



**THE ROLE OF THE JLOS CASE BACKLOG REDUCTION PROGRAMME,
ACHIEVEMENTS AND LESSONS LEARNED by Gadenya Paul
Wolimbwa, Senior Technical Advisor, JLOS.**

... Stopping what has always been done and doing something new are equally anathema to service institutions, or at least excruciatingly painful to them. Most innovations in public service institutions are imposed on them either by outsiders or by

Introduction

For a long time, case backlog stood out as the elephant in the Justice Law and Order Sector (JLOS), especially in the Judiciary. Many, who had attempted to confront it, had ended up with mixed results, not the least, in establishing whether they had dealt with the tail, trunk or chest of the elephant. In fact at one point, when donors pressed JLOS for a lasting solution to case backlog, one of the leaders within JLOS is said to have remarked that there was no solution to case backlog. A minister is reported to have said, 'it was pointless dealing with case backlog because in life, you never finish all the work'. And so billions of shillings continued to be sunk in case backlog, in the expectation that somewhat, case backlog would be dealt a fatal blow.

But that did not happen as many people continued to languish in the prisons, case files remained unattended to and in one of the worst case scenarios, three suspects facing capital offences were forgotten in prison, after a judge adjourned their cases to the next convenient session! The next convenient session, came after a decade of waiting!

Seeing no justifiable gains in the fight against case backlog, time was ripe to change the strategy of case backlog management of throwing money at institutions to targeted application of money and human resources for case backlog activities.

It was against this background that the Justice Law and Order Sector came up with the case backlog reduction strategy to change the way case backlog had always been handled to one where resources – human and financial would be focused on the result rather than processes. The strategy also emphasized taking deliberate steps to stop the growth of new case backlog.

The JLOS Quick Wins Reduction Programme was designed to remove cases which were more than two years old from the system. The JLOS Quick Wins Reduction Programme had the following objectives:

1. Remove criminal cases, which are more than two years in the High Court and Magistrates Courts in Western and parts of Central and Eastern Uganda.
2. Adjudicate and complete civil cases which are more than two years old in all the Division of the High Court.

3. Increase the power of Registrars to adjudicate all application preliminary to the trial.
4. Weed out unmeritorious cases from all courts in the country.
5. Weed out unmeritorious cases from the Directorate of Public Prosecutions and the Criminal Investigation Department of the Uganda Police Force.
6. Speed up the resolution of civil cases through alternative dispute resolution.
7. Remove from prison; suspects who had qualified for mandatory bail but for some reason had not been released.
8. Strengthen inspectorate divisions and inspections units within institutions to support timely adjudication of disputes.
9. Strengthen the District Chain linked Committees to remove impediments in the chain of justice to accelerate investigation, prosecution and adjudication of cases.
10. At a later stage, the programme was extended to cover the Law Council, Administrator Generals Department , Uganda Human Rights Commission and the Judicial Service Commission, to adjudicate and remove from the system old disputes and acceleration of granting letters of no objection and winding up of estates for deceased persons in the case of the Administrator General's department. In the Uganda Human Rights Commission, the programme empowered the Commission to resolve old cases and complete investigations of cases and complaint within the system.

Area of operations

The programme for criminal cases focused on the western region, central region and parts of the Eastern Region, while civil cases were mainly handled in all the Divisions of the High Court at Kampala, because these regions were the worst hit areas and also presented scenarios where we could take lessons for future case backlog reduction.

Mode of operation

Whereas the case backlog programme was mainly session based in the case of the Judiciary, it did however, have other components such as accelerating investigations and prosecutions, strengthening inspectorates divisions or units within institutions and strengthening DCCs.

Sessions were particularly successful in the High Court and Magistrates Courts for criminal cases because they were well planned and funded. Sessions for civil cases flopped because of administrative constraints in the High Court and shortage of judges. Weeding out of cases was partially successful in the Family, Land and Civil Divisions of the High Court. Returns from the other courts were not received and it is very difficult to assess the success or failure of the weeding out exercise. Civil Sessions for mediation in the Commercial Court scored a success rate of 300 mediated cases.

Whereas, strengthening inspectorates had been earmarked in the programme, the programme did not have resources and thus very little was done in this respect.

With regard to strengthening DCCs, JLOS made great efforts in extending DCCs in most parts of the country and ensuring that all DCC members are properly inducted and sensitized on their roles. JLOS is now working with UNICEF to provide technical assistance to the DCCs through attachment of experts to various DCCs. The experts will train and mentor DCCs members to enrich their knowledge and reach in dealing with case backlog and strengthening the chain of justice at the district level.

Administration of the Programme

In terms of administration of the programme, JLOS created a task force of the Technical Committee to oversee the case backlog programme. JLOS also created Institutional Case Management Committees (ICMCs) to deal with case backlog at an institutional level.

(ICMCs) have the following functions:-

1. Advise the head of the institution on all matters pertaining to case backlog;
2. Initiate strategies and best practices for reducing case backlog;
3. Coordinate all case backlog reduction efforts; and
4. Monitor case backlog reduction.

As experience has shown, ICMCs were and are supposed to be the internal case backlog drivers within the institutions because case backlog management can best be resolved internally rather than being imposed externally. ICMCs will therefore, create internal capacity within institutions to establish the causes of case backlog, the solutions to case backlog,

setting appropriate individual and institutional standards for case backlog management and generally advising the institution on how to manage resources for case backlog reduction. ICMCs, especially in the Judiciary, have been able to come up with different strategies for dealing with case backlog, although they are yet to mature to fruition in their operations.

Achievements

Initially, the case backlog reduction programme was designed to clear 20,500 cases from the courts, police and the Directorate of Public Prosecutions¹ but from the results from different institutions, the programme cleared close to 90,000 cases, with most of the cases coming from the Uganda Police Force.

Below are some of the achievements of the programme;

1. Case backlog of criminal cases especially in the High Court declined significantly with the result, that on average, capital offenders are taking a maximum of 15 months awaiting trial down from 27 months, prior to the programme;
2. More cases were resolved through alternative dispute resolution at the Commercial Court;
3. Through quality assurance which involved physical examination of the file, the Uganda Police Force weeded out 75,903 cases, the Director of Public prosecutions weeded out 1,902 cases, the Administrator General weeded out 6,174 cases. The sector was

¹ Judiciary 16,500 cases, the DPP, 2,000 cases and the Uganda Police Force 2,000 cases.

- unable to get the number of weeded out cases in the Judiciary, although the Family Division weeded out 666 cases;
4. Uganda Human Rights Commission investigated 61.7% cases;
 5. The Court of Appeal for the very first time went out on circuit in Gulu, Mbarara and Mbale. Initial reports indicate that the court completed 450 cases which translated into a 22.5% reduction of the court's case backlog. This is extra ordinary performance for the Court of Appeal because, the Court had not been able in all the years of its establishment in Kampala, to handle even half the number of cases cause listed in its Kampala sittings. However, with the circuiting of the Court, the court is now beginning to sustainably deal with its criminal case backlog in addition to deepening access to justice for the poor and marginalized.
 6. The Uganda Human Rights Commission embraced the session system and it has helped in deepening access to human rights justice by the poor and marginalized.
 7. The Law Council will soon hear about 250 cases out of the 800 pending cases.
 8. Prison congestion has been reduced by 5%;
 9. Most institutions were able to discover lost files and cases.

LESSONS LEARNED:

1. Do not trust statistics all the time because we discovered that in some courts, judicial staff hid or falsified the records. Finding accurate statistics was hard to come by and yet accurate statistics can be a vital tool for sustainable case backlog reduction because it

guides the allocation of cases and resources for timely hearing of cases.

2. Through heightened examination of cases, many institutions identified hundreds and perhaps thousands of cases files, which existed in their systems as statistics and not as real cases. These cases were securely put on the tables of management, which now is grappling with what to do with the cases. A problem identified is a problem half solved !
3. Targeted application of resources for case backlog reduction to institutions ensures that every shilling invested gives the highest returns on case backlog clearance as opposed to omnibus allocation of funds which encourages diversion and wastage of funds.
4. Quality assurance and weeding out cases need to be done on a continuous basis to remove dead wood cases and other cases with a limited chance of succeeding.
5. Decentralization of adjudication of cases, like in the case of the Court of Appeal can lead to faster disposal of cases because all the parties and the court are prepared and have the time to hear all cases.
6. The CID of the Uganda Police Force should be allocated funds to directly handle the cases instead of going through the police structures.
7. Prison congestion can be reduced significantly through targeted case disposal and granting of mandatory bail for suspects.

8. The 14 day remand and mention rule, does not serve any useful purpose other than to delay the investigation and adjudication of cases.
9. JLOS institutions should adopt a business approach in the resolution of cases to resolve cases in the most rational and cost effective manner.
10. Institutions need to complete more cases than are registered if they are to overcome case backlog in a sustainable manner.
11. Absence of individual and institutional standards in the courts is responsible for under performance of Magistrates Grade I, who on average, complete 8.3 cases per month.
12. ADR if fully implemented can resolve a substantial number of cases.
13. Targeted training of Magistrates in the business of adjudication and resolution of cases would increase their confidence and help them to resolve cases within a short time.
14. Judicial officers should routinely visit prisons to identify and remove forgotten prisoners and prisoners who qualify for mandatory bail.
15. Judicial officers should take a central role in the management of the DCC, because DCCs can unblock the criminal and civil justice system for increased case disposal
16. Dealing with corruption can speed up simple things like grant of bail and making of interlocutory orders.
17. Money is not the final solution to case backlog reduction but is part of the larger solution to case backlog reduction.

18. Heightened communication, cooperation and coordination among JLOS agencies is a prerequisite to the expeditious and seamless adjudication of cases.

Conclusion

The JLOS case backlog programme delivered in reducing case backlog through adjudication, quality assurance and weeding out of cases. Sustainable reduction of case backlog however, requires the Judiciary to focus more on dealing with the causes of case backlog through increased case disposal, legal reform and adoption of performance management to ensure value for every shilling and effort invested in case backlog.