

The Republic of Uganda



THE JUSTICE LAW AND ORDER SECTOR



**THE ROLE OF MAGISTRATES IN THE MANAGEMENT OF DISTRICT CHAIN
LINKED COMMITTEES (DCC) AND CASE BACKLOG CLEARANCE**

A presentation at the Annual Magistrate's Conference

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Introduction

The Justice Law and Order Sector (JLOS) is a sector wide approach adopted by Government which brings together institutions with closely linked mandates of administering justice, maintaining law and order and human rights, into developing a common vision, policy framework, unified objectives and plan over the medium term and foster cooperation communication and coordination i.e. the 3Cs. JLOS focuses on a holistic approach to improving access to and administration of justice through the sector wide approach to planning, budgeting, programme implementation, monitoring and evaluation.

Despite each agency having its own mandate and specific objective which may conflict in the end all JLOS agencies work towards the overall goal of improving the safety of the person security of property and access to justice in order to promote economic development and benefit the poor and vulnerable people. All JLOS institutions focus on ensuring justice for all.

Sector Management

The reform program is managed by a structure that is reflected at two integrated levels – the national and district level. At the national level, a Leadership Committee provides political and policy guidance. The Steering Committee provides policy direction while the Technical Committee with its five Thematic Working Groups are responsible for managing and implementation of the JLOS Strategic Investment Plan. At the Local Level, a District Coordination Committee oversees and coordinates the reform program.

In addition to the three-tier management structure of the JLOS, there is a Secretariat which reports to the Solicitor General. It also reports to all Sector institutions at the Technical and Steering Committee through the Senior Technical Advisor. Currently the Secretariat consists of four Technical Advisors and it plans for the program, manages program funds, supports preparation of progress reports, follows up on implementation of undertakings, provides advisory skills, builds consensus within JLOS and nurtures the relationship of government and donors.

- **The JLOS development partners' group** - to ensure donor coordination and input into policy matters.

JLOS at District Level

At the district level the Sector is represented by the JLOS Coordination/Chain Linked Committees based in each district with the objective of overseeing and coordinating the reform programme with the primary aim of enhancing case management and reducing case backlog.

The JLOS committees at the district work on the principle of chain link and are primarily focused on promoting **cooperation, communication** and **coordination** at the local level covering all the four focus areas of the JLOS of commercial, criminal, land and family justice.

Coordination: Characterized by the chain of JLOS institutions coming together from entry to exit

Cooperation: Exemplified by JLOS agencies and stakeholders working together to identify bottlenecks in the administration of justice, maintenance of law and order and human rights and devising local solutions to address them, followed by peer reviews to compel actors to take action.

Communication: Facilitating openness and transparency about challenges being faced in dispensing justice. It is also used to inform the agenda on identification of local issues affecting administration of justice and maintenance of law and order.

The Committees are chaired by a Chief Magistrate (or Magistrate Grade I as appropriate) and are supposed to meet monthly. DCCs receive feedback from the Leadership or Steering committee largely through the secretariat. Regional/district reviews also give opportunity for feedback.

ROLE OF MAGISTRATES IN MANAGEMENT OF DISTRICT COORDINATION COMMITTEES

- Oversee and coordinate improvements in the administration of justice and maintenance of law and order.
- Enhance case management and reducing case backlog.
- Address issues relating to the JLOS focus areas of Land Justice, Commercial Justice, Criminal Justice and Family Justice
- Conduct district level monitoring of JLOS activities and inspect or visit offices of JLOS agencies
- Be the focal point for JLOS district activities
- Undertake civic, public education and outreach programmes.
- Iron out misunderstandings between stakeholders and enhance the 3Cs.
- Create an open and safe environment in which it is possible to discuss each stakeholders' performance, strength and weaknesses.

- Undertake periodic reporting to the JLOS Technical committee through the JLOS Secretariat with copy of the report to the committee patron who is the resident Judge of the High Court circuit
- Strive to remove impediments in the chain of justice;
- Organize JLOS open days in the areas of their jurisdiction;
- Ensure that all institutions respect, observe and promote the bill of rights in the Constitution with regard to timely delivery of justice, fair trial rights, rights of suspects and persons in detention

MEMBERSHIP OF THE JLOS COMMITTEES AT DISTRICT LEVEL

All the JLOS institutions present in the district

- Relevant Civil Society Organizations and private sector organizations; operating within the four(4) JLOS thematic or focal areas of Criminal Justice, Land Justice, Commercial Justice and Family Justice.
- Civic and Local Leaders; e.g. RDCs, District Speakers
- Nominated members of the public

ROLE OF MAGISTRATES IN THE MANAGEMENT OF DCCs

ROLE OF DCC CHAIRMAN

- The chairperson shall be the overall coordinator of the committee and JLOS stakeholders in the District.
- The chairperson shall be the overall accounting officer of all funds received.

ROLE OF DCC SECRETARY

- The secretary will coordinate stakeholder meetings and will prepare accountabilities of all funds received.
- Take minutes of meetings and prepare quarterly committee reports for submission to JLOS secretariat with copies to Resident Judge of the High Court Circuit.
- Prepare and submit reports and accountabilities.
- Additionally the guidelines provide that each committee secretary will prepare and submit quarterly accountabilities with original invoices, receipts and payment vouchers to the JLOS secretariat for the attention of Technical Advisor Monitoring and Evaluation Component, JLOS Secretariat.

Important to note: (From the Revised DCC Operating Guidelines)

- The stakeholders coordinate through meetings and peer review.
- Every JLOS committee at the district elects a chairperson and an alternate chairperson as well as a secretary who will serve for 2 financial years and are eligible for re-election.
- In the event of departure (transfer, resignation, retirement or death) resulting into the office holder leaving the district, the incoming replacement will assume the position held by his/her predecessor until the end of term of the said person.
- The chair person shall come from a core JLOS institution¹ and should preferably be a Chief Magistrate and in Districts without a Chief Magistrate a Magistrate Grade One or any representative of a core JLOS institution as the committee deems fit.
- The secretary shall be elected from a core JLOS institution. She/He coordinates the meetings of the committee.
- To ensure ownership, the Chairperson and secretary shall at no time be from the same sector institution.

Emerging Challenges

- Poor leadership and exclusion of others from the DCCs.
- Poor or failure to account for funds disbursed and sometimes outright mismanagement.
- Misallocation of funds to activities outside the model work plan.
- Deliberate failure to adhere to DCC guidelines
- Failure to hold regular meetings
- Corruption and abuse of office

Role of Magistrates in Case Backlog Clearance

A Magistrate contributes to reduction of case backlog through the following ways;

- a) Adjudication of cases under his/her jurisdiction;
- b) Writing and delivering timely judgments;
- c) Supervision of staff directly under him/her
- d) Visiting places of detention and
- e) Any other duties assigned by a supervisor.

¹ The Revised Operating Guidelines of DCCs names 11 institutions as core; these are Ministry of Justice and Constitutional Affairs, Ministry of Internal Affairs, The Judiciary, The Uganda Prison Service, Uganda Police Force, The DPP, The Judicial Service Commission, The Uganda Law Reform Commission, The Ministry of Gender, Labour and Social Development, The Ministry of Local Government, and the Uganda Human Rights Commission.

All these duties are condensed under four key activity areas in the DCC Guidelines namely;

- a) Investigation and mentioning practice; (mention of minor cases, setting separate days for criminal and civil matters, forwarding inactive cases to DPP for action etc)
- b) Bail and remand; (remove technicalities in bail applications, strict adherence to mandatory bail times etc)
- c) Hearing and disposal of cases; (plea hearing, public service standing orders on attendance etc) and
- d) Establishing monitoring systems. (supervision esp. of local courts, timely returns and accountability).

Under Rule 8 of the Code of Conduct for Judges, Magistrates and other Judicial Officers of 1989,

“A Judge or Magistrate should dispose of the business of the court. However, in so doing he must ensure that justice is not only sure – but just. Protracted trials of a case must be avoided whenever possible. Where a judgment is reserved to be on notice it should be delivered within the next 60 days, unless for good reason this is not possible.” (This emphasizes on the provisions of Art. 126 of the Constitution.)

The office of a Magistrate is established under s.2 of the MCA. Magistrates are important to the delivery of justice and consequently reduction of case backlog as they do the bulk of civil and criminal cases. Magistrates are also empowered to carry out their role under the Judicature Statute and the 1995 Constitution of the Republic of Uganda.

Under the Local Council Courts Act 2008 an appeal may lie to a court presided over by a Chief Magistrate from the orders of a sub county Local Council Court.

A chief Magistrate is empowered to exercise his/her powers to prevent abuse of process of the court by curtailing delays including the powers to limit and supervise delayed prosecution as may be necessary for achieving the ends of justice. For example under s 76 of the MCA a Magistrate has powers to cause the release of a person who has been in custody for a period exceeding 6 months for a capital offence and two months for a minor offence.

Under s 171(b) provision is made for a Chief Magistrate to direct or empower any magistrate who has taken cognisance of any case, and whether evidence has been taken in such a case or not, to transfer the case to himself or herself or to any other specified magistrate within the magisterial

area of the chief magistrate's jurisdiction, who is competent to try the accused person. Further supervisory powers of a Chief Magistrate are enumerated under Part XXII of the MCA.

Under S 221 (2) a chief Magistrate may call for and examine the record of any proceedings before a magistrate's court inferior to the court which he or she is empowered to hold and situate within the local limits of his or her jurisdiction for the purpose of satisfying him or herself as to correctness, legality or propriety of any finding, sentence, decision, judgment or order recorded or passed, and as to the regularity of any proceedings of that magistrate's court.

It is imperative that a magistrate keeps the following in mind;

A magistrate needs to work like a manager; managers set clear targets and objectives. This means that every officer will endeavor to work to the required targets to attain the desired objectives. Setting objectives and targets also means that the work load will be evenly spread thus avoiding 'overworked' and 'underworked' staff ensuring maximum output.

Managers use SMART decision making methods. A magistrate using this method will be able to improve time spent on decision making thus contribute to case backlog reduction. This will also necessitate a magistrate to adequately prepare for a case which will translate into lesser adjournments and faster delivery of decisions.

Courts need to be run like business enterprises as opposed to public sector entities. This will enable the use of available resources to get the highest value which will consequently contribute to case backlog reduction.

We all have a part to play in making the case backlog reduction a sustainable venture in order to achieve the desired result. Sustainable backlog reduction will necessitate using time efficiently across the chain of justice from the time of arrest until conclusion of any given case. There is a need for strict adherence to set performance standards as well as lead times across all sector institutions to achieve desired results.

Presently the Secretariat is working on an integrated Justice IMS which we believe will play a great role in backlog reduction. The Sector calls upon all stakeholders to prioritize the use of information technology in case backlog reduction. With the help of information technology, the process of dispensation of justice will be made easier, faster, affordable and user friendly. An integrated data

management system will ensure timely processing and handling of cases by management and enhancing improved service delivery.

It is the intention of the Sector to strengthen the District Chain linked Committees to contribute to deal with case backlog in the districts through programmes that will enhance the capacity of the District Chain Linked Committees like skills development, training and mentoring to adopt a demand and a pro-poor person oriented approach to service delivery.

JLOS continues to be committed to the reduction of case backlog through the continued rolling out of the case backlog reduction programme across the country; promotion of ADR; strengthening of District Coordinated Chain Linked Committees; enactment of a law on plea bargaining and other laws; training of judicial officers; creation of more user committees; creation of more judicial points such as new magisterial and High Court circuits; circuiting of the Court of Appeal; provision of research assistants to judges and development of an integrated data management system. There is hope that with the intensification of the case backlog reduction programme, disposal of cases will exceed the amount of newly registered cases.

CONCLUSION

There is no doubt that magistrates have been and continue to be very critical in the effective and efficient performance of DCCs which have played a great role in strengthening and enhancing the roles of all the actors in the chain of justice. Nonetheless more needs to be done particularly in improving the productivity of JLOS staff, who are the prime drivers of the reform programme. This will call for further and deliberate government investment in human resource development and provision of more resources to sector institutions to effectively discharge their mandates in effective functioning of DCCs as well as case backlog reduction.

Thank you.