connections to the court (Paidha, Koboko (no electricity at the court)).
- Selective solar connection e.g. Arua high court has and CM does not have and yet they are in the same building.

CHALLENGES

- Some courts have power connection but no Yaka.
- Paidha and Yumbe need solar connections
- Insufficient funding this has affected handling of sessions and conducting locus visits (The Entebbe Example.)
- **Sharing of prosecutors by Judicial officers:** At the anti Corruption Court the High court Judges and the Magistracy were sharing prosecutors. The committee discussed this with the DPP and the report we got on our next visit was that the matter had been addressed. Similar challenges should be followed up as well for redress.
- **Transport:** Judges and other Judicial officers have transport challenges especially finding alternative transport when their vehicles break down. For the Magistrates the situation is worse especially for those in hard to reach areas GI Adjumani, Aleptong and Amuru.

CHALLENGES Cont..

- **Coordination challenges:** The three Cs of communication, coordination and cooperation are not being practiced in the Judiciary, it's like we have two judiciaries instead of one and the same in JLOS e.g. some cases of ICD are sent to criminal division after committal e.g. Luwero the Committee established there were funds but no being used. Accused persons at Nakasongola wanted to participate in plea bargaining but needed information to be able to appreciate plea bargaining. The Committee had to work with the PJ and the head of the criminal Division and a judge was sent and cases were handled.

CHALLENGES Cont..

The Committee also consulted with the PJ and he organized a launch of plea bargaining at Nakasongola and more than 60 accused are ready to be taken to court to consider their bargains.

In addition, Constitutional references to the constitutional court are not followed up e.g. there were matters from the anti corruption court and Buganda Road Court which had bogged down the trials in the Courts, then calling of files from the magistrates courts to the High court that was also bogging down the trial (the committee organized meetings with the criminal division and those files have since been worked on.)

The committee was able to follow up on the matters in the constitutional court and sessions are being organized to dispose off the references.

CHALLENGES Cont..

- In matters AG's chambers the state attorneys are in most cases not ready and at times do not file documents in time.
- In some stations, the DPP attorneys do not correspond to the number of Judicial officers.
- The DPP attorneys do not have Police files and are not ready to proceed even after committal.
- Multiplicity of applications by advocates
- Unnecessary adjournments by advocates.
- Limited court space e.g. in Mpigi high court circuit , the resident Judge occupies the chamber of the Chief Magistrate, and also no furniture in the court hall, the library has been converted into a registry

Best practice

- Holding quarterly sessions
- Weeding out of files under O.9r19(1) CPR.
- Plea bargaining
- Following up on accused persons on bail and in some cases fast racking the hearing as opposed to spending time to hear bail applications
- Short rulings in handling applications
- Granting or denying grant of an application and reserving the reasons within the main cause
- Dismissal of suits where summons unserved and plaintiff fails for a year to apply for fresh summons.

Best practice

- Continued use of mediation.
- Use of written submissions.
- Use of witness statements.
- Use of Court user committees.
- Daily Consultative meetings during coffee and Lunch brakes.
- In light of the funds being sent quarterly for locus visits, locus visits should be properly planned and budgeted for (e.g. in Entebbe)
- Joint cause listing.
- Constant updates using the daily manual entries in the register book.

Best practices (Work plan) Cont..

Day	Type of cases	Number of files	Time
Monday	New civil suits (2016 – onwards)	3	mornings
	Civil appeals	3	Afternoons
Tuesday	Backlog Civil suits (2011 – backwards	3	Mornings
	Backlog civil Appeals (2011- backwards)	2	Afternoons
Wednesday	New Civil suits (2016-onwards	3	Mornings
	Backlog Civil suits	2	Afternoon
Thursday	Backlog miscellaneous applications	5	Mornings
	New miscellaneous applications	4	Afternoons
Friday	Judgments/ruling writing/ delivery/locus visits		

COMMITTEE ACTION PLAN

- The Committee has embarked on the following:
- **Dissemination of reporting templates:** In a bid to promote uniformity and consistence in reporting and measuring progress the committee has developed and are now disseminating templates on case backlog clearance planning template, case backlog clearance templates, case clearance reporting template and aging template. These templates are to be used by all court units to undertake monthly reporting on progress in clearance of cases including backlog.

COMMITTEE ACTION PLAN

- Currently on a nationwide advocacy on the strategy agreeing on case backlog clearance plans and reviewing the plans with divisions and circuits to guide in the preparation of case clearance plans.
- The Kampala team has fixed specific dates with different dates in the different courts for the third monitoring visits for the courts to plan their backlog clearance programs the of the work plans agreed upon in the first visit
- Planning to hold quarterly progress review meetings with supervisors at various court levels to review progress and take corrective action where necessary.
- The above will enable the committee to Prepare and submit a semi-annual performance reports to the Chief Justice to evaluate the extent to which the objectives of the strategy are being met.
- End term evaluation- Hold an end of programme evaluation case backlog conference before the conclusion of our term in 2019.

RECOMMENDATION / CONCLUSION

- Please prepare and submit your costed work plans with specific timelines to the committee before the 15th February 2018. Address the plans to the chairperson of the committee but submit the documents to committee secretariat at the office of the Judiciary advisor at High court. This will inform allocation of human and financial resources in the fourth quarter. We shall then be able to identify areas with lots of backlog and in consultation with Administration constitute teams to clear backlog.
- These plans will guide us on when to schedule annual and study leave

RECOMMENDATION / CONCLUSION

- We propose that when the new judges of the High Court are appointed they should be inducted immediately. They should be deployed to a limited number of divisions for clearing backlog within a specified period of time. We propose deployments based on numbers of pending backlog.
- From what we have found so far, with proper planning and participation of all stake holders, the backlog we have will be cleared by end of 2019.
- This time lets walk the talk.

FOR GOD AND MY COUNTRY