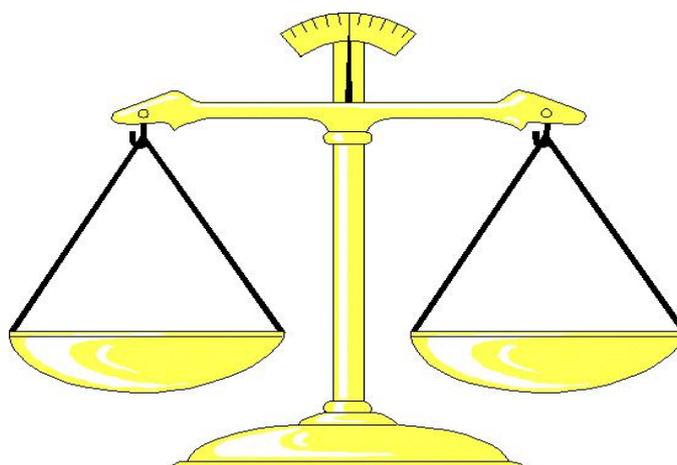


**UNITED REPUBLIC OF TANZANIA**



**LEGAL SECTOR REFORM PROGRAMME  
(LAW AND ORDER)**



**MEDIUM TERM STRATEGY**

**FYs 2005/06 – 2007/08**

**VOLUME I**

**OCTOBER 2004**

**FOREWORD**

**by**

**Hon. Minister for Justice & Constitutional Affairs (*to be inserted in the final document*)**

**PREFACE**

**by**

**Hon. The Chief Justice of the United Republic of Tanzania (*to be inserted in the final document*)**

## ABBREVIATIONS AND ACRONYMS

ACRWC	
AGC	Attorney General’s Chamber
APP	Annual Procurement Plan
ATIP	Accountability Transparency and Integrity Project
BEST	Business Environment Strengthening in Tanzania
BRELA	Business Registration and Licensing Agency
BRU	Better Regulations Unit
CBO	Community Based Organisation
CHRAGG	Commission of Human Rights and Good Governance
CIDA	Canadian International Development Agency
CLE	Council for Legal Education
CSD	Civil Service Department
DAG/PS	Deputy Attorney General/ Permanent Secretary
DANIDA	Danish International Development Agency
DPP	Director of Public Prosecutions
ENVIROCARE	Environmental, Human Rights Care and Gender Organization
FY	Financial Year
HIV/AIDS	Human Immunodeficiency Virus /Acquired Immune Deficiency Syndrome
IACT	Inter-agency Coordination Team
ICT	Information Communication Technology
IDF	Institutional Development Fund
IEC	Information Education and Communication
IGP	Inspector General of Police
IJA	Institute of Judicial Administration
IMTC	
JSC	Judicial Service Commission
KRA	Key Result Area
LAC	Legal Aid Committee
LGRP	Local Government Reform Programme
LHRC	Legal and Human Rights Centre
LRC(T)	Law Reform Commission of Tanzania
LSRP	Legal Sector Reform Programme

MDAs	Ministries, Departments, Agencies
MIS	Management Information System(s)
MJCA	Ministry of Justice and Constitutional Affairs
MTEF	Medium Term Expenditure Framework
MTS	Medium Term Strategy
NGO	Non-Governmental Organisation
OPRAS	Open Performance Review and Appraisal System
PAP	Prioritised Action plan
PAPO	Principal Administrative and Personnel Officer
PCMEU	Programme Coordination, Monitoring and Evaluation Unit
PCE	Permanent Commission of Enquiry
PCO	Programme Coordination Office
PER	Public Expenditure Review
PIF	Performance Improvement Fund
PO-PSM	Presidents Office-Public Service Management
PORALG	President's Office Regional Administration and Local Government
POW	Plan of Work
PPF	Project Preparatory Facility
PRO	Principal Research Officer
PRS	Poverty Reduction Strategy
PSLO	Public Safety Law & Order
PSRP	Public Service Reform Programme
PTCC	Programme Technical Coordination Committee
SASE	Selected Accelerated Salary Enhancement
SC	Steering Committee
SWAP	Sector Wide Approach
TAWLA	Tanzania Women Lawyers Association
TCC	Technical Coordination Committee
TLS	Tanganyika Law Society
TTC	Teachers Training College
TV	Television
UDSM	University of Dar Es Salaam
UNCRC	

UNDP	United Nations Development Programme
UNPA	
USAID	United States Agency for International Development
WLAC	Women Legal Aid Centre

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# CHAPTER 1

## BACKGROUND AND LONG TERM PERSPECTIVE

### 1.1 BACKGROUND: THE LEGAL TASK FORCE REPORT, 1996

The Government's commitment to reform the Legal Sector goes back to April 1993 when it established the Legal Sector Task Force constituted of eminent Tanzanians under the Chairmanship of Mr. Mark Bomani. This Task Force did a sterling job. It carried out a comprehensive review and thereby identified the problems and issues in the legal and institutional frameworks within the sector. Further, in its January 1996 report, the Task Force documented the changes needed to reform the legal sector.

In effect, the Task Force defined the programme for the reform of the legal sector. It recommended the provision or improvement of facilities, the provision of training, modernisation of information systems, and a wide range of institutional and structural reforms, and the injection of substantial resources. The magnitude of the task and cost implications for the measures recommended by the Legal Task Force necessitated the Government to develop the Legal Sector Reform Programme: Medium Term Strategy and Action Plan (2000 – 2005). The same was updated in March 2003 by incorporating the needs for addressing the key national policies such as the Poverty Reduction Strategy. The Medium Term Strategy envisaged at the following objectives and focus of the programme components:

- (i) updating and harmonisation of the national legal framework,
- (ii) strengthening management coordination of the Sector Institutions,
- (iii) enhancing competence and motivation of the personnel,
- (iv) enhancing independence of the Judiciary and integrity of personnel in the sector institutions,
- (v) improved pre-service training,
- (vi) enhancing access to justice for the poor and the disadvantaged groups,
- (vii) development and maintenance of physical facilities, and
- (viii) programme management, monitoring and evaluation.

The Medium Term Strategy targeted outputs and key result areas have now been realigned to provide accountability and cohesion among the implementing agencies listed in appendix 1 and ensures collaboration among key stakeholders.

## 1.2 CONSTRAINTS TO PROGRAMME IMPLEMENTATION

The Government accepted virtually all the recommendations made by Task Force and directed for their implementation, in 1997. Since then, however, there has been a rather limited progress in the implementation of these recommendations. The main, but not exclusive, explanation for this pace of progress is the dearth of both local and external financial resources needed to support the implementation of the reform programme from the Government and Development Partners since the launch of the Medium Term Strategy and Action Plan (2004-2005) in 1999.

In 2001, as an interim measure for addressing this gap, six development partners (Canada, Netherlands, Norway, Sweden, Denmark and Finland) jointly funded a “Quick Start Project” with a total budget of about US\$ 3 million. However, the weak administrative and implementation capacities delayed the designing and implementation of the Project. It is worth to note that the Project achieved its objective of creating good relationship among partners and providing a boost in the preparation of a Sector Wide Approach by supporting quantification of the key outputs of the Medium Term strategy of 1999. On the other hand the management of the Project has provided the development of the management structure of the Strategy. The Structure has a Project Management Committee comprising of representatives of the donors and the key implementing agencies at the national level, the Inter agency Task Teams are at the institutional level and the zonal, regional and district coordination committees at the lower level. The management also provided an opportunity for identifying modalities for effective collaboration among parties based on their roles and mandates in the implementation of the Project. This collaboration assisted in creating mechanisms linked with the local government authorities for implementation of complex infrastructure development activities in the courts. Also it has enabled the government to secure commitment of the community towards supporting the courts at the lower level. The implementation of the strategy will therefore take into account the existence of these mechanisms to address the weaknesses in the implementation capacities, designing achievable action plans for the implementation of the strategy and organising, managing and coordinating the programme implementation.

The World Bank also, in 2001, provided a project preparation facility of about US\$1.6 million for the preparation of the proposed Tanzania Accountability Transparency and Integrity Project (ATIP). The preparatory activities include studies to assist in the designing of an Infrastructure Development Programme for the Judiciary, a strategy for implementation of an Integrated Management Information System for the Sector and a programme for Establishment of a Law School. These are also expected to assist in designing achievable action plans for the implementation of the strategy.

More substantial external support has been from DANIDA. This funded the establishment of the Commercial Division of the High Court, capacity building in the Law Reform Commission of Tanzania, the establishment of the Commission of Human Rights and Good Governance (CHRAGG) and the initial costs for the establishment of a network for NGOs dealing with legal aid activities. The support facilitated achievement of the key objectives in strengthening institutional capacities and installing programme and management.

Nevertheless, these interim arrangements were inadequate in addressing resource constraints in programme implementation therefore necessitated for an appraisal. Consequently, in April 2003, the Government and Donors jointly appointed a team of experts to undertake a joint appraisal on the Legal Sector Reform Programme: Medium Term Strategy and Action Plan (2000 – 2005) launched in 1999, updated in March 2003<sup>1</sup>. The appraisal assessed the technical efficacy of the Programme and its adequacy for the priority needs in the sector towards accessible justice for all and in the national frame work (PRS, PSRP etc). The final Joint Appraisal Report dated September 2003 was considered at a joint meeting between Government and Donors on 1<sup>st</sup> October 2003. The meeting took into account the Government commitment and recognition, in sustaining the achievements and taking on board all valid recommendations of the Joint Appraisal team. In this regard the meeting agreed on the following key measures:-

- (a) strengthening programme management and evaluation through realigning programme outputs and responsibilities to enhance collaboration, accountability, transparency and cohesion among the implementing agencies;
- (b) capacity building for the implementing agencies through assessing the institutional implementation capacities, and developing annual work plans aligned with institutional annual operation plans, Medium Term Expenditure Frame Work and Strategic Plans. In this regard the strategic plans for the sector institutions must address the key areas of this MTS;
- (c) enhancing timely completion of the on going projects<sup>2</sup> to contribute to the streamlining the MTS annual work plans and budget;
- (d) reviewing the planned outputs of the MTS to ensure that they address the key priorities of the Institutions that were not covered under the Legal Sector Study Report, 1996;
- (e) enhancing capacity of the case flow managements committees in providing guidance on measures for addressing deficiencies in case disposition as a way towards reducing back log in courts; and
- (f) enhance donor coordination and participation in providing support and technical guidance for the implementation of the programme.

### **1.3 LEGAL SECTOR REFORM AND POVERTY REDUCTION NEXUS**

The Government's Poverty Reduction Strategy (PRS) has officially confirmed the linkage between poverty and poor access to justice. The 2000 PSRP states that, "The well being of the poor is also dependent on personal security afforded by the state." In this regard, the most important factors are personal safety, access to justice, overall

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<sup>1</sup> The Medium Term Strategy was updated to address priorities in the National Framework particularly the Poverty Reduction Strategy launched in 2000 and the issues raised at the National Stakeholders Consultative Meeting held in February 2008.

<sup>2</sup> Quick Start Project, Preparation of the Proposed Tanzania Accountability, Transparency and Integrity Project, Law Reform Capacity Building Project, Commission for Human Rights and Good Governance – Establishment, Strengthening Human Rights to improve Human Rights Capacities in Tanzania

efficiency, fairness, and transparency of the administrative system. Accordingly, the Government intends to take the following steps:

- speed up settlement of cases in the primary courts by, among other things, reducing the estimated shortage of magistrates (approximately 700) by one half;
- promote community based security arrangements;
- rehabilitate buildings and other facilities of the primary courts; and
- address the key issues in combating corruption in the Sector Institutions.

In the latter context, Government increased budgetary allocations for recurrent outlays to the Judiciary by about 40 percent in FY 2001/02. Furthermore, a Public Expenditure Review (PER) of the safety, security and justice sector (Ministry of Justice and Constitutional Affairs, and Ministry of Home Affairs, which caters for Police and Prisons) was carried out for the FY 2001/2002. Government, thereby, committed to: firstly, enhancing and sustaining allocation of its budget resources to the sector; and secondly, balanced budget allocation to the key actors (Judiciary, Attorney General's Chambers, Law Reform Commission of Tanzania, Commission for Human Rights and Good Governance, the Police, and Prisons) because their interdependency is necessary for effective and efficient dispensation of justice, and maintenance of law and order.

#### **1.4 PROBLEMS AND CHALLENGES**

In spite of the initiatives by the legal sector institutions and development partners in recent years, the quality of the legal services available to the people and other entities in Tanzania remains well below standards in most respects. This state of affairs is reflected in:

- inordinate delays in resolving disputes and dispensing justice. In spite of recent efforts to address this problem, there remain large backlogs of both criminal and civil cases in the legal system. Major crimes take more than four years to resolve and civil cases including commercial cases usually takes even longer. This is clearly a totally unacceptable situation;
- limited access to legal services for the majority of the citizens who either lack awareness of their basic rights and the opportunities for judicial redress, or cannot afford the legal services costs or do not have confidence in the integrity and fairness of the legal system;
- corrupt and unethical officials in the legal system and perceived corruption of judicial officers and other law enforcement officers;
- outdated and non-responsive system to either social, political, economic and technological changes, or increasing resource constraints over the years; and
- limited public trust in the legal system attributed to unexplained delays in the disposal of civil and criminal suits.

The institutional and resources constraints underlying the problems in the Legal Sector remain much the same as elaborated in the report of the Legal Sector Task Force. As paraphrased in the 1998 technical workshop<sup>3</sup>, these include:

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<sup>3</sup> The workshop that developed the Legal Sector Reform Programme :Medium Term Strategy and Action Plan 2000-2005 dated October 1999

- A fragmented, excessively bureaucratic and outdated legal and regulatory framework;
- Weak management and coordination of Legal Sector Institutions;
- Low competence and morale of public sector legal personnel;
- Inadequate numbers of professionally trained legal personnel in the country;
- Constrained independence and low integrity of the legal system;
- Ignorance and poverty of the majority of the citizens; and
- Excessively limited and poorly maintained work environment for all public institutions in the Legal Sector.

The legal sector is also challenged to effectively respond to the unfolding national and international social, political, economic and technological trends. These challenges include, for example:

- the changing social culture of the people arising from urbanisation, expanding and intensifying interaction with other cultures. Consequently, for example, there is need for a more dynamic family law;
- the new pluralistic democratic political environment coupled with the movement towards participatory management of socio-economic development;
- the expanding and institutionally complex free market led economy. The legal framework needs to change to facilitate regulation of corporate behaviour, to simplify and harmonise existing regulatory framework with a view to protect consumer interests, and timely cost effective civil and commercial disputes resolution; and
- the vast growing electronic commerce. Thus, for example, with many business transactions not requiring the use of ordinary paperwork, the nature of evidence admissible in court needs to be redefined.

Tanzania's public legal sector institutions have embarked on various initiatives to ameliorate the situation. For example, the following measures to improve the administration of justice have been introduced:

- introduction of Case Flow Management Committees;
- individual Calendar System;
- updating the case Law Reports from 1983 to 1997;
- establishment of a an Alternative Dispute Resolution mechanism in all district courts, resident magistrates courts and High Court Centres;
- establishment of the commercial and land divisions at the high court
- establishment of the Institute of Judicial Administration- Lushoto,
- establishment of District and Regional Judicial Boards,
- publication of a revised edition 2002 of the Tanzania Laws and
- establishment of Zonal and Regional Judicial Ethical Committees.

Reform of the legal sector also need to respond to the on-going rapid transformation of the public sector being ushered in by among others, the Public service reform and the Local Government reform programmes. For example, the Public Service Reform Programme (PSRP) sponsored changes in institutional and legal status, leading to quasi-

autonomous and largely self-financing “Executive Agencies” in the offices of Registrar of Companies in the Ministry of Commerce and Industries into the “Business Registration and Licensing Agency (BRELA); and the on going preparations for the transformation of the Administrator General’s Department in the Ministry of Justice and Constitutional Affairs. The Legal Sector Reform will also facilitate the public institutions in the sector to tap into such PSRP initiatives as modernisation of records management and personnel information systems, and a public services improvement programme. The Local Government Reform Programme’s goal of decentralisation of public service delivery and promoting participatory development in attaining equitable social services and in economic developments. It also reflects a new political and economic dispensation which is likely to influence significantly the environment of the Legal Sector Institutions. At the same time, these and other public sector reform programmes have given rise to the need for extensive changes in the legal and regulatory framework. Therefore, the LSRP should be in the context of the broader public sector reform framework.

## **1.5 LESSONS FROM IMPLEMENTATION OF OTHER REFORM PROGRAMMES**

It is widely acknowledged that reforms are costly undertakings and require proper management and coordination. In addition reforms provide challenge to implementers and beneficiaries mainly attributing to new concepts, procedures and processes and high consumption of resources (financial, human and technical). Reform programmes are fairly complex and require commitment and ownership for effective implementations. The Legal Sector has developed the strategy using lessons from other reforms and opportunities there in. The major lessons are lack of adequate resources; institutional implementation capacities and ownership have retarded attainment of goals in most of the reform programmes. While opportunities are the need for an enabling legal environment to support all reforms in the country, promoting good corporate governance practices both in public and private agencies and need for a governing framework for equal opportunity for all in economic activities and social services.

In ensuring that lessons from other reforms are taken into account include consultation with government departments or agencies with similar undertakings, general public, voluntary associations and civil societies. These were launched in October 2002 targeting at creating awareness, commitment and ownership of the strategy. Initially, the consultations targeted at identifying the gaps in the Strategy in addressing the key issues for poverty reduction and in other key public sector reform programmes and in enhancing timely justice followed by a technical efficacy assessment. The final stage of the consultations targeted at validating the Strategy by ensuring that all the key issues were taken on account.

In addressing the implementation constraints the Government is currently developing an action plan for enhancing programme implementation capacity in sector institutions and developed realistic work plans to guide the implementation of the more complex outputs in the strategy such as improved facilities for the courts, training programme and strengthening supervision mechanisms<sup>4</sup>.

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<sup>4</sup> These are based on studies undertaken in the implementation of the Quick Start Project and Preparation of Proposed Tanzania Accountability Transparency Project.

## 1.6 A SHARED VISION FOR THE FUTURE

In the backdrop of these problems and challenges, Government wishes to share with the people of Tanzania a vision that will inspire and sustain reform and development of the Legal Sector in the next century. This vision for the Sector is within the framework of Tanzania's Development Vision and Long Term Development Strategy (Vision 2025) which, inter alia, stipulates the pursuit to develop a society that has the following attribute: -

- (i) peace, political stability, national unity and social cohesion;
- (ii) democracy as well as political and social tolerance;
- (iii) good governance, rule of law, integrity and moral uprightness;
- (iv) the highest level of ingenuity, self confidence and self esteem;
- (v) people centred development;
- (vi) economic and social justice;
- (vii) equal opportunity to all citizens to participate in and contribute to the development of the nation, paying attention to minority and disadvantaged groups in society;
- (viii) a strong, diversified, resilient and competitive economy which can effectively cope with the challenges of the development goal and confidently adapt to changing market and technological conditions in the world economy; and
- (ix) sustainable development endeavour on inter-generation equity basis such that future generations benefit from the protection of natural resources of the country by the present generation.

Our vision for the future legal sector is characterised by:

- Speedy dispensation of justice;
- Affordability and access to justice for all social groups;
- Integrity and professionalism of legal officers;
- Enhanced independence of the judiciary; and
- A legal and regulatory framework and jurisprudence of high standards responsive to social, political, economic and technological trends at both national and international levels.

In pursuit of this vision, the clarion call will be:

**TIMELY JUSTICE FOR ALL**

The long-term strategic perspective of the legal sector reform is towards the realisation of the shared vision. In this perspective, furthermore, all sector stakeholders commit to accomplish the implementation of all the recommendations contained in the report of the legal sector task force as approved by the cabinet.

## 1.7 SHARED MISSION

The shared mission of all the institutions in the legal sector must be to:

achieve social justice, equality and rule of law through quality and accessible legal services

This mission should be underpinned by shared values in the fraternity of legal officers on the Bench, the Bar, and Executive Agencies, especially the Attorney General Chambers and Law enforcement agencies Police and Prisons. These values include:

- Fairness;
- Basic human rights;
- Equality and social justice;
- Rule of law; and
- Integrity of legal professionals.

The following principles will guide our values:

- Inalienability of basic human rights;
- Equality of all before the law;
- Separation of powers;
- Protection of public interest;
- Ethical conduct of legal officers;
- Accessibility and affordability of legal services for all citizens;
- Timely resolution of disputes;
- Efficiency in discharge of functions; and
- Transparency and accountability in dispensing justice.

## 1.8 A MEDIUM TERM IMPLEMENTATION PERSPECTIVE

It is now realized that implementation of such a programme is severely constrained, in terms of financial resources and availability of requisite skills for the planned transformations to achieve all our goals in the long term. Therefore, a medium term perspective in the implementation of the programme has been adopted.

In the latter context, a medium term strategy and action plan for the period 2000-2005 was developed in 1999. This action plan was based on a re-assessment of the prospective availability of both domestic and external resources and the capacity of public sector agencies to support the implementation of the reform agenda. Still, very limited resources were forthcoming to support the implementation. Furthermore, a joint Government-Development Partners Appraisal of that medium term programme, in June-September 2003, concluded that the programme was too ambitious and had gaps in priorities and the programme management structure lacked coherency and accountability among the key implementing agencies. Hence, there is a need for an updated medium term implementation plan and a budget that is in line with the three-year Poverty Reduction Strategy (PRS) and Medium Term Expenditure Framework (MTEF).

## **CHAPTER 2**

### **THE MEDIUM TERM STRATEGY: AN OVERVIEW**

#### **2.1 STRATEGIC CONTEXT**

The implementation of the Legal Sector Reform Programme (LSRP) must be planned in the context of the Tanzania Poverty Reduction Strategy (PRS). The paper articulates the Government's development priorities for the medium term aimed at: (i) reducing income poverty; (ii) improving human capabilities, survival and social well-being; and (iii) containing extreme vulnerability among the poor. The prioritisation of allocation of public expenditures, as well as development partners' contribution to development efforts is primarily guided by the PRS.

It is significant that the PRS has placed access to justice for the poor at the center of the government's development efforts. At the same time, the PRS emphasizes the interdependence of safety, security and access to justice, including addressing the problem of corruption in Legal Sector Institutions. In other words, it is recognized that the reform of the traditional Legal Sector Institutions must be in tandem with that of the safety and security organs, i.e. the police and the prisons. Therefore, a total systems and sector-wide approach is important for smooth and successful implementation of the LSRP.

In the framework of the PRS, Public Expenditure Review (PER) 2001/2002 on the safety, security and justice sectors recommends for increase of allocations for the following priorities:

- Reducing the backlog of outstanding cases;
- Enhancing supervision and division of responsibilities among various organs of law and order;
- Enhancing administrative support systems of the Legal Sector Institutions;
- Updating legal framework; and
- Improvement of office accommodation.

The PER revealed that a small share of other charges (OC) in recurrent expenditure of about 40 percent is likely to hinder the day-to-day operations not only of the Police department but also of the Judiciary, Attorney General's Chambers, and Prison department, eventually leading to undermining the dispensation of justice. It also revealed food, medical care and uniforms for prisoners was given very small amounts of funds. These items got only 42 percent, and 36 percent, respectively, of resource requirement. Given the poor dietary and medical care conditions facing prisoners, there is no hope for improving the situation. Very small amount of resources will be allocated for development expenditure to solve dilapidated and inadequate facility problems in the courts, remand homes, approved schools, Police Force and Prison Service Department.

## **2.2 STRATEGIC IMPERATIVES**

Key features of the medium terms strategy fall under the following:

- Supporting the Poverty Reduction Strategy;
- Committing Government to enhanced funding of Legal Sector Institutions;
- Emphasis on relatively low-cost interventions;
- Strong inter-agency collaboration;
- Strategic planning by Legal Sector Institutions; and
- Linking and complementing other public sector reform programmes.

### **2.2.1 Supporting the Poverty Reduction Strategy**

The context in which the LSRP must support the PRS implementation has been elaborated in section 2.1 above. In this regard, the LSRP must adopt a pro-poor and poverty alleviation approach with a view of promoting timely justice for enhanced economic development. This implies that the Sector Institutions now be for the poor and economic development perspective unlike the past, when it was for the perspective of judges, lawyers and business elites. Furthermore, the programme's medium term strategies must accord priority and create flexibility to address the current and future strategic reform targets in the PRS on administration of justice basing on the measures developed since 2001, which may be summarised as follows:

- Speed up court decisions and raise ratio of decided to filed cases;
- Reduce the average time taken to settle commercial disputes ;
- Raise the ratio of actual Court of Appeal sessions to planned sessions;
- Rehabilitate buildings and other facilities of the Primary Courts; and
- Address key issues in combating corruption in the Judiciary, Home Affairs particularly in police and prison forces and in the Attorney General's Chambers, legal registries and other key sector institution.

### **2.2.2 Committing Government to Enhanced Funding of Legal Sector Institutions**

Maintenance of law and order is the core functions of the Government. It is primarily the 'raison d'être' for the existence of the state. It is also the bedrock for maintenance of law and order in a democratic and liberal society and the central plan of good governance and upholding the Rule of Law, which is the shared mission of the Sector Institutions. In this perspective, allocation of Government resources should accord highest priority to adequate funding of the operations and timely release of funds. The Government therefore initiated a PER process for the budgets of the Attorney General's Chambers, the Judiciary, Law Reform Commission of Tanzania, the Commission of Human Rights and Good Governance, Police and Prisons. A PER Sector Working Group was established to promote collaboration and ensure that funds are allocated and expended on priority cross cutting issues for the sector. Accordingly, the Government has started to increase the

budgetary allocations to these institutions from FY2001/02, an increase that is yet small for the magnitude of priorities in the enhancement of accessibility to justice for all. As a result, the budget deficit in these institutions is still on the high side due to unfavourable Government's resource envelope. In addition the PER 2002/03 has been done in consultation with sector group and stakeholders in the administration of justice to ensure that key issues in public safety, security and justice receive due attention and release of funds target to the priorities in enhancing accessible justice and social security.

### **2.2.3 Emphasis on Relatively Low-cost Interventions**

Emphasis on low cost interventions in this initial phase of the reform is geared towards maximising early impact with the severe limited resources. This is seen in two ways: firstly, the Government is installing performance improvement models in public institutions including the Legal Sector Institutions through the PSRP targeting at enhancing performance improvement under severe budgetary constraints. Secondly, the Government under the LGRP is promoting community participation in the management and improvement of social services. This has also been promoted under the Health Sector Reform Programme and the Education Reform Programme. In the same vein, the Legal Sector is also piloting improvement of court facilities in Arusha and Manyara Regions using community support with a view of developing a nation-wide programme. The pilot scheme is intended to utilise available local materials to reduce construction and rehabilitation costs on lower court. It is in this context the Medium Term Strategy intends to promote low cost interventions through use of simple technology and materials for quality constructions/rehabilitations, using alternative available training methodologies and approach to improve quality and quantity of training programmes and developed work plans based on quantified activities as may be noted in volume II of the strategy (Work Plans, Costing and Financing Arrangements). In addition a manual to guide the financing arrangement shall be developed to ensure effective utilisation and account for utilisation of funds.

### **2.2.4 Strong Inter-agency Collaboration**

It is abundantly clear that effective institutional changes and capacity building in the Legal Sector must move in tandem across all the institutions in the sector. In this context also, inter-agency collaboration is crucial taking into account the need for an effective sector wide approach funds and implementation arrangements. Mechanisms for effective collaboration at each level shall be designed basing on the lessons from the Quick Start Project, other sectoral and institutional based projects and existing interagency collaborations in the sector such as the case flow management committees.

### **2.2.5 Strategic Planning by Legal Sector Institutions**

The Public Sector Reform Programme introduced the Performance Improvement Models for the public Sector institutions through strategic plans with properly identified visions, missions, strategic goals and key result areas. The Sector Institutions have started the strategic planning process and it is intended that the annual plans shall be integrated in

the MTEF budgets. The Strategic Plans for the Judiciary, Attorney General’s Chambers, Law Reform Commission of Tanzania, Business Registration and Licensing Agency and the Commission of Human Rights and Good Governance are at an advanced stage. It is expected that the strategic plans will be aligned to the Medium Term Strategy and Action Plan key result areas therefore address priorities improvement of quality and accessibility of services offered by these institutions.

### **2.2.6 Linking and Complementing Other Public Sector Reform Programmes**

Legal Sector Reform Programme is one of several major public sector reform programmes, including: macro-economic adjustment and privatisation programmes; the PSRP; the LGRP; the Financial Management Reform Programme; the Presidential Anti-Corruption drive; the BEST Programme and other sector development programmes in social services and infrastructure. All these programmes share the overarching goals of enhancing good governance and the living conditions of the people of Tanzania. Moreover, these programmes reinforce each other in many respects. There are also the risks of duplication of efforts and moving at cross-purposes in the implementation process. The implementation of the strategy is compelled to ensure appropriate linkages and complementarity of the reform programmes.

## **2.3 KEY RESULT AREAS**

In the context of identifying priority target outcomes of the legal sector reform programme in the medium term, the following have been identified as the five core key result areas (KRAs) for the programme:

- (i) National legal framework;
- (ii) Access to justice for the poor and the disadvantaged;
- (iii) Human rights and administrative justice;
- (iv) Knowledge and skills of legal professionals; and
- (v) Service delivering capacity in key legal sector institutions.

Each of the above key result areas will be a component of the sector reform programme’s medium term plan. In addition, there will be a programme coordination, monitoring and evaluation component. In subsequent sections of this report, the planned outputs for three years under each of these components are outlined.

## CHAPTER 3

### NATIONAL LEGAL FRAMEWORK

#### 3.1 OVERVIEW OF PROBLEMS AND ISSUES

The Legal Sector Task Force elaborated the extent to which the legal and regulatory framework is outdated, impedes speedy dispensation and accessibility to justice, and is fragmented. This is attributed to; firstly, the English law received during the colonial times which was neither changed nor modified to suit the circumstances of an independent Tanzania, or subjected to a meaningful reform process. Secondly, while customary law is a major component of the legal framework, it has been difficult to update and reform because of its relative inaccessibility, and the diversity of its applicable systems.<sup>5</sup> Further there is need to review the customary law so as to make it human rights gender and HIV compliant. Thirdly, the subsidiary legislation introduced over the years has sometimes been introduced in a fragmented way and contradicts one another at some places.

The problem of fragmented legal framework extends to the legislation governing the establishment of the Legal Sector Institutions. Thus, the Legal Sector Task Force in 1996 recommended “the review of the establishment Acts of the various Legal Sector Institutions, amending the procedures including the Acts governing the operations of the legal registries”. The legal registries are offices of the Registrar of Titles, Companies, Societies and the office of the Administrator General.

There is also a problem of disharmony with the legal framework governing the administration of criminal justice. The problem emanates from the fact that the Director of Public Prosecutions (DPP) is statutorily empowered to supervise all criminal prosecutions and to appoint public prosecutors and in most cases police officers conduct prosecution on his behalf. There is also a fragmentation in the prosecution process because various institutions with various statutory powers and functions conduct prosecutions over which the DPP has no control. This is further aggravated by the fact that DPP has limited representation in the district and resident magistrates’ courts where most of these prosecutions are conducted. In this regard, the Legal Task Force therefore recommended as follows:

- (a) A unified criminal prosecution system under the over-all direction of the DPP; and
- (b) A separation of the prosecution from the investigative functions.

Also, implementation of the Public Sector Reform Programme, the Local Government Reform Programme may have exacerbated the problem since it is not easy to know how

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<sup>5</sup> The Customary Law Declaration Order, 1963, GN No. 279/163 codified some of the customary laws

the legal framework should be updated or in what way they should be harmonised to accommodate intended reforms.

### **3.2 RECENT ACHIEVEMENTS AND INITIATIVES IN PROGRESS**

Over the past three years, a rather limited progress has been achieved in the implementation of aspects of this component. The significant developments revolve around:

- (i) The Signing of a Memorandum of Understanding between key GOT implementing agencies and various development partners agreeing to implement the BEST programme, sets out to facilitate legal reforms to foster a more enabling environment for the private sector giving priority to SMEs in Tanzania in order to fuel economic growth and meet poverty reduction goals by inter alia:
  - achieving better regulatory framework in Tanzania through establishment of Better Regulation Unit (BRU) at the President's Office – Planning and Privatisation (PO-PP); and
  - reforming the commercial dispute resolution system to provide speedy and cost effective commercial justice.
  
- (ii) A strengthened Law Reform Commission of Tanzania: Through the implementation of the DANIDA-sponsored Capacity Building Project for the Law Reform Commission the following achievements have been made:
  - construction and equipping of a permanent office accommodating the Law Reform Commission of Tanzania and the Commission of Human Rights and Good Governance;
  - training of staff in legal research, information technology and modern management techniques and development of a Research Methodology Guidelines for the Commission;
  - compilation of a draft medium term strategy for the Commission; and
  - the commission's success rate has improved from producing one report in three years to four reports per year.
  
- (iii) Updating and harmonised legal framework for the legal sector institutions through implementation of the Quick Start Project to be completed by the end of October 2004. The expected outputs are the legislative amendments to remove impediments to timely accessible justice for all and measures for ensuring timely updating of the institutional Legal Framework for the Legal Sector Institutions.

- (iv) The Ministry of Justice and Constitutional Affairs launched the Revised Edition 2002 of Tanzania laws in December 2002, published in 21 volumes and was promulgated in September 2002. The Edition was compiled in accordance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)) as well as the Interpretation of Laws and General Clauses Act No. 30 of 1972. The Edition incorporates all the laws of the United Republic of Tanzania, including amending enactments, as at 31st July, 2002. It is expected that the publication will highly assist in addressing the problem of fragmentation and contradiction of legislation in the National Legal Framework.
- (v) The Government also enacted new Companies Act in 2002, amended the Land Act, 1999 and related laws to effectively govern mortgage and lending practices and has initiated the review of the Labour laws to cope with the current developments in the country.

### 3.3 TARGET KEY RESULTS

In this medium-term implementation plan, a more comprehensive approach to updating and harmonising the legal framework has been adopted in two important respects. First, the need for a legal framework enhancing social justice, public safety, and economic development, enhanced independence for the Legal Sector Institutions and improvements in the law governing the penal system has been given prominence. Underlying this, the latter intervention is the first objective of reducing bias against the poor and disadvantaged. Second, the strengthening and streamlining the prosecution system of the country to ensure separation of the investigative and prosecution functions targeting at enhanced quality investigation and prosecution services in the country. In addition, the thrust of the Legal Sector Reform Programme to promote and protect human rights. Therefore the objective is to ensure all laws that are gender, HIV/AIDs and human rights compliant in accordance with international requirements.

In brief, for the medium-term, the following are the five key results that will be pursued under this component:

- (i) **Improved Legal Environment for Enhanced Social Justice and Safety and Economic Development:** This is intended to achieve a harmonised legal framework in the country through creating linkages among sectors being governed by similar legal framework in order to create effective harmonisation of laws. These linkages will ensure all reform programmes support review, updating, and harmonization and aligning the respective regulatory frameworks to social, economical and technological trends. This shall include considering a possibility of expanding the role of the BRU to include other laws that enhance better commercial practices. The medium term strategies also include improvement of the penal system and

law impeding accessible justice to the poor and the disadvantaged such as women, children and disabled persons. The later shall include review and updating of the customary law Declaration Order, and harmonising the same to be Human Rights, HIV and Gender compliant.

- (ii) **Enhanced Independence of the Legal Sector Institutions:** The Quick Start Project dealt with the current problem of fragmented and outdated legal framework of the legal institutions. The Medium Term Strategy will address the aspect of promoting independence to the Sector Institutions basing on mandates, roles and functions with a view of promoting collaboration, effective coordination, transparency and accountability among the institutions particularly in the administration of justice.
- (iii) **Streamlined and Strengthened Prosecution and Investigative Systems:** Develop modalities and strategies for streamlining, modernising and strengthening prosecution and investigation in the country, regulatory mechanisms and human resource development plans (recruitment, remuneration and training). This shall include identifying the priority measures for strengthening the capacity of the Department of Public Prosecution as part of the preparations for the implementation of a streamlined and strengthened prosecution system in the country. While at the same time modernising and strengthening the investigation system of the country to cope with crime complexity and social-economic and technological trends.
- (iv) **Strengthened Capacity for Research and Studies of the National Legal Framework:** The Law Reform Commission of Tanzania (LRCT) is implementing a Capacity Building Project through the assistance of DANIDA in three phases to be completed in 2009. At the same time, the Commission is implementing its Medium Term Strategy as approved by the President's Office – Public Service Management. The third phase of the project which will start from 2005 to 2009 shall include development of a medium term work plan for legal research and studies on the national legal framework identifying the role of the key stakeholders and acceptable by all stakeholders involved. There will also be measures to strengthen legislative processing mechanisms targeting at ensuring quality and relevance of bills/ regulations/ orders and economical legislative processing and promoting research on legal developments by legal training institutions so as to contribute to the reform of the national legal framework.

### 3.3 TARGETED IMPACT INDICATORS

Implementation of the Medium Term Strategies will have the following impact:

- enhanced economic growth and equitable chances in economic activities ;
- removal of overlapping mandates and enhanced independence and autonomy of sector institutions;
- enhanced speed of disposition of commercial as well as criminal disputes; and
- reduced complaints against poor investigation and prosecution services.

The main target outputs and related performance indicators and assumptions in each of the three years in the medium term are laid out in **Table 3.1** over the page.

**TABLE 3.1: NATIONAL LEGAL FRAMEWORK COMPONENT 1 – MAIN TARGET OUTPUTS AND INDICATORS**

TARGET OUTCOMES	OUTPUTS BY YEAR						Basic Assumptions
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
1. Improved Legal Environment for enhanced social justice and safety and economic development	Priority legislations enabling growth of Business Sector in Tanzania defined under BEST Programme	Priority legislation and Action Plan Approved by 31/12/04 <sup>6</sup>  Implementation of the action Plan by 31/03/05	Priority Legislation Updated and Harmonised	Number of amendments/ Acts Gazetted by 30/06/07	Priority Legislation Reviewed Updated and Harmonised	Number of amendments/ Acts Gazetted by 30/06/08	Support from Best Programme  Political willingness  Competent staff appointed
	Laws impeding justice to the disadvantaged groups (gender/HIV) identified and action plan defined	List of Laws and action plan approved by stakeholders by 31/12/05	Laws impeding justice to the disadvantaged groups (gender/HIV) amended	Number of amendments/ Acts Gazetted by 30/06/07	Laws impeding justice to disadvantaged groups (gender/HIV) amended	Number of amendments/ Acts Gazetted by 30/06/08	Support from the National HIV/Gender Programmes  Political Willingness

<sup>6</sup> Activities for attaining the output are currently been implemented by the Law Reform Commission of Tanzania in collaboration with BEST-BRU

TARGET OUTCOMES	OUTPUTS BY YEAR						Basic Assumptions
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
	Efficacy of the current penal system to account human rights and other social developments assessed	Final report by 30/06/05	New Penal Laws	New Penal Laws Gazetted by 30/06/06	New Penal Laws and policy disseminated to the courts, public, Members of Parliament etc	No. of copies of penal law and policy disseminated to courts, public and Members of Parliament by 31/12/07	
Review and update of all penal laws	Draft penal laws by 30/12/05	New Penal Policy for Courts Public Awareness Programme on the new Penal Law and Penal Policy	Judicial Circular and Procedures Gazetted by 30/09/06  No of Persons sensitised by 31/12/06			Willingness for change by the administrators of the Penal Laws  Political Willingness	
2. Enhanced Independence of the Legal Sector Institutions	Delegation of authority properly defined in the Legal Framework	New Laws and Procedures Gazetted by 31/12/05	Legal Institutions Personnel trained on the Changes in Delegated Authority	No of Persons trained by 31/12/06	Public Awareness on the delegation of authority for legal Institutions	No of Persons sensitised by 31/12/07	Political Willingness  Willingness for change by the Legal Sector Personnel
	Well defined statutory roles and mandates of the Legal Institutions	New Laws and Procedures Gazetted by 31/12/05	Legal Institutions Personnel trained on the changes in statutory roles and mandates	No of Persons trained by 31/12/06	Public Awareness by on the statutory roles and mandates for legal Institutions	No. of Persons sensitised by 31/12/07	
3. Streamlined and Strengthened Prosecution and Investigation Systems	Capacity Building Programme for DPPs' Division MJCA	Programme approved by SC 30/06/06	Sensitised prosecutors, public and Members of Parliament	No. of Prosecutors, public and Members of Parliament sensitised by 30/06/07	Capacity Building Programme for DPPs Division implemented according to plans	Implementation progress report at 30/06/08	Political Willingness  Willingness for change by the police and public prosecutors
	Programme of Assistance for strengthening and	Programme approved by stakeholders by	Capacity Building Programme for DPPs Division implemented	Capacity Building	Measures to	Procedures and	

TARGET OUTCOMES	OUTPUTS BY YEAR						Basic Assumptions
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
	streamlining prosecution and strengthened investigation system defined	30/06/05	Linked Inter-Ministerial measures for Strengthening Prosecution and Investigations	measures implemented by DPP by 30/06/07  Inter-Ministerial agreement and action plan by 30/04/07	streamlining and strengthen Prosecution System implemented	Guidelines Gazetted by 30/06/07	
4. Strengthened capacity for legal research and Studies/ Review on the National Legal Framework	Implementation of Phase II and III of the Capacity Building Project for the Law Reform Commission  Work plan for legal research and studies on the National Legal Framework  Programme for strengthening capacity for processing legislation	Implementation status report as at 30/06/06  Work plan adopted by stakeholders by 30/06/06  Programme for Capacity Building in Legislative Processing agencies adopted by 31/03/06	Implementation of Phase III of the Capacity Building Project for the Law Reform Commission  Linkage among Programmes to support capacity building measures legal research and studies on the National Legal Framework  Implementation of the Strengthening legislation processing capacity	Project Implementation Status Report as at 30/06/07  Inter-Ministerial agreement and action plan by 31/03/07  Project Implementation Status Report as at 30/06/07	Implementation of Phase III of the Capacity Building Project for the Law Reform Commission  Legal Researches Studies on the Legal Framework  Implementation of the Strengthening legislation processing capacity	Project Implementation Status Report as at 30/06/07  Reports on legal studies and legal researches 30/06/07  Project Implementation Status Report as at 30/06/07	Timely designing and implementation of phase III of the Capacity Building for the Law Reform Commission.  Support by Legal Training Institutions  Support by other Reform Programmes  Collaboration among legislative processing agencies

## **CHAPTER 4**

### **ACCESS TO JUSTICE FOR THE POOR AND THE DISADVANTAGED**

#### **4.1 OVERVIEW OF PROBLEM AND ISSUES**

The Legal Task Force was concerned that the majority of Tanzanians, particularly those in the rural areas, had little or no access to legal services. This problem is still prevalent though to a certain degree, legal aid groups have started to promote and undertake legal literacy campaigns, conduct legal aid clinics and training of paralegals. Majority of Tanzanians due to language barrier cannot access the basic Statutes including procedural laws and legal information. These are published in legal language. Therefore, laws should be written in simple English language and translated into simple Kiswahili, the language that is widely spoken and read by the majority to enable majority to comprehend their prescribed rights as well as duties.

However, initiatives by various voluntary organisations of providing paralegal training, dissemination of legal information and legal aid clinics lack effective coordination, planning and financial support. The Government, due to resource constraints, had failed to support legal aid and literacy networking activities though these are essentials for the society development and entrepreneurship. Nevertheless, the Government in an attempt to disseminate legal information consolidated the teaching of Civics and General Knowledge subjects in Primary and Secondary Schools, curricula with adequate and relevant content of legal knowledge on basic rights.

On the other hand, rapid social developments both in urban and rural areas have raised the crime rate to a great extent. A larger portion is the petty offences of which culprits are remanded due to inability to meet the conditions for bailment. The criminal offences by children/minors have also relatively increased proportionately. In Kisumu Juvenile Court only there were 162 cases filed in 2001, 180 cases files in 2002 and 173 cases filed in 2003. It is imperative that, the Government implement measures for enhancement of access to justice by juvenile offenders and remand prisoners of minor offences towards enhancing accessible justice for the poor and the disadvantaged.

Moreover majority of the people with no access to justice are in the rural areas. Most of the Primary Courts are distributed within wide geographical locations such that access to justice for the majority is impeded. Also the Primary courts lack competent staff and a more critical hindrance is the inadequate number of primary court magistrates and ill-equipped court houses in this level. On the other hand, Ward Tribunals that are expected to fill this gap as alternative dispute resolution organs have either not being functioning or always performed below expectation of the aggrieved persons. It is therefore important to ensure that the Primary Courts and

Ward Tribunals meet expectations of the aggrieved parties thus enjoying the confidence of the majority of the citizen.

## **4.2 RECENT SIGNIFICANT DEVELOPMENTS**

The Government is currently implementing the Public Service Reform Programme and the Local Government Reform Programme (LGRP) both targeting at accessible and quality public service. As part of the implementation of the LGRP, ward tribunals and other dispute settlement organs within the Local Governments Authorities are currently being strengthened. Moreover, the following comparatively recent developments have a bearing on the planning for the implementation of this component in the medium-term:

- (i) **The Legal Aid and Literacy Network:** The Legal Aid and Human Rights Network were established through the support of DANIDA. The Members of the Network were Legal and Human Rights Centre (LHRC); Women Legal Aid Centre (WLAC); Tanzania Women Lawyers Association (TAWLA); Environmental Human Rights Care and Gender Organisation (ENVIROCARE); Tanganyika Law Society (TLS); and Legal Aid Committee (LAC) of the Faculty of Law, University of Dar-es-Salaam. The network was not legally established but was managed through a code of conduct approved by the members and TAWLA provided the overall financial and administrative support to the Network.
- (ii) **Strategy for Training Paralegals:** Consultations with various stakeholders revealed that there are paralegals trained through initiatives of NGOs supporting the establishment of paralegal activities. However, there are no governing procedures or regulations for identification of paralegals or course content for the paralegal training. Most of the NGOs dealing with Paralegals feel that it is necessary to establish a cadre of paralegals in the environment of Tanzania where the ratio of population to practicing lawyers is high, practicing lawyers fear practicing in remote areas and fees for legal services are on the high side.
- (iii) **Strengthening Juvenile Justice in Tanzania:** The Quick Start Project supported training of judges, court registrars, magistrates, police officers, prison officers and social welfare officers on the best practices for the administration of juvenile justice. The training identified key issues for enhancing juvenile justice as the enabling policies and regulatory framework, weak capacities in the juvenile justice administration agencies and lack of appropriate training programme in juvenile justice training. As a result, an action plan for enhancing juvenile justice in Tanzania was adopted at a stakeholders workshop held in July 2004. Other initiatives include, designing juvenile courts in Mtwara and Mbeya and alterations and rehabilitation of Kisutu Juvenile Courts and Mbeya Approved School, provision of key reference materials on juvenile justice administration, training of trainers of induction training for new juvenile court staff.

- (iv) **District based support to the Judiciary:** The Quick Start Project supported a pilot scheme on district-based support in Manyara and Arusha Region. Activities for the Pilot Scheme were selected and planned in consultation with the community, local government authorities and the Judiciary. The activities included construction or rehabilitation and equipping selected Primary Courts through support of the community, local government, the Judiciary and the Quick Start Project. The Project assisted in identification of the bottlenecks for enhancing facilities for the Primary Courts and identified the role of the government, community and Local Authorities in this regard.

### 4.3 TARGET KEY RESULTS

Consultation with the key stakeholders revealed that there are existing measures for enhancing accessibility to justice for the poor and the disadvantaged that are being implemented by voluntary groups and associations such as the non-governmental organisation. These initiatives lack supporting coordination and management mechanisms and, thus need to be properly promoted, coordinated and managed. At the same time it is also envisaged that linkages with the Local Government Reform Programme to support Ward Tribunals and construction and maintenance of primary courts based on the outcome of the Pilot Scheme in Arusha and Manyara Regions with a view of enhancing accessibility to justice at this level would serve the majority in the rural areas. In this context, the key results to be pursued under this component in the medium-term will include:

- (i) **Improved Access to Justice for Persons in Remand Homes and Prisons:** Developments in neighbouring countries such as Malawi and Kenya indicates a possibility of reducing congestion of prison by enhancing dispensation of justice through screening cases by magistrates in remand homes and prisons. The medium term activities include introduction of Remand Homes and Prisons Case Screening by magistrates, providing adequate transport to prisons, development of guidelines on handling disadvantaged groups, review of custodial limits, establishment of case flow management committee at the Primary Courts and strengthening the case flow management committees at the districts and higher levels, and training justice administrators on speedy dispensation of justice in limited resource capacity. Also the use of alternative sentencing and extra mural penal employment by magistrates and prisons as well as regular Parole Board and Community Service Committee meetings and identifying effective transport mechanism for remand prisoners will be addressed in the Medium Term so as to reduce congestion in prisons. Furthermore formulation of penal policies and Sentencing Guidelines to Magistrates will be issued.
- (ii) **Enhanced Legal Aid for Disadvantaged and Poor Persons and Dissemination of Legal Information:** Designing and implementing a well regulated and managed country wide programme which will monitor and build up a legal aid network for the legal aid institutions

through a consultative process. This shall include establishing a fund to provide grants to legal aid and literacy activities implemented by NGOs or voluntary associations together with surveying, analysing the nature and scope of their work done in training paralegals, and dissemination of legal information basing on available work done by the Legal Aid NGOs and recommendations of the Legal Task Force Report, 1996<sup>7</sup>. This shall also include translation and printing priority basic statutes and legal information and assessing the efficacy for introducing Basic Human Rights subjects in curriculum for primary and secondary education through consultations with the key stakeholders as a way of promoting awareness of basic human rights to the majority. The translated materials should also be available in (Braille) for blind people to be able to read them.

- (iii) **Improved Access to Justice in the Rural Areas:** Participation of the Local Governments Authorities and local communities in improving infrastructure for enhanced accessible and quality justice in the rural areas has been piloted under the Quick Start Project. One key bottleneck is the administrative and financial capacities of the Local Government in ensuring timely decisions or assessments to facilitate timely execution of activities. On the other hand the project created links with the Local Government and communities in Arusha and Manyara Region which need to be continued through enhance consultations and collaborations to facilitate effective maintenance of the court infrastructure in the country. The LSRP medium term programme will facilitate the local governments and communities to performance of Ward Tribunals by addressing the key issues for effectiveness of these Tribunals.
- (iv) **Improved Access to Justice for Juvenile Offenders:** The action plan adopted in July, 2004 targets at aligning the Legal Framework, criminal policy to provide for acceptable juvenile justice administration practices, enhancing capacity of key institutions for juvenile justice administration in creating public awareness on juvenile rights and obligations and creating a correctional policy for juvenile. In the medium term the strategy would address the following:
- Review and harmonise correctional policies, criminal policies and legal framework to address to key issues for effective juvenile justice;
  - Capacity building in key Juvenile Justice administration institutions;
  - Enhancing public awareness on Juvenile Rights and obligations;
  - Improving knowledge and skills for juvenile justice administrators.

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<sup>7</sup> p75, Chapter II, D. Legal Aid and Dissemination of Legal Information: Part IV: Recommendations

#### **4.4 TARGETED IMPACT INDICATORS**

Implementation of the Medium Term Strategies in this area will have the following impact:

- Reduced number of remand prisoners and juveniles in remand homes;
- Efficient transportation of remand prisoners and juveniles to courts;
- Increased number of persons who understand their legal rights and obligations;
- Streamlined activities among NGOs disseminating/providing legal aid and paralegal training;
- Reduction of backlog of cases in the Courts;
- Equitable distribution of Primary Courts and Magistrates;
- Increased understanding of juvenile rights and obligations.

**Table 4.1: Enhancing Access to Justice for the Poor and Disadvantaged**

TARGET OUTCOMES	OUTPUTS BY YEAR						Basic Assumptions
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
1. Improved Access to Justice for Persons in Remand Homes and Prisons	Cases screened by Magistrates in Remand Homes and Prisons	Number of Screened Cases by 30/06/06	Custodial Limits Reviewed	Legislative Amendments Gazetted by 30/06/07	Transport facility for prisons and remand homes/ approved schools	Number of vehicles purchased and distributed by 30/06/08	Effective Collaboration among the Judiciary, Police Force, Prisons Department and the Department of Public Prosecution  Political Willingness  Support to the Case Flow Management Committees
	Available transport facility for prisons and remand homes/approved schools	Number of vehicles purchased and distributed by 30/06/06	Transport facility for prisons and remand homes/ approved schools	Number of vehicles purchased and distributed by 30/06/07			
	Guidelines for handling of cases of disadvantaged groups for all justice administrators* issued	Circular by the Chief Justice by 31/03/06	Justice Administrators Trained on speedy dispensation of Justice for the poor and unrepresented	Training Programme by 31/07/07 Number of Trainees by 30/06/07	Justice Administrators Trained on speedy dispensation of Justice for the poor and unrepresented	Number of Trainees by 30/06/07	
Case Flow Management Committees for Primary Courts established and reactivated at the District Courts and Higher levels	Number of Meetings by each Committee by 30/06/06	Case Flow Management Committees Reporting Capacities Strengthened	Training Programme by 31/08/06 Number of Trainees by 30/06/07	Streamlined Case Flow Management System	Case tracking mechanism established and interlinked by 30/06/08		

\* Judges, Magistrates, Social Welfare Officers, Advocates, State Attorneys, legal officers, Police and Prisons Officers

TARGET OUTCOMES	OUTPUTS BY YEAR						Basic Assumptions
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
2. Enhanced Legal Aid and Dissemination of Legal Information	Efficacy for establishing the Legal Aid Literacy Network assessed	Modalities for establishment of the Legal Aid/Literacy Network by 30/06/06	Legal, information, education and communication packages for Legal Literacy groups developed  Legal literacy packages disseminated.	Legal Information packages for literacy Groups identified by 31/12/07  Number of IEC packages disseminated by 30/06/07	Equipped and staffed Legal Aid Secretariat.  Legal Aid Groups and Centres at Ward, District and Regional level established	Number of Staff and Equipments for the Secretariat by 30/06/08  No of District, Ward and Regional Legal Aid Centres by 30/06/08	Support from NGOs, CBOs and other voluntary groups
	Code of conduct for Members of the Network and procedures for legal aid/literacy issued.	Approved Code of Conduct for Network Members by 30/06/06	Code of Conduct for Network Members and procedures for Legal Aid/Literacy disseminated through publications and seminars	No. of Seminars and copies of Code of Conduct & Procedures Disseminated by 30/06/07	5 trained paralegal for each District  Legal Aid Literacy Fund launched	Number of paralegals trained for each District by 30/06/06 Approved Procedures for Legal Literacy/Aid Fund by 31/12/08	Support from NGOs, CBOs, other voluntary organisations and financing agencies
	Efficacy on the introducing basic human rights aspect in the Civics Syllabi assessed.	Basic Subjects on Human Rights identified by 30/09/05	Approval by the Ministry of Education on the Basic Subject  Revised Civics Syllabus and curriculum of Teachers Training Colleges and Schools.	Civics Curriculum revised by 30/06/07  Revised Civics Syllabus and Curriculum by 30/06/07	Training institutions to inoculate knowledge of Basic Human Rights to Teachers and Teacher's trainers identified and teachers trained	Approval of a List of Teachers Training Institutions 30/09/08  Number of Teachers and Teachers Trainers Trained in Basic Human Rights by 30/06/07	Cooperation from the Ministry of Education and Culture

TARGET OUTCOMES	OUTPUTS BY YEAR						Basic Assumptions
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
	Nature and Scope of work done by NGOs in Training Paralegals and dissemination of legal information assessed	Scope and Work done by NGOs quantified by 30/09/05	Training Programme Training manuals and modules for paralegals	Training Programme, manuals and models Paralegals by 30/09/06	Training of paralegals at the Ward, District and Regional levels	Number of paralegals trained at Ward, District and Regional levels by 06/06/08	Support from NGOs, CBOs and other voluntary associations
	Training institution for paralegals identified	List of Training Institutions identified by 31/12/05	Training Fund for grants to NGO's for paralegal training established	Training Fund for paralegal training established by 31/03/07	Publication of Paralegal training and activities through Media	Number of Paralegal training activities published by the Media by 30/06/08	Political Willingness
	Basic statutes and legal information identified	List of basic statutes and legal information identified by 30/06/05	100 Paralegal Trainers trained	Number of Paralegals trainers by 30/06/07			Support from funding Agencies Support from Media
	Basic Statutes and Legal Information for Translation into Simple Language and Swahili Selected	List of Basic Statutes and Legal Information established by 30/0/06	Basic Statutes and Legal Information Translated, Printed in Swahili and braille form and Disseminated	Number of Basic Statutes and Legal Information Translated by 30/062/07	100,000 copies of Constitution and basic statutes and legal information translated distributed to Primary Schools, Secondary Schools TTCs and Paralegals	Copies of Statutes and Legal Information disseminated to Paralegals Schools and Teachers College by 31/12/07	
3. Improved access to justice in the rural areas	Programme of assistance for enhancing efficiency of Ward Tribunals in administering Justice	Approved training programme by 31/03/06 Collaboration mechanism established by March 06	Trained Ward Tribunal members and secretaries  Working tools for Ward Tribunals	Number of ward tribunal members and secretaries trained by 30/06/07 Number of ward tribunals with working tools by 30/06/07	Trained Ward Tribunal members and secretaries  Working tools for Ward Tribunals	Number of ward tribunal members and secretaries trained by 30/06/08 Number of ward tribunals with working tools by 30/06/08	Support from Local Government Authorities  Support from the Local Government Reform Programme

TARGET OUTCOMES	OUTPUTS BY YEAR						Basic Assumptions
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
Community based mechanism for continuous support to the lower courts in Arusha and Manyara Region	Procedures/ regulations by 31/12/06	National Community Based Programme for supporting the Lower Courts	Approval of the National Community Based Programme by 31/03/07	Equipped constructed /rehabilitated priority primary, courts	No of Primary, Courts constructed/ rehabilitated and equipped by 30/06/08	Support from the Tanzania Building Agency	
Construction/ Rehabilitation and equipping selected Primary, District and Regional Courts	Number of Courts Constructed and equipped by 30/06/06						

TARGET OUTCOMES	OUTPUTS BY YEAR						Basic Assumptions
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
4. Improved Custodial and Court Facilities for Juvenile Offenders	Mbeya Approved Schools rehabilitated, expanded and equipped	Mbeya Approved Schools rehabilitated, expanded and equipped by 30/06/06	Facilities of Juvenile Offenders in courts rehabilitated, expanded and equipped	Number of Courts with faculties for Juvenile offenders by 30/06/07	Facilities of Juvenile Offenders in courts rehabilitated, expanded and equipped	Number of Courts with faculties for Juvenile offenders rehabilitated, expanded and equipped by 30/06/08	Effective Collaboration among the Judiciary, Police , Prisons, Ministry of Justice and Constitutional Affairs, and Department of Social Welfare
	Rehabilitated, expanded and equipped facilities of Juvenile Offenders in courts	Number of Courts facilities for Juvenile offenders rehabilitated, expanded and equipped by 30/06/06	Remand homes constructed/ rehabilitated and equipped	Number of remand homes rehabilitated, expanded and equipped by 30/06/07	Remand homes constructed/ rehabilitated and equipped	Number of remand homes by 30/06/08	
	Remand homes at zonal level constructed/ rehabilitated and equipped	Number of remand homes constructed, rehabilitated, and equipped by 30/06/06	Correctional policies/criminal justice policies and legal framework reviewed to address key issues for juvenile justice.	Report and recommendations by 30/06/07	Laws and policies amended	Number of laws amended and gazetted by 30/06/08	
	Public awareness on Juvenile Rights and Obligations Profiled	Public awareness on Juvenile Rights and Obligations Profiled by 30/06/06	Public awareness programme implemented.	Numbers of brochures/newsletters/ Radio/TV programmes by 30/06/07			

## **CHAPTER 5**

### **HUMAN RIGHTS AND ADMINISTRATIVE JUSTICE**

#### **5.1 OVERVIEW OF PROBLEMS AND ISSUES**

The Legal Task Force observed that there could be no meaningful review of the administrative system without reference to the changing nature of governance and the society in the country as an essential background since there are profound changes in the systems of governance, economic structures and social ordering. It was the opinion of the Task Force also that observance of constitutional rights and basic human rights is a basic need for good governance, peace, security and democracy in a country.

The observation of the Task Force was based on the situation that existed at the time of the Legal Task Force such that there were many administrative tribunals established by various laws such that their practices were not harmonised. Also there were inadequacies in the constitutional safeguards against violation of basic human rights even after the establishment of the Permanent Commission of Enquiry in 1965, the enactments of the constitution of the United Republic of Tanzania, 1977 that enshrined the BILL OF RIGHTS and the BASIC RIGHTS AND DUTIES ENFORCEMENT ACT in 1994.

Consequently, the Legal Task Force recommended the establishment of the Commission of Human Rights and Good Governance with the objectives of strengthening a constitutional culture, observance and awareness of human rights requirements and addressing the ineffectiveness of the Permanent Commission of Enquiry in prohibiting or detecting public abuse. The Task Force also recommended creating a well organised system of administrative justice in Tanzania through establishing basic set of procedures and continuous overview of the administrative justice with an independent system of appeal from the decision makers.

The Government, in 2000, as part of strengthening good governance, launched the National Anti Corruption Drive and the Poverty Reduction Strategy to enhance transparency and integrity in service delivery. The major objective of the National Anti-corruption Drive is to fight abuse of power and red-tape built around rules, regulation, procedures and practices as to promote good governance in public services. The pursuit of this objective will be reinforced through this component of the LSRP. Specifically, the medium term strategy aims at reducing abuse of power and enhances good governance in administration of justice in a bid towards timely justice for all by the key institutions in delivery of justice.

Further, the medium term strategy will entail addressing issues of complexity and bureaucracy in service delivery in key legal sector institutions and the need for enhancing democracy and observance of constitutional and basic human rights.

## 5.2 RECENT SIGNIFICANT DEVELOPMENTS

The following comparatively recent developments have a bearing on the planning for the implementation of this component in the medium-term:

- (i) **Establishment and Strengthening the Commission of Human Rights and Good Governance:** In March 2002, the Government established a Commission of Human Rights and Good Governance to educate the public on constitutional rights and human rights; to investigate violations of human and constitutional rights and allegations on abuse of power and recommend appropriate remedial actions; to assist aggrieved parties in getting appropriate remedy in the event of violation of their rights; and to report annually to the Parliament on its performance. Through the support of DANIDA Government provided the necessary working tools and facilities, training of staff in human rights and information technology, booklet on the role of the Commission and accounting manual for the Commission. The Commission has had its first annual report to the Parliament and disseminated to the Public. The establishment of CHRAGG has promoted public awareness and increase on number of complaints against human rights violations and abuse of powers by Government officials lodged. However, the Commission has no capacity to expand its services to the Regions so as to enhance its accessibility to the majority.
- (ii) **Strengthening Human Rights to Improve Human Rights Capacities in Tanzania:** There is a UNDP grant supported project with an objective of improving adherence to International Human Rights in law enforcement agencies through revising the Police General Orders and Prison Orders, institutionalisation of human rights in the Law enforcement institutions, special training on conflict mediation for law enforcement officers, workshops on international HIV/AIDS guidelines, establishing effective coordination mechanism with human rights treaty bodies, training reporters on human rights reporting in the Media. The project is also supporting: updating police general orders that relate to human rights violation, stakeholders workshops on the new international guidelines for HIV/AIDS, updating and publication of the prison standing orders, baseline assessment of human rights and gender training needs, identification of magistrates' and state attorneys' human rights training needs and identifying strategies for the best human rights reporting.
- (iii) **National Anti-Corruption Drive:** Preparation of strategies for institutionalisation of the national anti-corruption drive and measures have been made as part of the implementation of the national anti-corruption action plan. In addition sensitisation workshops have been organised as part of the preparatory process. These workshops have to a great extent enabled the sector institution to be aware of their responsibility in fight against corruption and individual obligations towards ensuring professional ethics.

- (iv) **Enhancing Transparency in the Legal Sector Institutions:** Legal Sector Institutions e.g. Judiciary, Police, Prisons have installed suggestion boxes in their respective places as part of enhancing transparency and enabling improvement of the quality of judicial services. At the same time the Pilot scheme in Arusha and Manyara Regions includes translation into simple language and dissemination to public the basic procedures of the courts by the end of December, 2004.
- (v) **Non-Governmental Organisation Initiatives:** A number of NGOs have launched programmes for promoting Human Rights, HIV, Gender requirements and good governance practices. These include the Legal and Human Rights Centre, TAMWA, TAWLA, ENVIROCARE, WLAC, NOLA etc. These NGOs have participated in advocacy for changes in various laws targeting at promoting observance on Gender/HIV/AIDS and human rights requirements.

### 5.3 TARGET KEY RESULTS

In the LSRP medium term strategy a more comprehensive approach would be taken to enhance the observance of human rights, international HIV/AIDS standards of human rights, reducing abuse of power through corrupt practices or any other administrative malpractices such as gender discrimination, unclear procedures and guidelines and strengthening the administrative justice system of the country. In brief, for the medium term, the following are the outcomes that will be pursued under this component:

- (i) **Law Enforcement Agencies Observe Human Rights:** Complete implementation of the Strengthening Capacities of Human Rights and Good Governance Project funded by UNDP. This should include finalisation of simplified booklets for the Prison Standing Orders and Police General Orders including harmonising the same with related laws with a view of enabling easy reference by users. At the same time, a public awareness programme on the basic rights and dissemination of booklets on the basic rights such as rights on arrest, filing suits etc shall be published and disseminated including training law enforcement officers on the adherence to observance of human rights so as to promote public confidence on the institutions.
- (ii) **Strengthened Commission for Human Rights and Good Governance:** Completion of the Establishment of the Commission for Human Rights and Good Governance Project and developing a capacity building programme of assistance for the Commission. In this the Commission shall undertake to build the capacity of NGOs to organise themselves in monitoring and reporting in Human Rights abuse and advocating for changes.
- (iii) **Enhanced Good Governance in Sector Institutions:** The main thrust of this will be supporting the implementation of the institutional strategies under the National Ant-corruption strategies. In the same

context, citizens will be empowered to protect their rights by making them more aware and knowledgeable through: simplifying procedures and translating to simple languages or Swahili; dissemination of relevant information through booklets and posters; and creating a mechanism for lodging complaints against misuse of power or unethical conducts by legal institution personnel. At the same time through the support of the Public Service Reform Programme, the legal sector institutions will align their procedures with client service charters and launch a media programme for the services offered in each Sector Institution to promote awareness and understanding of the institutional role and responsibilities.

- (iv) **Coordinated and Organised Administrative Justice System:** A key measure in this aspect will involve developing basic set of procedures for the administrative tribunals, identifying priority needs for enhancing timely justice by administrative tribunals with a view of promoting effective decision making and establishing a mechanism for continuous overview of the administrative justice system. This shall include assessing the efficacy for establishing an administrative appellate body.

#### **5.4 TARGETED IMPACT INDICATORS**

Implementation of the Medium Term Strategies in this area will have the following impact:

- reduced complaints in human rights abuse;
- increased number of human rights violations reported;
- reduced corrupt practices in sector institutions;
- quality and relevancy of resolutions of administrative tribunals;  
and
- ethical conduct by sector personnel.

The main outputs for each of the years are laid down in **Table 5.1** over the page.

**Table 5.1: Enhanced Enjoyment of Human Rights and Access to Administrative Justice**

TARGET OUTCOMES	OUTPUTS BY YEAR						Basic Assumptions
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
1. Law enforcement agencies observe human rights	Guidelines prepared on observance of human rights by law enforcement officers	Circulars by heads of law enforcement agencies circulated by 31/12/05	Training Programme on observance of Human Rights by Law enforcement Officers prepared	Training Programme by 31/12/06	Human Rights observant and skilled Law Enforcement Officers in place	Number of Skilled Officers by 30/06/08	Collaboration among the law enforcement agencies  Commitment and Change by Law enforcement officers
	Simplified booklets of procedures of Law enforcement agencies printed and disseminated	No of booklets published, printed and disseminated and in simplified English and Kiswahili	Human Rights observant and skilled Law Enforcement Officers in place	Number of Skilled Officers by 30/06/07	Radio/TV programme aired, Newsletter and booklets on basic human rights printed and distributed	No of persons aware on basic human rights by 30/06/08	
	Law enforcement agencies governing laws/ procedures amended to ensure observance of human rights	Amendments Gazetted by 30/06/06	A Comprehensive national information education and communication (IEC) on basic human rights established	IEC mechanism launched by 30/06/07			
2. Strengthened Commission for Human Rights and Good Governance	Medium Term Strategic Plan for the Commission of Human Rights and Good Governance prepared	Strategic Plan by 31/03/06	Report Writing Skilled Staff for CHRAGG	No of Report Writing Skilled Staff by 31/12/06	Midterm Review of the Medium Term Strategic Plan and Client Service Charter for CHRAGG	Revised Strategic Plan and Client Service Charter for the Commission by 31/12/07	Political Willingness
	Client Service	Client Service Charter by 30/06/06	Dispute Resolution Skills for	Number of Commissioners and Assistant Commissioners	Human Rights		

TARGET OUTCOMES	OUTPUTS BY YEAR						Basic Assumptions
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
	Charter for the Commission of Human Rights and Good Governance prepared  Report Writing Skilled Staff for CHRAGG and NGOs  Human Rights observance by Law enforcement agencies monitored	No of Report Writing Skilled Staff by 30/06/06  No of prisons, remand homes, police custodies, and courts monitored by 30/06/06	Commissioners and Assistant Commissioners  Human Rights observance by Law enforcement agencies monitored	trained by 31/12/06  No of prisons, remand homes, police custodies, and courts monitored by 30/06/07	observance by Law enforcement agencies monitored	No of prisons, remand homes, police custodies, and courts monitored by 30/06/08	
3. Transparency in the Legal Institutions and reduced corrupt practices	Procedures for Legal Sector Institutions Simplified translated into Swahili/simple languages and disseminated  Posters and suggestion boxes installed in all legal Sector Institutions  Guidelines for lodging complaints	Institutions with simplified and translated procedures printed and disseminated by 30/06/06  Institutions with posters and suggestion boxes by 30/06/0  Circulars by heads of legal	Complaint lodging mechanism for all legal institution launched and disseminated  Client Service charters aligned with simplified procedures  Revised Client	Launch by 30/09/06 Institutions with units for handling public complaints established by 30/06/07  Number of Legal Institutions Client Charters aligned with service charters by 30/06/07  Number of Client service charters	Client Service charters aligned with simplified procedures  Revised Client Service Charters printed and distributed  Media announcement on the simplified procedures and	Number of Legal Institutions with Client Service Charters aligned with simplified procedure by 30/06/08  Number of Client service charters printed and disseminated by 30/06/08  Number of Legal Institutions with publications on	Collaboration among the legal institutions  Cooperation from the Media

TARGET OUTCOMES	OUTPUTS BY YEAR						Basic Assumptions
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
	against misuse of powers and un-ethical conducts by legal sector institution personnel in place	institutions issued by 30/06/06	Service Charters published and disseminated	printed and disseminated by each institution by 30/06/07	services by the Legal Sector Institutions in place	services offered through the media by 30/06/08	
4. Coordinated and Organised Administrative Justice System	<p>Basic Set of Procedures and Guidelines for Administrative Tribunal operations prepared</p> <p>Programme of assistance for capacity building for administrative tribunals effected</p>	<p>Set of Procedures Gazetted or Disseminated by 30/06/06</p> <p>Programme launched by 30/06/06</p>	<p>Guidelines for continuous review of administrative justice system published &amp; disseminated</p> <p>Implementation of Programme of assistance for capacity building for administrative tribunals prepared</p>	<p>Circulars/ Procedures Gazetted by 30/06/07</p> <p>Status report of implementation by 30/06/07</p>	<p>Implementation of Programme of assistance for capacity building for administrative tribunals reviewed</p> <p>Guidelines for continuous review of administrative justice system published and disseminated</p>	<p>Status report of implementation by 30/06/08</p> <p>Number of sets disseminated by 30/06/07</p>	<p>Collaboration among the Administrative Tribunals</p> <p>Collaboration among Ministries with administrative tribunals</p>

# **CHAPTER 6**

## **KNOWLEDGE AND SKILLS OF LEGAL PROFESSIONALS**

### **6.1 OVERVIEW OF PROBLEMS AND ISSUES**

Legal education and training of practicing lawyers was among the key areas that were thoroughly reviewed by the Legal Task Force taking into account the training needs arising out of the profound changes in governance, social and economic order. The Legal Task Force found out that there were a number of weaknesses in the legal training and education mechanisms and processes. The major deficiencies identified include the lack of national curricula for legal training, lack of competent staff, low morale of teaching staff, inadequate facilities and systemic constraints for training practical legal education for practicing lawyers. Consequently, the quality of the law graduates and practicing lawyers has been on a downward trend. Apart from this, the Task Force observed that Tanzania had never had an effective national system for preparing law graduates for professional status due to lack of appropriate supporting mechanisms and as a result, the current internship program had lost the confidence of all participants. The Task Force therefore proposed that an interim mechanism for providing practical legal training be devised and that legal training institutions be encouraged to develop specialized courses especially at Diploma level to meet the need for specialised training in the Sector.

There was also a concern on the low supply of law graduates at the time of the review of the legal sector between 1993 and 1996. The trend now shows that there has been a substantial rise of the intake at the Faculty of Law, University of Dar-es-Salaam, introduction of a law degree course at the Open University of Tanzania and Mzumbe University and the establishment of private universities that offer law degree courses thus reduce the gap of supply of law graduates. In addition, the Government established the Institute of Judicial Administration (IJA) in Lushoto to enhance the capacity of training of primary court magistrates and the support staff for the Legal Sector to achieve the targets of the Poverty Reduction Strategy (PRSP). The PRSP targeted training of 350 primary court magistrates by December, 2003 while the current capacity of IJA is only 35 magistrates per annum. It is therefore necessary to give priority to the capacity building measures for IJA so as to increase its output to at least 50-70 magistrates per annum.

Most of the major deficiencies alluded to above also beset the training institutions/academies of the Police Force and Prison Service. These academies provide the training programmes aiming at equipping officers with the understanding of the country's constitution and legal system, and respective legislation establishing and regulating the operations of these organisations. In addition, the Faculty of Law, University of Dar es Salaam supervises the Certificate in Law programme at Ukonga Prisons Staff College and Kurasini Police College in Dar es Salaam. It is therefore necessary to augment the capacity of these agencies in providing appropriate legal or related training in their respective areas.

Apart from the above deficiencies it is widely acknowledged that there are no effective continued professional education programmes for practicing lawyers both in the bench and bar and programmes enhancing skills for the other staff working in the sector institutions.

## **6.2 RECENT SIGNIFICANT DEVELOPMENTS**

A number of developments have recently taken place under this component. These include the establishment of the Institute of Judicial Administration in Lushoto in 2000 to prepare primary court magistrates and provide other training programmes suitable for judicial officers and other court personnel. The Institution has only been able to provide the ordinary diploma and certificate in law programmes and has capacity for accommodating only ..... The Government as part of the initiatives for improving the quality of practical legal training has undertaken an institutional assessment for the development of a programme for establishment of law school and identified interim measures pending the establishment of the law school. The assessment has recommended amendment of the advocates act to provide explicit functions and powers of the Council for Legal Education in controlling the quality of legal training, conduct of professional practice and coordinating link with other agencies for controlling higher educational programme. The assessment further recommends revision of the LLB curriculum and a curriculum for the proposed law school. Other developments include identification of appropriate measures for strengthening local Legal Training Institutions to provide practical legal training and undertaking baseline survey on key priority needs for the Prison Service academies.

## **6.3 TARGET KEY RESULTS**

The Government recognizes importance of effective academic and continuous professional legal programmes and skills of the other staff in facilitating quality service delivery and enhancing professional ethics and etiquette. It is in this regard the Government intends to address the key weaknesses in the legal training institutions and programmes through the provision of appropriate interventions. One important intervention is to identify the optimum level of operation for each institution and providing appropriate infrastructure with a view to ensuring that pre-service training process gives due consideration to the special needs of the disadvantaged and provide quality legal training matching with the current developments including but not limited to the move to a liberalised market economy. Second intervention is to create effective practical training programmes for law graduates together with strengthening the capacity of the Council for Legal Education to effectively regulate legal training and practice in Tanzania. Third intervention is to create an effective mechanism for continuing legal education for practicing lawyers and other staff in the sector institutions. The Government envisions the following key outcomes in the medium term:

- (a) **Legal Education and Training Institutions Poised to Deliver Quality Legal Training:** The key important interventions for supporting the quality of legal training and education in the country include: strengthening the Council of Legal Education by establishing a full time secretariat independent from the Judiciary supported by necessary technical, human and financial resources to

enhance effectiveness of the council in controlling the quality of legal training and education in the country; designing National Curricula for Legal Training Institutions for the purpose of quality legal training and for all requisite qualifications; designing and implementing specialised training programs and packages for staff of the various legal training and education institutions and identifying the priority needs for optimum level of operations and priorities for every institution. The latter gives priority and will be the basis for provision of appropriate interventions to the Institute of Judicial Administration (IJA) in Lushoto so as to ensure that the benefits of this programme targets at training the primary court magistrates who serve the majority. Proposals for the new Advocates Act and the legislation to establish the Law School, all geared towards the regulation of the legal education in Tanzania have already been submitted to the Government. In addition, agreement has already been reached on the minimum content of the law courses to be offered by the legal training institutions.

- (b) **Improved Practical Training Skills for Law Graduates:** The strategic interventions include designing and implementing an Interim Vocational Training Program pending the establishment of a Law School under the auspices of the Council of Legal Education and establishment of a Law School as the permanent solution to the problems highlighted on internship program. This shall include review of the Advocates Ordinance to reflect developments in legal practice in the Commonwealth countries. The developments include creating two distinct categories of legal practitioners, namely, advocates and solicitors.
- (c) **Improved Capacity to Offer Continuing Education Programmes:** The main strategic interventions will include strengthening the capacities for legal training institutions to provide continuing legal education for professional and non-professional staff for the Legal Training Institutions. Presently, a training needs assessment in the Legal Sector institutions has been conducted. The institutions that have been studied are the Faculties of Law of the University of Dar es Salaam, University of Mzumbe and the Open University of Tanzania, and the Institute of Judicial Administration (IJA) in Lushoto. Training and resources needs for these institutions have already been identified and recommended. In addition, training programmes will be conducted by way of short courses and other general programmes. Other measures shall include development of programme of supporting the Police and Prison Service academies to cope with the developments in the law, correctional programmes and the trend in criminal offences basing on the Tanzania Prisons Baseline Survey.

## 6.4 TARGETED IMPACT INDICATORS

Implementation of the Medium Term Strategies in this area will have the following impact:

- increased number of Law Graduates coping with the technological, social and economic trends,
- reduced unprofessional conduct complaints by new practicing lawyers.

- increased number of Primary Court Magistrate's with Diploma in Law.
- modernized and equipped legal training institutions and Police and Prison academies.
- programmes for continued legal professional education, and
- relevant programmes for other non-legal staff offered by legal training institutions

The main outputs for each of the three years are laid down in **Table 6.1** over the page.

**Table 6.1: Knowledge and Skills for Legal Professionals**

TARGET OUTCOMES	OUTPUTS BY YEAR						Basic Assumptions
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
1. Legal Education and Training Institutions Poised to deliver Quality Legal Training	Equipped and Staffed Secretariat for the Council for Legal Education	Amendment to the Advocates Ordinance by 31/12/05  No. of Equipment and Staff for the Secretariat by 30/06/06	Programme for strengthening capacity of the Secretariat and the Council for Legal Education developed.	Approved Programme Strengthening the CLE by 31/12/06  No. of Advocates enrolled increased by 250, by 30/12/07.	Measures for Capacity Building for the Council for Legal Education	No. of trained staff, equipment for the Secretariat by 30/06/07  CLE Programme & funded adopted by 31/03/08	Political Willingness  Cooperation from President's Office – Public Service Management
	National legal (degree and non-degree) training curriculum developed.	Approved Curriculum by June 2006	National Legal Training Curriculum for Degree and Non - Degree published and disseminated  Revised Curriculum and syllabi for each training institution	Number of Copies of Curriculum distributed by 30/09/06  Number of Legal Training Institutions with revised Curricula and syllabi by 30/06/07	Curriculum Updating Mechanism established	Procedures for Updating the National Legal Training Curriculum by 30/06/08	Collaboration among the Legal Training Institutions  Support from the Council for Legal Education
	40 trained in specialised training	No of Staff trained in specialised training by 30/06/06	40 trained in specialized training	No. of Staff trained in specialised training by 30/06/07	40 trained in specialised training	No. of Staff trained in specialised training by 30/06/08	Selection of Programmes be based on the TNA report and Prison Baseline Survey.

TARGET OUTCOMES	OUTPUTS BY YEAR						Basic Assumptions
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
	Optimum levels of operations and action plan for each training institutions determined	Optimum level for each Legal Training Institution determined by 30/06/06	Sources of Funding the Capacity Building Action Plan(s) identified  Incorporated action plan in the institutional strategic plans, MTEF and annual operation budget	Sources of Funding identified by 30/09/06  Revised Strategic Plans by 31/12/06 Streamlined annual operation budgets and MTEF budgets by 30/06/07	Infrastructure and facilities improved	Number of buildings constructed/rehabilitated and Equipment installed by 30/06/08	Cooperation from the Legal Training Institutions  Cooperation of the Ministry of Science, Technology and Higher Education
2. Improved Practical Training Skills for Law Graduates	Interim Vocational Training Programme for LLB graduates developed.  300 LLB graduates trained	Interim Vocational Training Programme for LLB Graduates by 30/06/06  No of LLB Graduates trained by 30/06/06	400 LLB graduates trained under the interim Vocational Training Programme	No of LLB Graduates trained by 30/06/07	500 LLB graduates trained under the interim Vocational Training Programme	No of LLB Graduates trained by 30/06/07	Cooperation from Legal Training Institutions

TARGET OUTCOMES	OUTPUTS BY YEAR						Basic Assumptions
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
	Acting Principal appointed to spearhead the establishment process	Principal of the Law School appointed by 31/03/06	Law School Constructed	Buildings for the Law School by 30/06/07	Law School equipped	No & type of Equipment and Staff for the law school by 30/06/08	Timely availability of resources
	Law School established by law, equipped, staffed and operationalized	Law School establishment act gazetted by 30/06/06	Key Staff for the Law School appointed	Staff contracts by 30/03/07			
3. Improved capacity to offer continuing Legal Education.	Short Courses offered for non-lawyers and lawyers on legal services	No. of Courses by each legal training institutions by 30/06/06	Legal Institutions Personnel trained through short courses	Number of Persons trained by 30/06/07	Legal Institutions Personnel trained through short courses	Number of Persons trained by 30/06/08	Cooperation from the University of Dar es salaam, Mzumbe, Open University and Institute of Judicial Administration.
	Programme of assistance to support the Police and Prison Academies developed.	Programme of Assistance adopted by 30/06/07	Measures for strengthening Prison and Police academies implemented.	MTEF Budget for 2006/2007	Measures for strengthening Prison and Police academies implemented.	MTEF Budget	(1) collaboration with Police, Prison and Ministry of Home Affairs.

## **CHAPTER 7**

### **SERVICE DELIVERY CAPACITY IN KEY LEGAL SECTOR INSTITUTIONS**

#### **7.1 OVERVIEW OF PROBLEMS AND ISSUES**

The Legal Task Force elaborated a number of factors which lead to ineffectiveness in service delivery of the legal sector institutions among others, including poor facilities, low remuneration for legal sector personnel, lack of skills and under-funding. The Task Force further observed that there is inadequate office accommodation at all levels of the Judiciary and dilapidated courthouses throughout the country. It also observed the inherent weaknesses in collaboration and coordination among the Sector Institutions; poor human development strategies, weak supervision of personnel and division of work; weak administrative support mechanisms; and inadequate outdated law libraries and legal reference material and outdated management information systems (the status of the sector institutions is as reflected in appendix 1).

It is therefore necessary for the Government to address the following weaknesses in order to enhance capacity and performance of the sector institutions:

- Lack of well-designed human resource development programme: Very few top and middle level professionals have been trained in-service or attended conferences/workshops/seminars targeted at improving their skills in their area of practice to give exposure and build confidence;
- Weak management of the Legal Sector Institutions underpinned by absence of effective supervision of magistrates, or state attorneys or other personnel in the lower level;
- Very weak human resources management systems and practices in the public Legal Sector Institutions. The problems in this area are exacerbated by excessive political considerations, patronage and other non-meritocratic practices in staff appointments;
- Poor working conditions, with dearth for such basic tools and facilities such as office accommodation, stationery, furniture and office equipment;
- Insecure accommodation and lack of proper means of travel to and from duty for judicial officers, police, prison officers and state attorneys;
- Lack of a reliable management information system integrating all the institutions;

- Lack of well equipped law libraries, and continuous updating of key legal reference materials such as law reports, case digest and revised laws as to support research on complex legal subjects or cases.
- Lack of relevant and timely statistical information for effective monitoring and evaluation by sector institution;
- Inadequate budgetary allocations for operations of the legal sector institutions;
- Dependency of the Judicial Service Commission on the Public Service Commission on the executive side contrary to the principle of separation of powers;
- Poor performance of the retention scheme in the sector such that they failed to improve access to justice as envisaged due to lack of guidelines for monitoring, evaluation and management,
- Inadequacy of recruitment and performance evaluation procedures for sector personnel; and
- Lack of needs assessment for the Police Force, Prison Services and Legal Registries to assist in development of appropriate strategies for capacity enhancement.

A large investment is needed to upgrade the existing capacity of the legal sector institutions. The most expensive element of this is upgrading the physical infrastructure, which will include construction of courthouses where there are none, and a Court of Appeal building. The Legal Sector Task force estimated the total costs of this investment at US\$220 million. This level of funding is not available in the medium term, but it is important that a serious start is made in the medium term.

## **7.2 SIGNIFICANT RECENT DEVELOPMENTS**

The Government through the Public Service Reform Programme has made substantial changes in the public human resource development including motivation and competence enhancement for the public sector personnel. The sector institutions benefited from the measures since July 2004 when the new salary scales and job grades were applied. However, it has been observed that the new salary scales are still unattractive for the unemployed law graduates in the market and retaining skilled employees thus causing shortage of professionals and key staff in the Sector institutions.

The President's Office - Public Service Management (PO-PSM) as part of the implementation of the PSRP also trained the middle and top executive for the Judiciary, Business Registrations and Licensing Agency (BRELA) Police, Prisons and the Attorney Generals Chambers on the strategic planning process. The assistance included facilitation of a strategic planning process, transformation of the Office of

the Registrar of Companies into an executive agency, currently supporting the transformation of the Administrator Generals office into an executive agency; trained the management on the application of the new staff appraisal systems (OPRAS) and identification of modalities for contracting out cleaning and security services. As a result, the sector institutions have been preparing or updating strategic plans, annual operational plans and budgets, client service charters; installing open performance appraisal systems and identifying modalities for contracting out non-core functions.

Further, through the implementation of the Quick Start Project the Government identified priority skill gaps in the key legal institutions<sup>8</sup> and designed training programmes and training schedules. The gaps include lack of modern management techniques, advocacy skills and specialised skills. Under the same project, the Government also identified priority gaps in supervision and division of work, appropriate administrative support systems, and performance improvement measures for the retention schemes and implemented a pilot scheme in Arusha and Manyara Region on strengthening of the District Court. A review on existing retention schemes revealed that introduction of new retention schemes in the sector is not feasible hence recommended installation of performance improvement measures for the existing retention schemes. Apart from streamlining and identifying modalities for capacity building, the project provided opportunity for stakeholders' collaboration and participation in further specification of the outputs and outcomes in this key results area.

At the same time the preparations of ATIP Project is supporting the development of an action plan for the establishment of an integrated management information system for the Legal Sector Institutions and has supported infrastructure development programme for the Judiciary. The latter targeted at specifying constructions and rehabilitation priorities, detailed drawings and cost estimates together with maintenance costs for the Judiciary infrastructure and the Ministry of Justice and Constitutional Affairs Headquarters. While the Project for Strengthening Human Rights Capacities in Tanzania supported some training programmes on human rights conflict resolution and international human rights standard (HIV/AIDS) for Magistrates, State Attorneys, Police and Prisons. The Project also supported development of a baseline survey for prison service on training needs to facilitate monitoring and evaluation of the training programmes.

On the other hand, the Government funded rehabilitation of Forodhani Building as a temporary house for the Court of Appeal, Iringa and Mwanza High Court Zones and constructed District Magistrate Courts in Kongwa, Rujewa and Mbarali as part of the Government initiatives, towards improving infrastructure for the courts. Under the same initiatives premises for High Court Zones Mbeya, Sumbawanga and Moshi were purchased and rehabilitations have started.

Other recent developments in this area include creation of specialist divisions at the level of the High Court to enhance efficiency in the disposition of commercial and land disputes. Establishment of the Commercial division was supported by DANIDA while the Government supported the establishment of Land Division. Also, the

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<sup>8</sup> The key institutions are Attorney Generals' Chambers, Judiciary, Law Reform Commission, Commission for Human Rights, Legal Training Institutions and the Legal Registries

Government is currently finalising preparations for the implementation of the Commercial Dispute Resolution Component under the BEST programme. The Component is targeting at expanding commercial division of the High Court, strengthening capacity of BRELA, drafting underlying regulations for Land Act, 2003 and new labour laws, and strengthening capacity for the lower courts in dispensing commercial disputes. Also, the Tanzania Law Reports and Revised Edition of Tanzania laws were updated to 1997 and 31<sup>st</sup> July 2002, respectively.

### **7.3 TARGET KEY OUTCOMES**

Capacity in quality service delivery is a priority in every public service organisation. The Public Service Reform Programme envisages at promoting enhanced quality service delivery in the Public Institutions in limited budgetary constraints. Likewise the Legal Sector is compelled to enhance its capacity for quality and fair justice delivery under limited budgetary constraints. In implementing the Quick Start Project, designing the Proposed Tanzania Accountability, Transparency and Integrity Project, the Strengthening Human Rights Capacities in Tanzania and other initiatives funded within the PSRP and other sources, the sector has identified the key issues for the Medium Term as follows:

- Weak management & coordination mechanism for Sector Institutions attributed to ineffective management information systems interlinks, weak administrative support and administrative systems and poor performance by retention schemes in the Sector Institutions
- Poor human resource development strategies (Low remuneration, inadequate in number & Lack of appropriate skills, lack of effective training programme and weak recruitment mechanism) and
- Poor facilities in the courts, Attorney Generals' Chambers, Police Force, Prison Service and Legal Registries.

The Government identified modalities for addressing these issues and their impact on the overall service delivery by the Sector Institutions in pursuit to the national policies such as Poverty Reduction Strategy, National Policy on HIV/AIDS and the National Anti-corruption Drive. These include the parallel studies under the Quick start Project, preparation of the Proposed Tanzania ATIP and the Strengthening Human Rights Capacities in Tanzania. However the studies covered Attorney General's Chambers, the Judiciary, and part of the needs assessment in the legal registries, Police and Prisons. In view of these circumstances the medium term strategies will address the following outcomes:

- (a) Enhanced Management and Coordination in the Sector Institutions:**  
The PSRP is installing performance management systems in the Sector institutions with a view of enhancing management and coordination. However, the systems should be supported by effective Management Information System, supervision and division of work mechanisms and administrative support systems as a key tool for effective service delivery. In addition some of the key institutions in the administration of justice such as Police and Prisons are yet to install performance improvement

models. In this regard the Medium Term Strategy shall include installation of integrated management information system to promote effective communication among the sector institutions and management of these institutions, and defining a chain of command and line of communication basing on the new institutional legal framework developed under the Quick Start Project with a view of enhancing performance, accountability and effective implementation of the Strategy and institutional functions. Also, training management in modern management techniques and instituting effective administrative support systems, retention schemes and supervision mechanisms. In addition, specialisation in the court system, implementation of measures for expansion of commercial division of the High Court under the BEST programme and the Government funded Land Court division together with installation of performance improvement models in the Police and Prisons using experiences of other countries such as Republic of South Africa will be addressed.

- (b) Enhanced Competence, Motivation and Integrity of Personnel:** Meritocracy system for personnel management and training personnel on its application to create transparency in the process and an understanding of obligations among the parties involved has been supported by the Public Service Reform Programme. At the same time the Government has vested powers to the MDAs to recruit, promote, deployment and disciplinary measures. However these need to be complemented with appropriate recruitment mechanisms and competitive remuneration packages. In the medium term, assessment shall be made on limitations for the application using existing mechanism in Judicial Service Commission, Special Judicial Service Commissions and Police and Prison Service Commission. In addition to review remuneration packages considering the peculiarity/sensitivity of the personnel duties in the Sector Institutions who cannot carryout private practice e.g. magistrates and State Attorneys to practice as advocates or Police providing private security services. This shall include the possibility of providing secure housing and transport to Magistrates, State Attorneys, Police and Prison Officers and other key staff according to the new government policies on housing and transport to public servants. This shall also include training of personnel in specialised skills.
- (c) Improved Working Environment:** Besides implementing capacity building and work environment improvement programmes under the PSRP, this component will entail the following in the sector institutions:
- a. **Contracting out of non - core services:** Contracting out the non - core services in Sector Institutions according to the PSRP Framework.
  - b. **Equipping the law libraries and updating publication of Tanzania Law Reports, Revised Edition of the Tanzania laws; and Case Digests:** The Medium Term interventions shall include identification of modalities for updating and ensuring continuous

updates of Law Report, Case digests and revised edition. This shall include modernising and equipping the law libraries in the sector institutions in accordance with the recommendation of Legal Task Force Report, 1996.

- **Judiciary:** Construction and equipping a new Court of Appeal building; rehabilitation/construction and equipping priority Zonal High Court Centres and Resident Magistrates Courts; and rehabilitation and construction of districts based prioritised infrastructure development plan developed as part of preparation of ATIP.
- **Ministry of Justice and Constitutional Affairs:** Assessments on the technical efficacy for expansion of the current building for the Ministry of Justice has revealed that the building structure is not technically sound to bear any additional weight. In this regard it is therefore necessary to construct and equip a new building for the Ministry of Justice and Constitutional Affairs. This shall include development of appropriate strategies for improving office accommodation facilities at the Zonal Chambers of the Attorney General;
- **Legal Registries:** The BEST Programme is currently defining strategies for expansion of BRELA services to the Regional Level. Some of the Legal Registries are currently under transformation to Executive Agencies under the PSRP as a measure towards enhancing their performance. It is envisaged that, the office facilities requirements for these registries would be determined and develop a programme for improvement. The Programme would be targeted at utilizing the incomes of these registries for the improvement of their office facilities.
- **Police and Prisons:** It is worth noting that there is no technical assessment on the optimum needs for improving working environment in the Police and Prison Forces. The Medium term strategies shall therefore target at assessing the needs and developing and implementing a long-term programme for improving working environment in these institutions. The programme shall take into account expected contribution by the economic activities of the Prisons and utilisation of simple technology, local material and labour/skills available.

#### 7.4 TARGETED IMPACT INDICATORS

Implementation of the Medium Term Strategies will have the following impact:

- Reduction of public complaints on poor services delivery
- Reduced congestions in Prisons and Police custodies,

- Effective and efficient communication among the sector institutions, promoting sharing of information such as judgements, statistical information etc,
- Number and frequency of interactions among the sector institutions properly defined and timely convened,
- Increased number of competent personnel in Sector Institutions,
- Improved security and cleanliness in the sector institutions,
- Adequacies of office space, prison facilities and Police custodies,
- Accommodation and transport scheme for Magistrates, State Attorneys and Police and Prison Officers, and
- Improved quality of legal opinions/judgement

The main target outputs and related performance indicators and assumptions in each of the three years in the medium term are laid out in **Table 7.1** over the page.

**Table 7.1: Service Delivery Capacity in Key Legal Institutions**

TARGET OUTCOMES	OUTPUTS BY YEAR						Basic Assumptions
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
1. Enhanced Management and Coordination in the Sector Institution	Modalities for Effective Coordination Mechanism based on roles and Mandates defined	Coordination mechanism in place by 30/06/06	Meetings by various interaction forums conducted	Number of Meetings and record of proceedings by 30/06/07	Meetings by various interaction forums	Number of Meetings and record of proceedings by 30/06/08	Collaboration among the Sector Institutions
	Integrated Management Information System(s) for the Sector Institutions launched	Launch of integrated MIS by 30/06/06	MIS for Legal Sector Institutions updated	No of Institutions with updated MIS by 30/06/07	New MIS Operationalised	No of Equipment procured No of Personnel deployed for new system by 30/06/08	Collaboration among sector institutions Support from FMRP & PSRP
	100 Top & Middle level Executives trained in specialized management skills	No of Top & Middle level Executives Trained in Specialised management Skills by 30/06/06	100 Top & Middle level Executives trained in specialized management skills	No of Top & Middle level Executives Trained in Specialised management Skills by 30/06/07	50 Top & Middle level Executives trained in specialized management	No of Top & Middle level Executives Trained in Specialised management Skills by 30/06/08	Cooperation by legal training institutions,  The programmes and selection of trainees to be based on TNA recommendations

TARGET OUTCOMES	OUTPUTS BY YEAR						Basic Assumptions
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
Revised organization structures for the Legal Sector Institutions providing for positions of the administrative support in the hierarchy  Sensitised legal and Judicial personnel on Organization Structure Changes	New Organisation Structures approved by PIC by 30/06/06	Sensitised legal and Judicial personnel on Organization Structure Changes	No of Legal Sector Personnel Sensitized by 30/06/07	Trained or Recruited Administrative support staff for the Legal Sector Institutions	No of Trained/ Recruited Administrative support staff for each legal sector institution by 30/06/08	Timely decision by PIC  Willingness and commitment to change by Sector Institutions	
	No of Legal Sector Personnel Sensitized by 30/06/06	Trained or Recruited Administrative support staff for the Legal Sector Institutions	No of Trained/ Recruited Administrative support staff for each legal sector institution by 30/06/07				
Supervision manual(s) for Legal Sector Institutions Printed and disseminated	No of Supervision manuals printed and disseminated by 30/06/06	Strengthened Supervision Services for the Judiciary and Attorney Generals Chambers	Supervision Reports Compiled by institutions by 30/06/07	Strengthened Supervision Services for the LRCT, CHRAGG, Legal Registries and Legal Training Institutions	Supervision Reports Compiled by institutions by 30/06/08	Cooperation from the Legal Institutions Staff	
Measures for strengthening Retention Schemes implemented <sup>9</sup>	Number of retention schemes strengthened by 30/06/06	Measures for strengthening Retention Schemes implemented	Number of retention schemes strengthened by 30/06/07	Measures for strengthening Retention Schemes implemented	Number of retention schemes strengthened by 30/06/08	Support from the PRSP and FMRP	

<sup>9</sup> The existing retention schemes include Commercial Division of the High Court, Legal Registries, Police Force and Tanzania Prison Services

TARGET OUTCOMES	OUTPUTS BY YEAR						Basic Assumptions
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
2. Enhanced Competence, Motivation and Integrity of Personnel	Meritocratic Personnel Management System for Sector Institutions established	Reformed Service Commissions and procedures by 30/06/06	Qualified and competent personnel recruited	No of Qualified and Competent Personnel recruited	Qualified and competent personnel recruited	No of Qualified and Competent Personnel recruited	
	New Remuneration Package for the Sector	New Remuneration Package for the Sector by 30/06/06	New Remuneration package for the Sector Applied	PSM Circular and Budget by July 2007			Cooperation from PS
	Legal Sector Personnel trained in specialist skills.	No. of Legal Sector Personnel trained in specialised skills by 30/06/06	Legal Sector Personnel trained in specialist skills.	No. of Legal Sector Personnel trained specialised skills by 30/06/07	Legal Sector Personnel trained in specialist skills.	No of Legal Sector Personnel trained specialised skills by 30/06/08	Local institutions to provide some of the training packages Training programmes and selection to be based on TNA
	Framework for securing accommodation and transport for Magistrates and State Attorneys.	PSM circular by 30/06/06	Secure transport and accommodation for Magistrates, State Attorneys and Key Staff Schemes	No of staff with secure accommodation and transport by 30/06/07	Secure transport and accommodation for Magistrates, State Attorneys and Key Staff Schemes	No of staff with secure accommodation and transport by 30/06/08	Political Willingness

TARGET OUTCOMES	OUTPUTS BY YEAR						Basic Assumptions
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
3. Improved Working Environment	Cleaning and Security services for AGC and Judiciary contracted out.	Number of Legal Institutions with cleaning and security Services Contracted out by 30/06/06	Cleaning and Security services for AGC and Judiciary contracted out	Number of Legal Institutions with cleaning and security Services Contracted out by 30/06/07	Cleaning and Security services for AGC and Judiciary contracted	Number of Legal Institutions with cleaning and security Services Contracted out by 30/06/08	Support from PO-PSM
	Action Plan for modernising and equipping law libraries	Action plan adopted by 30/06/06	Equipped and stuffed law libraries	Number of equipment, library books and staff by 30/06/07	Adopted of staffed law libraries	Number of equipment, library books and staff by 30/06/07	Collaboration among the Section Institution
	Mechanism for continuous updating of Law Reports, Case digest and revised laws.	Mechanism installed by 31/06/06	Updated Revised Laws, Law Report and Case Digest	Revised Edition supplement by 30/06/07, updated edition of TLR, 2006 by 30/06/07 2006Case digests for by 30/06/06	Updated Revised Laws, Law Report and Case Digest	Updating Editions of RL and TLR by 30/06/08, Case digests for 2006 by 30/06/08	Cooperation from the Tanzania Law Reports Board law faculties.

TARGET OUTCOMES	OUTPUTS BY YEAR						Basic Assumptions
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
	Priority High Court Centre, RMs Court Selected District Courts Rehabilitated/ Constructed and equipped Arusha & Manyara Region	No of Court Houses rehabilitated/constructed/equipped by 30/06/06	Selected High Court Centre Rehabilitated/Constructed and equipped  Selected RM & District Courts Rehabilitated and equipped	No of High Court Centres rehabilitated/constructed and equipped by 30/06/07  RM & District Courts Rehabilitated and equipped by 30/06/07	Equipped New Court of Appeal Building  Selected High Court Centre Rehabilitated/ Constructed and equipped  Selected RM & District Courts Rehabilitated/ Constructed and equipped	Court Appeal located in the New Building by 31/12/08  No of High Court Centres rehabilitated and equipped by 30/06/08  RM & District Courts Rehabilitated and equipped by 30/06/08	
Office Space and equipments Requirements for Zonal Offices of AGC specified	Office requirement specified by 3/12/05	Lease Arrangements/otherwise finalised	No of Zonal or Regional Officers relocated by 30/06/07	Equipped New Building for MJCA HQ	New Office Building for the MJCA and AG C HQ by 30/04/08	Cooperation from Tanzania Building Agency And various office scheme agencies	
Action Plan, for alterations or rehabilitations or construction and equipping offices of the Legal Registries	Action Plan adopted & incorporated in MTEF budgets by 30/03/06	Equipped, furnished and constructed rehabilitated Offices for the Legal Registries	No of offices of Legal Registries constructed, equipped and rehabilitated by 30/06/07	Equipped, furnished and constructed rehabilitated Offices for the Legal Registries	No of offices of Legal Registries constructed, equipped and rehabilitated by 30/06/08	Cooperation by Management Boards of Various Executive Agencies	

<b>TARGET OUTCOMES</b>	<b>OUTPUTS BY YEAR</b>						<b>Basic Assumptions</b>
	<b>2005/06</b>		<b>2006/07</b>		<b>2007/08</b>		
	<b>Target Outputs</b>	<b>Indicators</b>	<b>Target Outputs</b>	<b>Indicators</b>	<b>Target Outputs</b>	<b>Indicators</b>	
	Detailed Designs, Prioritised action Plan and Cost Estimates for Police and Prison Custodies funded	Prioritised action plan and cost estimates adopted by 31/03/06	Police and Prison Custodies and houses rehabilitated and equipped	No of Police and Prison houses rehabilitated and equipped by 30/06/07	Police and Prison Custodies and houses rehabilitated and equipped	No of Police and Prison houses rehabilitated and equipped by 30/06/08	

## CHAPTER 8

### PROGRAMME MANAGEMENT, COORDINATION, MONITORING AND EVALUATION

#### 8.1 INTRODUCTION

This chapter describes the Legal Sector Reform Programme Management, Coordination, Monitoring and Evaluation of the Medium Term Strategy for the period 2004/05 – 2006/07. The activities described in this chapter are expected to promote cohesion, collaboration and coordination to attain effective and efficient implementation of the Medium Term Strategy. Having been developed on the basis of the lessons learnt from the projects and programs so far implemented, and the experiences from the past MTS structure, this Key Result Area aims at ensuring:

- (a) **Effective Implementation of Reforms by Sector Institutions:** Targeted outputs on this outcome shall be based on an action plan for enhancing capacities for Programme Management and Implementation. The key objective of the action plan is to promote ownership, accountability, cohesion, and effective management, implementation and monitoring on achievements of the Medium Term objectives. As part of implementation of the action plan sector institutions will be facilitated to incorporate the Medium Term Strategy Activities into the Institutional Strategic Plans, annual work plans, and plans of operations.
- (b) **Effective management, coordination, monitoring and evaluation:** Effective management, coordination, monitoring, and evaluation mechanisms will be established in all key result areas of the strategy. Each Lead Agency will be accountable for effective implementation of respective programme Key Result Area and each Implementing Agency shall be held accountable to the implementation of the programme activities. This will be done based on the principles described in paragraph 8.2 below. An assessment of the implementation of the programme to take stock of the results and relevancy of performance indicators through quarterly reviews, annual reviews and mid term reviews will consider useful lessons for the programme implementation for designing long-term programme for the sector. Planned internal and external evaluations shall be conducted to assess the effectiveness and efficiency of the programme. Impact indicators will be the basis for evaluation.
- (c) **Enhanced policy and strategic leadership in the Legal Sector Institutions:** It is intended that a policy to govern the legal sector shall be developed together with strengthening policy research capacity for the Legal Sector Institutions.

- (d) **Enhanced information, communication and education on the legal sector reforms and development:** This is intended to create an effective information, communication and education system to disseminate information on the Legal Sector Reform Programme to the public. This shall be done through publications, newsletters, information booklets, radio and TV programme.
- (e) **Enhanced capacities for change management in the Legal Sector Institutions:** The Legal systems and institutions are fairly complex in nature and require an effective system to bring the necessary changes in the reform process. It is imperative to ensure that there are well organized and managed transformations within the sector.

## 8.2 PRINCIPLES

The choice of the implementation arrangements for the programme is based on the following principles:

- **Close collaboration among the implementation agencies:** One respect in which the LSRP is unique is that its successful and sustained implementation entails concerted and coordinated efforts among a number of constitutionally and/or statutorily autonomous organisations. Therefore, the sector institutions and their leaders are challenged to collaborate and implement fundamental changes in tandem while maintaining strict observance of the independence of the individual institutions, and especially the constitutional separation of powers among the three arms of the state<sup>10</sup>.
- **Decentralised management of implementation:** No single institution has either the mandate or the capacity to singularly effectively manage the implementation of the broad programme. However, considering that a number of the components and elements of the programme have already been initiated, as discrete projects in the various Legal Sector Institutions, there would be resistance and practical difficulties in centralising the management of the programme. Moreover, centralisation would undermine ownership, commitment and accountability by the primary stakeholders. Therefore, responsibilities and accountability for the management of the programme are fully decentralised to the individual institutions basing on mandates and roles as outlined in the programme implementation arrangements.
- **Mainstreaming implementation responsibilities into existing administrative structures:** There is a wealth of documented evidence that the creation of temporary enclave project (or programme) implementation units outside the existing Government administrative structures undermines: (i) ownership, commitment and accountability by the primary stakeholders to the programme goals and implementation responsibilities, which are usually

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<sup>10</sup> On the other hand, it is important to distinguish between, adherence to rule of law in the administration of justice, for which separation of powers is an inviolable principle, and on the other hand, a collaborative national initiative for development and strengthening of the institutions and the system for sustaining the former, which is what the sector reform programme is about.

crucial to effectiveness of programme implementation, and (ii) long term capacity building which is crucial to sustainability of programme achievements. Therefore, the programme implementation responsibilities are mainstreamed into the existing administrative structures and institutional medium term strategic plans, annual work plan and MTEF budget framework.

- **Ministry of Justice and Constitutional Affairs provides a crucial link to the wider Government system:** Virtually all the key policy, legislative, systems and administrative changes entailed in the implementation of the programme will require cooperation and support of other central government agencies, such as other central government ministries, the Inter-ministerial Technical Coordination Committee (IMTC), the Cabinet Secretariat and the Cabinet. According to the organisation of Government, the MOJCA is the legal sector institution that has formal and direct links to these other Government agencies. It is therefore important that the Ministry plays a coordinating role between the Legal Sector Institutions and these agencies<sup>11</sup>.
- **Effective participation of all the stakeholders:** Many of the changes to the legal and judicial systems planned under the programme will affect a wide cross-section of the society. Still, in the spirit of transparency and accountability, as well as in pursuit of the objectives and merits of a participatory development process, it is important that all stakeholders are adequately consulted and involved in the change processes. However, many of the stakeholders for practical reasons cannot be directly represented in the implementing agencies. Therefore, effective participation by all stakeholders will be ensured through such alternative mechanisms for stakeholder consultations as workshops, seminars and conferences.
- **Flexibility in the organisation and operation of the structures and mechanisms for coordinating the programme implementation:** For the coordinating mechanisms for this programme to be effective, it is necessary that they will transcend the formal bureaucratic structures of the public Legal Sector Institutions. To achieve this, it will be important that the organisation and operations of these coordination structures and mechanisms are flexible, and changed when necessary on the basis of periodic review of their effectiveness.
- **Government leadership in the coordination of the development partners' support:** The implementing agencies give due recognition to the role of the development partners (donors) as key stakeholders in the implementation of the reform programme. Their role is to provide financial and technical resources and guidance where necessary that are critical for effective implementation of the programme. At the same time, it is important that this external support does not crowd out ownership, responsibility and accountability by Government institutions. There is also the risk that without decisive leadership and coordination of the programme by the Government,

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<sup>11</sup> As elaborated later, in the context of explaining the programme's key coordinating mechanisms (the Steering Committee and the Technical Coordination Committee), the role of *coordination* must not (as often happens) be confused with that of *controlling and directing*. Coordination is about empowering, supporting and catalysing, and not about supervising, faultfinding and admonishing other institutions.

the donors' support could result in fragmentation of the reform efforts, loss of effective collaboration among the implementing agencies and sub-optimal use of the external resources.

### 8.3 MANAGEMENT AND COORDINATION ARRANGEMENTS

The Coordination and Management structure guided by the principles narrated in 8.2 will have the following main features:-

#### 8.3.1 The Overall Coordinating Ministry/Agency

This will be the **Ministry of Justice and Constitutional Affairs**. As the Overall Coordinating Ministry will coordinate the implementation of the strategy. The Deputy Attorney General/Permanent Secretary as the Chief Executive Officer/Accounting Officer will ensure effective coordination of the lead agencies and all implementers of the strategy. The functions of the coordinating Ministry will therefore be:

- (i) Organising consultative forums.
- (ii) Mobilising resources for the programme.
- (iii) Organising Sector Review Meetings.
- (iv) Ensuring proper utilisation and accounting of the Programme funds.
- (v) Overall periodic monitoring and evaluation of the programme

To facilitate the Ministry in its role as an overall coordinating Ministry a **Legal Sector Reform Programme Coordination Office** will be established and located at the Ministry of Justice and Constitutional Affairs. The functions of the office are detailed in paragraph 8.3.5 below.

#### 8.3.2 Lead Agencies

The Lead Agencies shall have overall and direct responsibility for the management of the programmes of each Key Result Area. The responsibility in the programme is summarised in the matrix below:

Key Result Area	Lead Agency	Implementing Agency	Targeted Outcomes
1. National Legal Framework	Law Reform Commission	Law Reform Commission of Tanzania	1,2,3,&4
		Ministry of Justice and Constitutional Affairs	1,2,3,&4

<b>Key Result Area</b>	<b>Lead Agency</b>	<b>Implementing Agency</b>	<b>Targeted Outcomes</b>
		Non Government Organisations and other voluntary Associations	<b>1 &amp; 4</b>
		Police Force	<b>1, 2,&amp; 3</b>
		Prison Service	<b>1,2&amp;3</b>
		Commission for Human Rights and Good Governance	<b>1&amp;2</b>
		Judiciary	<b>1,2,3,4</b>
		Legal Training Institutions	<b>1&amp;4</b>
		Legal Registries (BRELA, Registry of Titles, Registries, Administrator Generals Department)	<b>1&amp;2</b>
		Tanganyika Law Society	<b>2,3&amp;4</b>
2. Access to Justice for the Poor and Disadvantaged	Judiciary	Judiciary	<b>1,2,3,&amp; 4</b>
		Ministry of Justice and Constitutional Affairs	<b>1&amp;2</b>
		Non Government Organisations and other voluntary Associations	<b>2,3 &amp; 4</b>
		Police Force	<b>1&amp;4</b>
		Prison Service	<b>1&amp;4</b>
		Commission for Human Rights and Good Governance	<b>1,2,3&amp;4</b>
		Law Reform Commission of Tanzania	<b>1&amp;2</b>
		PO Regional Administration and Local Government	<b>3</b>

<b>Key Result Area</b>	<b>Lead Agency</b>	<b>Implementing Agency</b>	<b>Targeted Outcomes</b>
3. Human Rights and Administration Justice	Commission for Human Rights and Good Governance	Commission for Human Rights and Good Governance	<b>1,2,3,&amp;4</b>
		Ministry of Justice and Constitutional Affairs	<b>1,3,&amp;4</b>
		Non Government Organisations and other voluntary Associations	<b>3</b>
		Police Force	<b>1&amp;3</b>
		Prison Service	<b>1&amp;3</b>
		Law Reform Commission of Tanzania	<b>1,3 &amp;4</b>
		Judiciary	<b>1,3,4</b>
		Administrative Tribunals	<b>4</b>
		4. Knowledge and Skills of Legal Professionals	Law Faculty University of Dar es Salaam
Ministry of Justice and Constitutional Affairs	<b>1,2,&amp;3</b>		
Tanganyika Law Society	<b>1&amp;2</b>		
Institute of Judicial Administration	<b>1 &amp;3</b>		
Law Faculty, Mzumbe University	<b>1,2&amp;3</b>		
Law Faculty, Open University of Tanzania	<b>1,2&amp;3</b>		
Judiciary	<b>1,2&amp;3</b>		
Law Faculty, Tumaini University	<b>1,2&amp;3</b>		
Ministry of Science Technology and Higher Education	<b>1,2&amp;3</b>		
Council for Legal Education	<b>1&amp;2</b>		
Police Force	<b>3</b>		
Prison Service	<b>3</b>		
5. Service Delivery Capacity in the	Ministry of Justice and Constitutional	Ministry of Justice and Constitutional Affairs	<b>1,2,&amp;3</b>

<b>Key Result Area</b>	<b>Lead Agency</b>	<b>Implementing Agency</b>	<b>Targeted Outcomes</b>
Sector Institutions	Affairs	Police Force	<b>1,2,&amp;3</b>
		Prison Service	<b>1,2,&amp;3</b>
		Judiciary	<b>1,2,&amp;3</b>
		Legal Registries (BRELA, Registry of Titles, Registries, Administrator Generals Department)	<b>1,2,&amp;3</b>
6. Management, Coordination, Monitoring and Evaluation	Ministry of Justice and Constitutional Affairs	All Lead Agencies and Implementing Agencies	<b>All Outcomes</b>

The Responsibility of the Lead Agency shall be to lead, coordinate and monitor the implementation of the programme of its relevant Key Result Area in partnership with the Implementing Agency/Agencies. The responsibilities in detail shall include the following:

- Facilitate the development of annual work plans and budgets acceptable by all Implementing Agencies for the respective components/outcomes of the relevant Key Result Area;
- Identify the nature of technical support for the implementation of activities under respective components/outcomes of the relevant Key Result Area;
- Appoint a responsible officer to act as secretary to the meetings of the Implementing Agencies responsible for respective components/outcomes, in order to coordinate and link with the office of the National LSRP Coordinator on the necessary support to ensure proper monitoring of the Key Result Area. Such official shall be inducted/trained before commencement of the implementation of the Medium Term Strategy, and must be accountable to the Accounting Officer of the Lead Agency.
- Coordinate and lead the implementation of the components/outcomes under the Key Result Area;
- Organise progress review and monitoring meetings on the respective components/outcomes under the Key Result Area;
- Review the periodical monitoring and technical reports on the implementation of respective components/outcomes submitted by the responsible Implementing Agencies to the Lead Agency; and

- Compile necessary periodical monitoring and technical reports on the implementation of respective components/outcomes under the Key Result Area for submission to the office of the National LSRP Coordinator and to the Technical Coordination Committee.

### **8.3.3 Implementing Agencies**

The Implementing Agencies shall have direct responsibility for the management of the implementation of the activities arising under the targeted outcomes and outputs under the relevant Key Result Areas. The Responsibility of the Implementing Agency shall include the following:

- Development of annual work plans and budgets for respective outputs in the Medium Term Strategy that are within the statutory role and functions of the institute. The Work plans should be linked with other Implementing Agencies for each output under relevant Key Result Area, outcome and output together with alignment to the institutional strategic plan and MTEF budget;
- Identify the nature of technical support for the implementation of all project level activities;/outcomes/components which the Implementing Agency is responsible for implementing;
- Appoint a responsible officer at the Implementing Agency to coordinate and link with the respective Lead Agencies on matters relating to coordination, collaboration, monitoring and progress reporting relating to the components/outcomes which the Implementing Agency is responsible for implementing;
- The responsible officer is to liaise with both the Lead Agency of the relevant Key Result Area and the Office of the LSRP Coordinator on the necessary support required to ensure achievements of component/outcome activities. Such official should report to its Accounting Officer on the day-to-day implementation of component/outcome activities and shall be inducted/trained before the commencement of the implementation of the Medium Term Strategy;
- Organise Management Progress Review Meetings to ensure that each unit/ division in the respective institutions play a role in ensuring the success of the component/outcome;
- Compile necessary periodical and technical reports on the implementation of the component/outcome to be submitted to the Lead Agency.
- Maintain proper records of funds allocated, spent for the implementation of the component/outcome; and
- Compile periodical reports on the implementation of the programme activities based on each area for submission to the Lead Agency.

### **8.3.4 Coordinating and Monitoring Organs:**

- A Government, Development Partners and Donors Joint Forum
- A Steering Committee;
- A Technical Coordination Committee; and
- Thematic Committees.

**(a) A Donor/Government Joint Forum:**

The Donor/Government Joint Forum Committee will meet once a year to discuss the implementation and financing of the LSRP and to exchange views on key issues relating to the reform process.

The Members of the Joint Forum shall be the following:

- The Deputy Attorney General/Permanent Secretary of the Ministry of Justice and Constitutional Affairs,
- The Permanent Secretary of the Ministry of Home Affairs
- The Registrar of the Court of Appeal
- The National Program Coordinator, MoJCA
- The Development Partners according to the members of the financing basket

**(b) The Steering Committee**

The Legal Sector Reform Steering Committee is the decision making body of the LSRP. It will also provide policy and strategic leadership to the reform programme. All key Legal Sector Institutions will be represented in this committee by their chief executive officers. Specifically, membership of the committee comprise of the following:

- The Chief Justice, the Judiciary – Chairperson
- The Attorney General – Vice Chairperson
- The Chairperson, Law Reform Commission of Tanzania – Member
- The Deputy Attorney General/Permanent Secretary, Ministry of Justice and Constitutional Affairs – Member
- The Permanent Secretary, Ministry of Home Affairs – Member
- The Permanent Secretary, Ministry of Finance- Member
- Registrar, Court of Appeal – Member
- The Chairperson Commission of Human Rights and Good Governance – Member

- Director General, Prevention of Corruption Bureau-Member
- The Permanent Secretary, Ministry of Labour, Youth and Sports Development
- The Permanent Secretary, Ministry of Trade and Industries-Member
- The Permanent Secretary, Ministry of Lands and Urban Settlement-Member
- The Permanent Secretary- President's Office Planning and Privatisation- Member
- The President, Tanganyika Law Society- Member
- The Chairperson, Council for Legal Education- Member
- The Tanzania Chamber of Commerce Agriculture and Industry- Member
- The National Programme Coordinator – Secretary

It is anticipated that the Steering Committee may co-opt members from institutions/ministries with specialist knowledge that may contribute in enhancing effective implementation of complex programme activities. The Committee will meet at least once every four months, to deliberate and approve on, *inter alia*:

- Quarterly work plans and budgets for the programme
- Recommendations of the Technical Coordination Committee with respect to programme implementation monitoring and evaluation reports.
- Policy and strategic issues arising in the programme implementation, which may originate from any of the following:
  - Members of the committee;
  - The Technical Coordination Committee (including reports by TCC and Consultants); and
- Developments in the country that might require changes in the Programme implementation.

**(c) The Technical Coordination Committee**

Operational issues and technical coordination of programme implementation activities, as well as ensuring regular monitoring and evaluation of the activities, outputs and outcomes will be the responsibility of the Technical Coordination Committee. Members of this committee will be the chief executive officers of the lead agency for each Key Result Area and two representatives from the Donors supporting the Legal Sector Reform Programme. Specifically, the members of this committee will include:

- The Deputy Attorney General/Permanent Secretary, MJCA,– Chairperson;
- The Permanent Secretary, MoHA– Vice Chairperson;

- Law Reform Commission of Tanzania, Lead Agency, Key Result Area 1- Member;
- Court of Appeal of Tanzania, Lead Agency, Lead Agency, Key Result Area 2- Member;
- Commission for Human Rights and Good Governance, Lead Agency, Key Result Area 3- Member;
- Faculty of Law, University of Dar es Salaam, Lead Agency, Key Result Area 4- Member;
- Ministry of Justice and Constitutional Affairs, Lead Agency, Key Result Area 5- Member;
- Two representatives of the development partners who are supporting the programme- Members
- LSRP Coordinator at MoJCA – (Secretary)

The Technical Coordination Committee may co-opt members from the Lead Agency, LSRP Link Officers, or institutions or coordinators of programmes supporting LSRP activities or agencies or organisations with specialist knowledge that may contribute to effective implementation of complex programme activities. The Committee will meet at least once every - months, to deliberate on, among other pertinent matters including the following:

- Quarterly work plans and budgets for the KRAs
- Monthly progress reports on each of Key Result Areas to be presented by the respective Lead Agencies.
- Technical papers and reports submitted by Lead Agencies
- Policy and strategy papers prepared by Lead Agencies (including Cabinet memos and draft bills) for submission to the Steering Committee.

#### **8.3.5. Management of the Programme Coordination office:**

The Programme Coordination Office, headed by the National Programme Coordinator shall be created to support the Ministry of Justice and Constitutional Affairs as the overall coordinating Ministry. The Programme coordinator will be overall facilitator and manager of the programme on the day to day basis.

##### **(a) Duties of the National Programme Coordinator**

The Programme coordinator will report to the Deputy Attorney General/Permanent Secretary, Ministry of Justice and Constitutional Affairs. He/She will link closely with the Chief Executives (Accounting offices) and Link Officers of the lead Agencies and Implementing agencies. The duties of the coordinator shall inter alia include:-

- (i) Take charge of the operations of the national LSRP coordination office.
- (ii) Report on matters pertaining to budget, funding and accounting of resources of the Programme to the DAG/PS, the technical coordination Committee and the Steering Committee.

(iii) Act as secretary of the Steering Committee and the Technical Coordination Committee:- in this role she/he will ensure:-

- Meetings are convened as required,
- Proper recording and dissemination of decision of the Steering Committee,
- Compile reports on the implementation of decision of the Steering Committee or Steering Committee for submission at respective meetings, and
- Provide administrative Support to both forums.

(b) **Functions of the Programme Coordination Office:-**

- (i) To assist the lead Agencies and Implementing agencies in realigning their strategic plans, annual work plans, plan of operations and MTEF budgets with the MTS. This shall include providing the necessary technical support where there are capacity constraints.
- (ii) To monitor and report on progress in programme implementation.
- (iii) To coordinate all aspects of planning and implementation of the programme. In this regard, the unit will closely liaise with the sector agencies responsible for implementing components of the LSRP, and especially with the chief executives and the link/program officers of these agencies.
- (iv) To receive, manage and account for all the programme funds basing on periodical reports from implementing agencies.
- (v) To facilitate procurement and contracting of goods/services/works/ equipment for programme/project implementation activities to the implementing agencies.
- (vi) To provide technical secretarial and other administrative support to the Steering Committee and Technical Coordination Committee; and
- (vii) To publicise the activities and achievements of the programme.

(c) **Staffing of the Coordination Office:-**

The Coordination office shall be staffed with at least the following experts

- A Programme Coordinator
- A Policy , Planning, Monitoring and Evaluation Specialists
- A Management Information Systems
- An Information, Education and Commutation specialist
- A Project Accountant and Administrator

- Administrative Assistant cum Secretary

To ensure its success, the Programme Coordination Office (PCO) must clearly understand and adhere to its mandate, especially in its relationship with the sector institutions. To this end, in brief, in order for the PCO to succeed in its mission, it is important that:

- (i) PCO will not rely on hierarchical authority: In a nutshell, PCO will be less successful in advancing the goals of the reform programme if it functions as a classical bureaucracy: imposing common rules, regulating funds, delaying action for procedural reason, or controlling the pace of implementation.
- (ii) PCO will generally be dependent upon its technical/professional/leadership. PCOs institutional role will be catalytic, and facilitative. Coordination cannot be routinized, regulated, or formalized; it is an adaptive process requiring flexibility and creativity in key leadership roles. In the circumstances, expert leadership is the answer.
- (iii) PCO will be more dependent upon informal sources of authority than upon formal organizational control. A bureaucracy functions with written rules; PCO as a coordinating agency will succeed with diplomacy. The PCO team must from the outset appreciate that organizing effective coordination is a challenging undertaking requiring action in the absence of formal hierarchical authority, expert leadership to lend creditability to various initiatives, and diplomacy at all levels to accomplish goals. Even in optimal institutional contexts, careful strategic planning is required on how coordination can be nurtured without stifling action in other organizations.

Figure 8.1 summarizes the management, coordination and decision structures for the LSRP.

## **8.4 LSRP MONITORING AND EVALUATION**

### **8.4.1 Monitoring**

Monitoring of the LSRP will be very important during programme and project implementation. Monitoring is considered as a systematic and continuous, sometimes periodic, collection of data as specified in the related indicator of specific objective, purpose, output, and activity/action planned in a programme, and/or project. It also includes routine review done internally by management of an institution/ organization/ programme/project. Programme or project quarterly, semiannual, and annual reviews are part of the monitoring process.

Monitoring of LSRP shall provide basis for corrective actions to improve the policy, programme, KRAs or project components or outputs. Monitoring shall

reveal early signs of problems in implementation. It will also enable the Lead agency or implementing coordinator to have control of what is going on, take timely action to deal with problems that may arise and adjust the strategies to improve the efficiency, effectiveness and relevance of activity under consideration. Monitoring shall be viewed as an input that allows continuous adjustment.

The monitoring basis of the LSRP shall be such that inputs, activities, and outputs are monitored with reference to the Key Result Areas and components/outcomes using specified indicators. Monitoring reports will be a major source of information for verification. The indicators of the monitoring system of the LSRP will be in place as operational tools for monitoring and measuring the efficiency and effectiveness of the LSRP over time at local and national level.

The LSRP shall be monitored on the basis of different types of indicators: performance, qualitative, and quantitative indicators. On the level of the Key Result Area (Program Level), the indicators are likely to be impact based (as well as incorporating both qualitative and quantitative elements). On the component/outcome (activities) level the indicators are likely to be performance based (as well as incorporating both qualitative and quantitative elements).

The detailed structure and content of the monitoring reports (standard formats for all monitoring/progress reports on project and program activities shall be designed/developed in tandem with the work plans. As a summary, however, the Lead Agencies shall be required to submit monitoring reports containing detailed impact indicators, reporting narratives, and financial information to the Technical Coordination Committee on a quarterly, semi-annually, annually basis. The Lead Agencies shall first submit such monitoring reports to the National LSRP Coordinator for quality assurance and summarization.

The Implementing Agencies shall submit monitoring reports containing detailed performance and/or impact indicators, reporting narratives and financial information to the relevant Lead Agencies on a monthly basis. These monthly reports are expected to be consolidated to quarterly, semi annual and annual reports and forwarded to the Technical Coordination Committee for scrutiny. The Steering Committee will base its decisions of policy modifications/changes on these reports and recommendations received from the Technical Coordination Committee.

Financial reports will be prepared basing on the generally accepted accounting and financial reporting standards as described in the accounting and reporting manual to be adapted by all parties involved. In addition accounting records and financial statements must be audited by reputable accounting/auditing firms following the National Audit Office guidance in compliance with the Public Finance Act, 2001, or any other procedures that may be agreed upon by Government and participating Development Partners.

There will be monitoring and evaluation expertise established at the National LSRP Coordinator's office. The specific functions of the monitoring and evaluation staff will include:

- Assessing monitoring reports received from the Lead Agencies for the purpose of review before submission to the Technical Coordination Committee e.g. ensuring timely delivery of reports, and quality standards; and
- Providing technical assistance to the Lead Agencies, Implementing Agencies and the Technical Coordination Committee with respect to the monitoring processes.

The monitoring reports shall be one of the decision making basis during the annual joint government, development partners and donors consultative meetings.

The monitoring requirements shall be harmonized between the requirements of the Government procedures and those of the participating Development Partners.

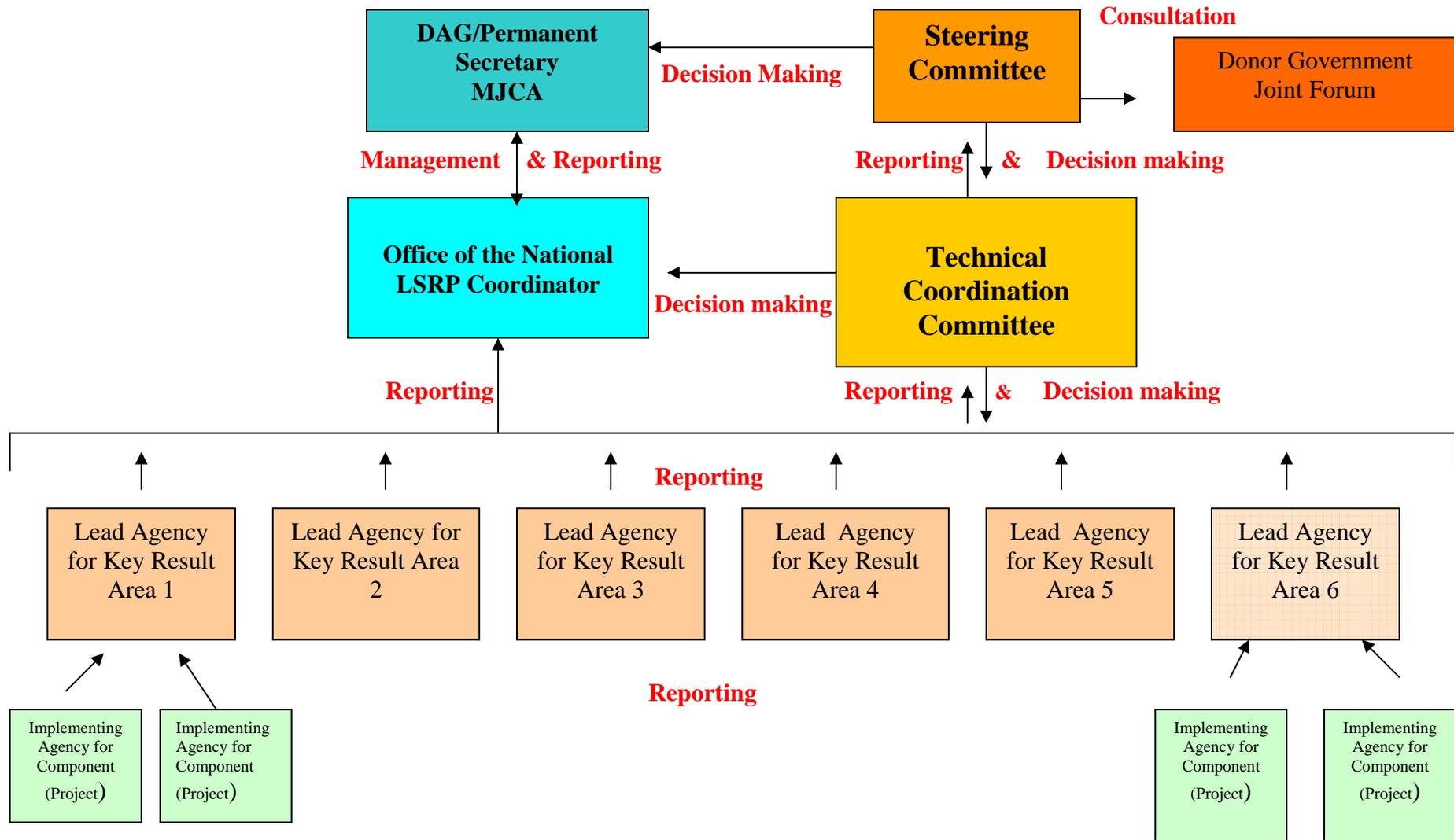
#### **8.4.2 Evaluation**

Evaluation of LSRP will attempt to assess systematically and objectively the relevance, performance and success of the programme. The main aim shall be to determine the relevance and fulfilment of LSRP objectives, developmental efficiency, effectiveness, impact and sustainability. The evaluation shall provide information that is credible and useful, enabling the incorporation of lessons learned into the decision-making process

Both planned and adhoc evaluations will be allowed. A planned evaluation of the LSRP shall be carried out after two years of implementation. The evaluation will be carried three months after the start of the third year. This will allow to assess the implementation of the programme and impact of the programme before the end of three (3) years of the MTS. The results of the evaluation will contribute to an effective assessment of the implementation of the LSRP. Also, providing the necessary information to the Steering Committee for the planning of the following three years of the implementation phase. The Steering Committee in coordination with the funding Development Partners shall elaborate and approve the evaluation criteria and procedures, as well as select an evaluation panel accordingly.

Adhoc (unplanned) evaluation will be allowed depending on the need and urgency of the issue. Nonetheless, all adhoc evaluations shall be approved by the Steering Committee in consultation with the development partners/donors.

Figure 8.1. An Illustration of the Management, Coordination and Decision Making Structures of the LSRP



**Table 8.2: Key Target Outputs in Programme Coordination Monitoring and Evaluation**

TARGET OUTCOMES	OUTPUTS BY YEAR						REMARKS
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
1. Effective Implementation of the LSRP in the Legal Sector Institutions	Implementation of Capacity Building measures for Programme/Project implementation in the Sector Institutions  Programme Coordinators Offices equipped and staffed	No of institutions with programmes/project implementation /management systems installed by 30/06/06  Number of Staff, equipment & office space secured by 30/06/05	Implementation of Capacity Building measures for Programme/Project implementation in the Sector Institutions	No of institutions with programmes/project implementation systems/management installed by 30/06/07			<ul style="list-style-type: none"> <li>• Collaboration among sector institutions</li> <li>• Adequate staffing and equipping of the Programme Coordination Office by 30/06/05</li> <li>• Measures for capacity building to be based on the outcome of Assessment of capacities for programme implementation</li> </ul>
2. Effective Monitoring, Evaluation and Coordination of the Programme	Meetings of the SC, TCC , Donors Forum and IATCs  Programme Progress and Achievements presented at Inter-Ministerial	No. of Monthly Meetings for IACTs, No of Meetings of TCC, SC and Donors held by 30/06/06  Number of Progress and Achievement reports tabled at the IMTC by 30/06/06	Meetings of the SC, TCC , Donors Forum and IATCs  Programme Progress and Achievements presented at Inter-Ministerial Coordination Committee on	No. of Monthly Meetings for IACTs, No of Meetings of TCC, SC and Donors held by 30/06/06  Number of Progress and Achievement reports tabled at the IMTC by 30/06/06	Meetings of the SC, TCC , Donors Forum and IATCs  Programme Progress and Achievements presented at Inter-Ministerial Coordination Committee on	No. of Monthly Meetings for IACTs, No of Meetings of TCC, SC and Donors held by 30/06/06  Number of Progress and Achievement	<p>Collaboration among sector institutions</p> <p>Collaboration between MJCA and the Cabinet Secretariat</p>

TARGET OUTCOMES	OUTPUTS BY YEAR						REMARKS
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
	<p>Coordination Committee on quarterly basis</p> <p>Monitoring and Evaluation mechanism established</p> <p>Periodical M&amp;E reports</p>	<p>M&amp;E procedures adopted and disseminated by 30/09/05</p> <p>Periodic Monitoring and Evaluation Reports by 30/06/06</p>	<p>quarterly basis</p> <p>M&amp; E reports tabled at the TCC, SC &amp; Donors Forum</p> <p>Periodical M&amp;E reports</p>	<p>No. of M&amp;E reports tabled at the various coordinating forums by 30/06/07</p> <p>Periodic Monitoring and Evaluation Reports by 30/06/07</p>	<p>quarterly basis</p> <p>Periodical M&amp;E reports</p> <p>Implementation of the MTS assessed and Long term Programme Developed</p>	<p>reports tabled at the IMTC by 30/06/06</p> <p>Periodic Monitoring and Evaluation Reports by 30/06/08</p> <p>MTS review report by 30/09/07</p> <p>LSRP long term Programme launched by 31/12/07</p>	
3. Enhanced Policy Management and strategic leadership in the Legal Sector Institution	<p>Legal Sector Policy formulated</p> <p>Assessment of Needs for Strengthening Institutional Capacities in policy Management and Formulation</p>	<p>Draft Legal Sector Policy Paper by 31/12/05</p> <p>Needs Assessment Report made available by 30/06/06</p>	<p>Measures for Capacity building in Policy Management and Formulation, Policy Analysis and Research Methodology implemented</p> <p>Legal Sector Policy approved and in place</p>	<p>No of Senior Officials trained in Policy Analysis and Methodology by 30/06/07</p> <p>Legal Sector Policy launched by 30/06/07</p>	<p>Research and Policy analysis initiated in all sector institutions</p>	<p>No of sector institutions with policy research and analysis by 30/07/05</p>	

TARGET OUTCOMES	OUTPUTS BY YEAR						REMARKS
	2005/06		2006/07		2007/08		
	Target Outputs	Indicators	Target Outputs	Indicators	Target Outputs	Indicators	
4. Enhanced Information Communication and Education on the Legal Sector developments and reforms	Strategy for Information Education and Communication  Community outreach Programmes	Newsletters, Radio and TV Programmes by 30/06/05 1 <sup>st</sup> batch & No Newsletters English & Swahili distributed by 30/06/05 Radio & TV Programmes aired from 30/06/05	Periodical reports on the Legal Sector Reforms TV & Radio Programmes Booklets and Brochures Dissemination of Information LSRP	No of copies Quarterly Kiswahili and English Newsletters and legal sector periodical reports published and distributed in every quarter from 30/6/07  No and type of radio and TV programmes by 30/06/06 No of Booklets printed and disseminated	Periodical reports on the Legal Sector Reforms, TV & Radio Programmes, Booklets and Brochures  Dissemination of Information LSRP	No of copies Quarterly Kiswahili and English Newsletters by 30/06/08 published and distributed in every quarter from 01/06/07 No and type of radio and TV programmes by 30/06/08	
5. Enhanced Institutional Capacities in Management of Culture of Change	Needs assessment for Capacity Building on change management in the Legal Sector Institutions Action Plan for Capacity Building in change management for the Legal Sector Institutions	Training in Management of change for all Legal Sector Institutions by Approved capacity building measures by 31/06/06	Action Plan Implemented	Number of Senior personnel in the Legal Sector Trained on Change Management by 30/06/07			

## APPENDIX 1: THE LEGAL SECTOR INSTITUTIONS

### INTRODUCTION

The Government of the United Republic of Tanzania's governance framework is based on the Constitution of the United Republic of Tanzania. The Legal Sector in Tanzania is therefore uniquely characterised by the multiplicity of autonomous institutions with overlapping as well as reinforcing mandates. Consequently the performance of an institution is interdependency on another that is independent. Weak performance of either institution affects other institutions in the administration of justice. This has therefore necessitated a sectoral approach in reforming and modernising the following institutions to attain the vision for timely justice for all:

- (a) **The Ministry of Justice and Constitutional Affairs**
  - Attorney General's Chambers
  - The Judiciary
  - Institute of Judicial Administration (IJA)- Lushoto
  - The Law Reform Commission of Tanzania
  - The Commission of Human Rights and Good Governance
- (b) **Ministry of Home Affairs**
  - Office of the Registrar of Societies
  - The Police Force
  - The Prison Service
- (c) **Ministry of Labour Youth Development and Sports**
  - Department of Social Welfare on the aspects of Juvenile Courts, remand homes and approved school
- (d) **Ministry of Industry and Trade**
  - Business Registration and Licensing Agency (BRELA)
- (e) **Ministry of Land and Human Settlement Development**
  - Office of the Registrar of Titles aspects of land and property registration
- (f) **Ministry of Science, Technology and Higher Education,**– aspects of legal training institutions
  - University of Dar es Salaam - Faculty of Law
  - Open University of Tanzania - Faculty of Law
  - Mzumbe University - Faculty of Law
  - Tumaini University - Faculty of Law
- (g) **Council for Legal Education**
- (h) **Tanganyika Law Society-** professional organisation for lawyers
- (i) **Non- Governmental Organisations responsible for legal aid, paralegal training and dissemination of legal information.**

The mandates roles and functions of above are outlines in the paragraphs herein below.

### 2.1 The Ministry of Justice and Constitutional Affairs

The Ministerial functions as provided by Second Schedule, Order Number 468 of 2000 (Assignment of Ministerial Responsibilities) made under Section of Act No. 10 of 1980 (The

Ministers (Discharge of Ministerial Function) “Justice. The Judiciary. Human Rights. The Attorney General’s Chambers. Constitutional Affairs. Chief Parliamentary Draftsman. Administrator General’s Office. Law Reform. Public Prosecutions. Civil and International Law. Extraditions and Extra-Territorial Mutual Assurances in Criminal Matters. The Official Receiver. Public Trustee. Deeds Agreement. Adoption. Trustee Incorporation. Registration of Births and Deaths. Extra-Ministerial Departments, Parastatal Organisations and Projects under this Ministry. Development of Human Resources under this Ministry. Government Agencies under this Ministry.” The Ministry has the responsibility of formulating policies for effectiveness of the national legal framework and administration of justice system in the country.

### 2.1.1 ATTORNEY GENERAL’S CHAMBERS

#### Institutional Overview

Under Article 59 of the Constitution of the United Republic of Tanzania, the Attorney General is the principal legal advisor for the Government, a Cabinet Minister and an ex-officio Member of Parliament. These multiple and broad roles and mandate explain the wide range of functions of the Office of the Attorney-General(AGC), which shall fall under several departments, as summarized in Table 1 below.

**Table 1: Specific Functions in the Office of the Attorney-General by Departments**

The Hon. The Attorney General	Advising the President, Cabinet and Government in general on legal and Constitutional matters including advising on appointments to constitutional offices, interpretation of the Constitution etc.
Department of Public Prosecution	Directing and prosecuting criminal cases
Legislative Drafting Department	Drafting of legislation, including all final drafting of bills to be laid before Parliament and advice to Parliament and Government on technical drafting matters, to revise and translate all legislation and legal instruments for Government Agencies.
Department of Civil Litigation and International Law	Providing legal opinions agreements, contracts, treaties, international conventions and any other legal matters; and conduct of civil litigation on behalf of the Government and the defence of civil claims against the Government
Administrator General <sup>12</sup>	Specific responsibilities in relation to the administration of estates of deceased persons; trustee’s incorporation, registration of marriages, divorces, births, deaths and adoptions, public trustee and official receiver.
Department of Constitutional Affairs	Research and advice on constitutional and human rights, keep under review constitutional development and interpretation of the Constitution by the courts of law and reports on constitutional matters.
Department of Personnel and Administration	Human resource management and development and social welfare, procurement of goods and services and security and safeguard of public property.
Department of Planning Policy and Information Technology	Critical support services in policy analysis, planning, programme preparation, management and evaluation, budgeting, legal research, library services and information technology.
Finance and Accounts	Accounting records, financial reports and statements as required under the Public Finance Act, financial and accounting advice to the accounting officer and warrant holders.

<sup>12</sup> The Department is currently being restructured to be an executive agency under the Public Reform Programme.

Internal Audit	Review of financial and accounting records and information, monitoring safeguard and security of the public property, review of systems and procedures and advice to the accounting officer on the relevancy and effectiveness of available internal control systems
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### Organisation and Management

The above departments of the Attorney General's Chambers undertake the functions of the Ministry. The day to day management of the AGC is vested under the Deputy Attorney General/ Permanent Secretary assisted by the heads of department and units in the AGC. The Deputy Attorney General/ Permanent Secretary is therefore the Chief Executive and Accounting Officer for the AGC and the Ministry. The Department of Public Prosecutions and Administrator General are the only Departments with Zonal and district offices respectively in the Country. The DPP has 12 Zonal Offices while the Administrator General has offices in about 65% of the Districts in Tanzania Mainland. Effectiveness of the AGC is hindered by inadequacy of skilled personnel and fragmentation of control over the services of the Department of Public Prosecution and the Administrator General. This due to the fact that the DPP delegated authority to other organs to undertake prosecutions on his behalf such as police, PCB etc while the administrator General uses two registration systems (the vital registration programme initiated through support of UNPA and gradually funded by the Government and registering birth or death when one is in need for a certificate). These fragmentations have affected the delivery of timely justice particularly in the criminal prosecutions. It is worth noting that, the vast majority of prosecutions in Tanzania are handled by Police prosecutors as members of the Police Force which is also an organ responsible for criminal investigations. This undermines independence in the prosecution of cases by the Police. This situation is unsatisfactory. It opens up the potential for human rights violations and for extortion and corruption. Immediate action to arrest the current understaffing is by finalising the recruitment and training of the authorised staff.

### Key Problems and Challenges

The cardinal responsibility of any sovereign state is that of maintaining security, law and order<sup>13</sup>. The Office of the Attorney-General is the custodian of most of the vital instruments for giving legal form, and for ensuring legality in the Government's initiatives for ensuring safety, law and order. Success in the search for safety, law and order thus demands effective capacity building in the AGC, for the purpose of providing advice to Government, authorising criminal investigations and conducting prosecutions, protecting the public interest in matters of law, and ensuring the proper functioning of the entire legal system.

### Strategic Response

In tandem, AGC has taken initiative to strengthen its capacity and improve its performance. The AGC has compiled the Revised Edition 2002 of the Tanzania Laws as at 31<sup>st</sup> July 2002 to facilitate availability of the key reference materials in both printed and electronic formats. The AGC has also developed its medium term strategic plan and identified measures for contracting out non-core security services and cleaning services from 1<sup>st</sup> July 2004, as way towards performance improvement under the Public Sector Reform Programme. The strategy is to strengthen the capacity of the Attorney-General's Chambers to cope with expected problems and challenges. Key elements of this will include:

<sup>13</sup> Poverty Reduction Strategy 2000 and Vision 2025

- civilianisation and streamlining the prosecution service and expansion of the service country wide in the context of pursuit of rapid improvements in the administration of justice, especially with regard to DPP functions;
- finalisation of the transformation of the Administrator General's Department into an executive agency under the Public Service Reform Programme. This shall include modernisation of office facilities and development of strategies for ensuring uniform registration system in the country and promoting public awareness on the importance of birth, deaths, marriages and divorces;
- improving salary levels to attract and retain professionals and devising meritocracy systems of personnel management responsive to the nature and sensitivity of services rendered in the organisation. While this issue was addressed under the Public Service Reform Programme, complementary initiative is warranted considering the fact that the legal professionals in public service cannot practice as advocates;
- training of staff and facilitating them with modern working tools. The training programmes will target addressing skills gap identified by a Training Needs Assessment funded by Quick Start Project;
- building information and knowledge bases, especially through application of modern information and communication technologies. The Proposed Tanzania Accountability, Transparency and Integrity Project (ATIP) will assist in the development of a management information system strategy; and
- planning, monitoring and evaluation capacity. The MTEF has a monitoring and evaluation capacity. The MTEF has a monitoring and an effective performance budgeting tools. This is an opportunity for ensuring proper allocation and utilisation of resources.

### 2.1.2 THE JUDICIARY

#### **Institutional Overview**

Article 40 and 107A of the Constitution of the United Republic of Tanzania establishes and guarantees independence of the Judiciary in dispensing justice. Article 108A – 111 and 116 – 123/124 of the Constitution provides a basis of independence for the High Court and Court of Appeal in Tanzania and Article 112 – 113A for an independent Judicial Service Commission (JSC). The JSC is however supported by the Public Service Commission that is on the executive side. The Judiciary has 1027 Primary Courts, 86 district Courts, 21 Resident Magistrates Courts, a High Court with 11 zones and the Court of Appeal. The Court of Appeal that does not have its own premises has jurisdiction in the whole of the United Republic of Tanzania. Recently the land and commercial divisions of the high court have been established to provide speciality in dealing with lands and commercial disputes respectively. There is only one Juvenile Court in Dar es Salaam normal Courts convert to a Juvenile's Court if circumstances allow; otherwise juvenile cases are conducted in the normal adult court. The structure of the Judiciary generally meets the current needs of the Judiciary. The Chief Justice is the overall head of the Judiciary and he is assisted by Jaji Kiongozi (Principal Judge) who is the head of the High Court while each High Court zone is headed by a Judge in-charge.

#### **Organisation and Management:**

The day to day management of the Judiciary is vested to the Registrar of Court of Appeal of Tanzania who is also. The executive departments in Table 2 herein below functions fall under the Office of the Registrar of Court of Appeal.

Office of the Registrar of Court of Appeal of Tanzania	Control of the Court of Appeal, The Chief executive officer and accounting officer providing administrative support to all the courts in Tanzania
Private office of the Chief Justice	Management of the office of the Chief Justice, protocol and public complaints
Office of the Senior Deputy Registrar of Court of Appeal	Assisting the Chief executive officer, control of the registry of the High Court
Office of the Deputy Registrar of Court of Appeal	Assisting the Office of the Senior Deputy Registrar, Court of Appeal
Directorate of Administration and Personnel	Human resource development and management; and budgeting preparation and management
Directorate of District to Court of Appeal	Disciplinary matters for Resident Magistrates, District Magistrates and overall management of District Courts – Court of Appeal
Directorate of Primary Courts	Human Resource Management, disciplinary matters of the Primary Court Magistrates and overall managerial support services to the courts
Accounts Unit	Accounting records, financial reports and statements as required under the Public Finance Act, financial and accounting advice to the accounting officer and warrant holders.
Internal Audit	Review of financial and accounting records and information, monitoring safeguard and security of the public property, review of systems and procedures and advice to the accounting officer on the relevancy and effectiveness of available internal control systems

Apart from these each high court centres. The Judiciary intends to review and realign the organisational structure to provide coherency and accountability and enhance its efficiency. It is expected that the new structure will be approved and implemented soon.

### Key Problems and Challenges

The key problems and challenges in the Judiciary include lengthy case delays and backlog, limited access by the population, laxity in security, lack of adequate accommodation, allegations of corrupt practices, cumbersome laws and procedures, and general lack of training, weak or non-existence of sanctions for unethical behaviour and inequitable budget. These have been echoed in the Legal Sector Reform Programme, Medium Term Strategy.

Major causes of delay in case disposals are inadequate number of magistrates and Judges, prolonged investigations, unrealistic daily listing of cases for trial with far more cases listed than can be tried by one Judge in one day and a shortage of expert witnesses in some technical areas.

### Strategic Response

The Judiciary, under the lead of the Chief Justice, has recognised the scope of challenges facing it, and has taken a number of very practical steps to begin the reform process. A case in point is the restoration of the law reporting practice updated up to 1997 through the support of the FILM UP<sup>14</sup>. Tanzania Law Reports Board has selected case for 1998 up to 2003, but has not published due to lack of funds. Other reform measures taken in the Judiciary include:

<sup>14</sup> Financial and Legal Management Upgrading Project funded by the World Bank

- commercial and Land Divisions have been established at the High Court;
- some court buildings have been rehabilitated;
- computer literacy training has been conducted for judges, magistrates and some of support staff;
- The Judicial Ethics Commission has been established;
- Case Flow Management Committees have been revised;
- training of Magistrates, Judges and other court officials on best practices in Juvenile Justice Administration;
- designing the construction of juvenile courts in Mtwara and Mbeya together with an action plan for enhancing juvenile justice in Tanzania to be implemented by all key stakeholders to be endorsed in May 2004; and
- identifying key issues for the collaboration with Local Government Authorities in construction and rehabilitation of District and Primary courts under the Quick Start Pilot Scheme in Arusha and Manyara Region.

The challenge is to sustain and build on these initiatives while at same time improving the working conditions and environment in the courts. In addition, due to vast developments in the country the cases filed in the courts have become more complex, it is therefore necessary to update the procedures of the courts to address the complications resulting from these developments and training court staff on the changes necessary and change management so as enhance their skills. Moreover, priority infrastructure and strengthening supervision and administrative support mechanisms for the court should be addressed as a matter of priority. Enhancing the independence of the Judiciary is another significant issue that requires proper consideration to enhance effectiveness of the Judiciary. Other possible ways for enhancing judicial independence are:

- create an independent secretarial for the JSC and enhance its capacity and scope of functions to include monitoring and performance review of judicial decision-making and case clearance by Judges and Magistrates;
- enhance transparency in the judicial processes by simplifying court procedures and publishing simple information booklets on the courts, publishing newsletter, radio and TV programmes etc to create public awareness on the court processes and rights;
- improving salary levels to attract and retain professionals and devising meritocracy systems of personnel management responsive to the nature and sensitivity of services rendered in the organisation. While this issue was addressed under the Public Service Reform Programme, complementary initiative is warranted considering the fact that the judicial officials cannot practice as advocates while in service;
- training of staff and facilitating them with modern working tools. Under the Quick Start Project a training programme for staff development shall be adopted by 30<sup>th</sup> June 2004;
- building information and knowledge bases, especially through application of modern information and communication technologies. The Proposed Tanzania Accountability, Transparency and Integrity Project (ATIP) will assist in the development of a management information system strategy that will assist to interlink of the key institutions in the administration of justice to enhance speedy disposition of cases;
- planning, monitoring and evaluation capacity. The MTEF effective monitoring and performance budgeting tools. This is an opportunity for ensuring proper allocation and utilisation of resources for priority needs; and
- improve working environment basing on the Judiciary infrastructure development programme to be developed under the preparation of the Proposed ATIP.

### 2.1.2.1 Institute of Judicial Administration (IJA)- Lushoto

#### Institutional Overview

Act No.3 of 1998 established the Institute of Judicial Administration (IJA), located at Lushoto in Tanga Region to provide training to primary court magistrates and judicial support staff. The main functions of the Institute as prescribed under the Act are following:

- Offer and Conduct Legal Training programmes;
- Undertake legal research to improve the Quality of Academic Literature, continued enrichment of the curricula and teaching techniques;
- Provide Legal Consultancy Services;
- Provide Legal Counsel to Clients on the terms set out by the Institutes administration;
- Publish and Disseminate Academic Literature generated from academic activities of the Institute;
- Provide facilities for short courses and seminars according to internal public demands;
- Establish relationship or association with other colleges and institutions both local and international.

The Government acquired the rehabilitated premises of the former CCM Lushoto Ideological College for establishment of the Training Institute for the Judiciary Department. The rehabilitation and alterations including provision of basic furniture, equipment and cutlery was completed and the first intake of 29 students started in September 1999.

#### Organisation Structure and Management

The overall management of the Institute is vested under the Council for the Institute of Judicial Administration. The Principal of the Institute is the chief accounting and executive officer, coordinator of the Institute's activities and secretary to the council. The Principal is responsible to the Council on his day-to-day work. The Principal is assisted by the Director of Studies and Director of Finance Administration. The institute lacks adequate personnel and appropriate infrastructure.

#### Key Problems and Issues

The PRSP targets at recruitment of 350 qualified Primary Court Magistrates for the Primary Courts towards enhancing access to justice in the rural areas. This has not been attained due to capacity constraints by the Institute both technically and financially.

#### Strategic Response

The Institute has designed a five years programme for capacity building targeting at hosting 500 students per annum from current capacity of 150 students. The key features include.

- (i) improvement of physical facilities;
- (ii) enhancement of teaching, publication and consultancy services;
- (iii) improvement of legal framework, organisation and management;
- (iv) installing quality assurance; and
- (v) improvement of health facilities and responsiveness to HIV/AIDs.

The medium term programme targets at addressing the key national policies and reform programmes.

### 2.1.3 The Law Reform Commission of Tanzania

#### Institutional Overview

The Law Reform Commission of Tanzania (LRCT) was established by the Law Reform Commission Act No 11 of 1981, started its operations in 1983. It has a Chairman and six Law Reform Commissioners (three part-time and three full time) appointed by the President. Since its establishment in 1981, the LRC has functioned as an autonomous institution under the Department of Justice and later the Ministry of Justice and Constitutional Affairs. The Commission's statutory function is to keep under review all the laws of Tanzania to ensure its systematic development and reform including in particular the integration, unification and codification of the law, the elimination of anomalies and the repeal of obsolete and unnecessary enactments and generally its simplification and modernisation. The legislative drafting within Government is carried out by both the LRCT and by the Legislative Drafting Department of the AGC.

#### Organization and Management

The day to day management of LRCT is vested under the Secretary of the Commission assisted by the Head of Legal Research and Review, Principal Administrative and Personnel Officer(PAPO) and Chief Accountant. LRCT has limited number of staff, which limits the capacity of the Commission to update the national legal framework to address the priorities of the sector reform programmes.

#### Key problems and challenges

The Government of the United Republic of Tanzania since 1990, embarked on far reaching economic, social and political reforms focusing on broadening the role of free market economy, promotion of political pluralism and democracy, protection of human rights, promotion of good governance and protection of environment. This call for continuous review and updating of the national legal framework to cope with the resulting changes in the country. The LRC therefore has a key role in ensuring the relevancy and effectiveness of the national legal framework. The LRC has since then started working on wide reform issues that require to be addressed in the national legal framework targeting at an accessible justice for all, investment promotion, enhancing good governance and modernisation of infrastructure and technology. In these circumstances the LRCT should address the following key issues:

- » Inadequacy skills in policy analysis
- » Inadequacy staff for the nature and complexity of the scope of the LRCT in planning and organising effective reviews to the national legal framework
- » Outdated legal research and methodologies
- » Lack of procedures for effective contracting of legal research work by the Commission

A further significant challenge facing the LRC is to focus its drafting programme on reform priorities as consistent with the PRSP, this legal sector reform programme, and other sector policies and development programmes

#### Strategic Response

Nonetheless, it can be safely anticipated that the key elements of LRC's strategies to improve on performance of its services will comprise:

- development of a national legal framework in collaboration with stakeholders to ensure the priorities in sector policies and programmes;

- a systematic and strategic identification and programming of research priorities; and
- building the capacity for cost effective implementing its programme of work. The Programme will be based on the current capacity building measures initiated under the Capacity Building funded by DANIDA and will target at recruiting specialist skills (e.g. information technology, statistics, legal research etc); updating legal research methodology and techniques and developing procedures for effective contracting legal research work by the Commission.

#### **2.1.4 The Commission of Human Rights and Good Governance**

##### **Institutional Overview**

The Commission for Human Rights and Good Governance was established in 2002 by Article No 129 to 131 of the Constitution of the United Republic of Tanzania and Commission of Human Rights and Good Governance Act No7 of 2001, following the recommendations of the Legal Task Force in 1996. CHRAGG was also created in response to requirements in the International Human Rights convention requiring the setting up of a Human Rights body to monitor human rights abuse, and which Tanzania has ratified and to address the ineffectiveness of the former Permanent Commission of Enquiry (PCE) in addressing and detecting public abuse. The terms of functions for CHAGG are inter alia as follows:

- To investigate violation of the fundamental human and constitutional rights;
- To promote within the country the protection and preservation of human rights and duties to the society in accordance with the Constitutions and laws of the land;
- To conduct research into human rights, administrative justice and good governance issues,
- To investigate injustice, abuse of power and unfair treatment of any person by a public officer in exercise of his official duties;
- To educate the public on human rights and freedoms by such means as the committee deems fit, including publication, lectures and symposia; and
- To recommend appropriate remedial measures to assist aggrieved parties.

##### **Key Problems and Challenges**

CHRAGG as a recently established organisation requires being effective, independent and autonomous in decision-making as guaranteed under the establishment act and the Constitution. In this regard the Commission's strategies should address the key issues public expectations. The more pressing need is the establishment of Offices of the Commission to Zonal, Regional and District level so as to enhance accessibility of its services to the majority who are in the rural areas since the public is now aware of the role of the Commission.

##### **Strategic Response**

CHRAGG will overcome its main problem and challenge over time through the quality and credibility of its reports and recommended remedial measures as judged by the public and the aggrieved. In this context, it is noteworthy that the CHRAGG has produced a major report on human rights in prisons. It has been able to do this through unscheduled visits to prisons throughout Tanzania. CHRAGG has also published information booklet and published an

annual report expected to be tabled to the Parliament by the Minister for Justice and Constitutional Affairs for adoption and disseminated to the Public thereafter. Future plans are expected to enhance the capacity of the Commission based on the measures made under the CHRAGG Establishment Project funded by DANIDA.

## **2.2 Ministry of Home Affairs**

The Ministerial functions as provided by Second Schedule, Order Number 468 of 2000 (Assignment of Ministerial Responsibilities) made under Section of Act No. 10 of 1980 (The Ministers (Discharge of Ministerial Function)"*Police. Prisons. Immigration. Citizenship. Refugees. Registration of Societies. Fire Policy Formulation and Implementation. Development of Human Rights under this Ministry. Extra-Ministerial Departments, Parastatal Organisation and Projects under this Ministry. Government agencies falling under this Ministry.*"

### **2.2.1 Office of the Registrar of Societies**

Act No 11 of 1954 established the Office of the Registrar of Societies to maintain a register of all societies and related matters and to follow up on the conduct of the societies.

#### ***Organisation and Management***

The control of the registration of societies is vested under the Register of Societies who is also the Permanent Secretary, Ministry of Home Affairs. Currently there only four persons dealing with the day to day work of registration of societies and the senior of all is an office supervisor. In addition, there is only one office in Dar es Salaam located in the Ministry of Home Affairs. The Office has inadequate capacity to effectively undertake the scope of work on the supervision and control of registered societies as required by the law lack of effective management information system, up to date working procedures and techniques, adequate facilities and competent staff.

#### **Key Problems and Challenges**

The Registration of Societies has become very popular in the country due to the current social and economic trends. On the other hand the need for the Office to monitor the conduct of the Societies to ensure that they focus at their core functions and activities is necessary that there are many types of societies and other organs under this category. . The measures for enhancing capacity of Office of the Registrar include modernising information system and record management to facilitate timely retrieval of information while at the same time promoting compliance by regular inspection of the conduct of registered societies.

#### **Strategic Response**

The Office of the Registrar of Societies is currently improving its performance in accordance with the strategies under this Legal Sector Reform Programme and the Public Service Reform Programme, the records and archive management updating measures.

### **2.2.2 The Tanzania Police Force**

#### **Functions of the Tanzania Police Force**

The functions of the Tanzania Police Force are spelt out in the Police and Auxiliary Forces Act [Ordinance No.1 of 1931 (RL Cap.56, RL Caps 262 and 322)] as follows:

- Maintenance of law and order;
- Protection of life and property;
- Prevention and detection of crime;

- Preservation of peace;
- Apprehension of offenders; and
- Enforcement of all laws with which it is charged.

### **Organization and Management**

The Inspector General of Police is the head of the Police Force who ensures that the Police discharge their lawful duties; obey and execute promptly all orders and warrants lawfully issued to them by any competent authority; they preserve the peace, prevent any commission of offences, and apprehend persons in respect of whom they hold a valid warrant; they undergo training as may be ordered by the responsible administrative officer; and they act as messengers in any matter connected with the administration or the public service. The Police Force is under the Ministry of Home Affairs. The role of the police force is clearly defined, and it fits in the overall strategic objectives for the Legal Sector Reform. It also has a clear line of authority and the span of control is acceptable. This allows for effective management of performance, coaching and delegation of work.

### **Key Problems and Challenges**

The problems revolving around the Police are epitomized by unsatisfactory enforcement of the rule of law; lack of an appropriately developed resource base; reduction in the levels of competence; and low staff strength. The Police also lack training in specialised areas such as prosecution and investigation and as a result of this, most investigators – not being trained lawyers or accountants – does not understand the jargon behind cases dealing with fraud, as an example.

The problem of low staff strength is particularly significant given the high and rising rate of criminal activity. On this staffing norm, there is a need to double the Police in order to achieve the international standard for police-population ratio of 1:450 as recommended by UN. To this end, improved pay and working conditions, better training and equipment are considered to be crucial interventions.

The challenges facing the Tanzania Police are human rights abuses by the Police, including torture of suspects, arbitrary detentions, failure to comply with laws and minimum standards with regard to detention in police cells, and unlawful restrictions on freedom of assembly. The Police also face the challenge of having inadequate facilities, especially in the areas of police cells for remand prisoners, housing for police officers, and operations vehicles and lack of fuel etc. moreover, they are faced with the problem of lack of public trust and confidence in the performance the conduct of the Force.

The key challenges facing the Police, as identified in the PRSP and well recognised by the leaders revolve around:

- High and increasing rates of crime;
- Poor tracking crime occurrence;
- Inadequate and inappropriate equipment to fight crime; and
- Poor infrastructure, working conditions and working environment.

### **Strategic Response**

The strategic response and remedial measures to the problems and challenges facing the Police emphasize the following:

- Improvement of information technology by computerisation and networking of the police force and training the staff to equip them with IT knowledge;
- interlinking police information systems with other institutions in the administration of justice such as the prisons, department of public prosecutions and courts;

- Review of the terms and conditions of service; and
- Purchase of equipment such as modern communication tools and vehicles;
- Improving facilities in the police custodies;
- Provision of housing and secure transport to the Police using governing procedures in the Public Service.

### **2.2.3 The Tanzania Prison Service**

The Prison Service is among the Departments under the Ministry of Home Affairs. The Tanzania Prisons Service established by Act No.34 of 1967, has both a security and social function. Its main objective as a security organisation is to ensure the safe custody of prisoners and through this, to protect society from criminal elements. As a social organisation, the Prisons Service undertakes the reformation and rehabilitation of prisoners.

#### **Organisation and Management**

The Principal Commissioner of Prisons heads the Prisons Service. The Department has 3 divisions and 2 Special Units. The Departments are; Finance and Administration, Legal and Prisons Administration and rehabilitation while the Units are Inspectorate and Internal Audit and Intelligence Operations. The crisis in the prisons is a result of comparatively low infrastructure and facilities over the years. All 120 prisons were built to deal with a prison population of 22,699. These same prisons are now coping with a prison population of about 47,000. The pathetic state of the Prisons is the conditions under which prisoners are held by and large constitute inhuman and degrading treatment. Our prisons are acutely congested and overcrowded mainly because prison facilities have not grown with time to keep pace with increasing prison population.

#### **Key Problems and Challenges**

Major problems in the Prisons system are; congestion, poor quality facilities; and high recidivism rate. There is a crisis in Tanzania's prisons. Unreasonable trial delays have compounded the problems; sizable number of prisoners is actually remand prisoners on trial, some of who have remained that way for more than one year. Indeed, the fate of these prisoners seem to be attributable to a number of conspiring factors attaching to the key players in the criminal justice system name Courts, prosecutors, defence counsel and to some extent the Probation Department. Other identified factors that constitute a plain affront to human dignity of prisoners include poor diet, and chronic lack of basic health care. This has resulted to Remand Prison to suffer from serious overcrowding; unhygienic conditions, with substandard buildings and poor ventilation. The result is a high death rate from diseases such gastroenteritis, malaria, cholera etc and HIV infections and tuberculosis. Lack of transport makes it difficult to transport the sick to hospital. Overcrowding affects personal hygiene and privacy. It also makes security difficult". In addition, it is hard to achieve the scope of realisation of Human Rights for prison inmates due to overcrowding and limited facilities and resource available in prisons.

The congestion, lack of investment and shortage of operational funds in the Prisons makes it difficult for the Prisons Department to effectively carry out its rehabilitative programmes. These include:

- Vocational training e.g. in carpentry, masonry, tailoring, metal work, dressmaking; and soap making. This training is also given at Borstals (children's prisons). Some prisoners have the opportunity to sit Government Trade tests;
- Agriculture – including crop-farming, poultry, bee-keeping, livestock and fishing;
- Literacy education.

The problem of water shortage in the Prisons best illustrates the seriousness of the issue of congestion in Prison system. Prisons generally have no drainage system. Waste disposal system is also outdated and very unhygienic.

### **Strategic Response**

The problems in the prisons require immediate attention since they contribute high rate of human rights violations. The Department has started to collaborate with other similar institutions to learn on how to improve services using limited resources and opportunities available. At the strategic level, the remedial actions for the problems and challenges facing the Prisons Services Department shall include:

- Cooperation and collaboration of other criminal justice agencies in order to solve the problem of overcrowding in the prisons. The courts should consider stipulating liberal bail conditions in order to decrease remanded persons in prisons. Undue delay in disposing of cases creates the problem of increased number of remands and transporting them to court due to limited number of vehicles. Non-custodial sentences should be used more frequently and first offenders with minor offences should be sent to prison only as a last resort. Regular visits to prisons by judicial officers should also be encouraged. Therefore developing training programmes and curriculum for prison academies that suit the needs for enhancement of basic human rights, social economic and technological trends, financial accountability and governing legal framework;
- A general review of the salary levels, working hours and conditions of those working in the Prisons according to the Public Service Reform Programme;
- Developing a programme that incorporates the United Nations Standard Minimum Rules to go hand-in-hand with training for prison officers in specialised knowledge needed to deal with prisoners with drug related problems. The programme could address basic information, cause and treatment of drug abuse;
- Installing appropriate modern information systems for correction services;
- Restructuring and modernising prison service training centres and their transforming them into academies;
- Increased investments in infrastructure and facilities especially provision of clean water. Clean water is necessary for both hygienic and sanitation purposes. This problem could be resolved by sinking boreholes or wells; and
- Promote the use of parole in Tanzania as a way in easing congestion in prisons.

## **2.3 Ministry of Labour Youth Development and Sports**

### **2.3.1 Department of Social Welfare on the aspects of Juvenile Courts, remand homes and approved school**

In general, the department's main functions are:

- Conduct inquiries into the conditions of children who are not benefiting from parental care or are in a socially stressful condition;
- Seek appropriate social care for such children;
- Deal with situations in which children are involved in crime or other anti-social activities;
- Provide counselling and assistance to such children;
- Assist courts dealing with cases of juvenile crimes; and
- Assist government in the formulation of social policies relating to children particularly children leaving in difficult circumstances.

### **Organisation and Staffing**

The Commissioner for Social Welfare heads the Department assisted by assistant commissioners and social welfare offices located in the regions and districts in Tanzania. The mandates of the Department include: approved schools; remand homes; children's courts matters; adoption; fostering; guardianship of infants; facilitating reports to the Courts on Probate and Administration under Succession Law; intervention in the first instance (social) on matters relating to custody and maintenance of children; before the parties resort to Court actions under Marriage Causes Act; Provision of academic facilities; vocational; psycho-social, general welfare services and pastoral programmes to Juvenile inmates; Admission; release on licence; repatriation of children on Court orders etc; inspection of Children's Rehabilitation Schools and Children's Remand Homes; implementation of the UNCRC (1989); ACRWC (1990) and Optional Protocols, Beijing Rules and Riyadh Guidelines, including their monitoring and reporting processes;

### **Key Problems and Challenges**

The Children's Department has been short of staff to enable it follow up on all deserving cases of children in need of state care. The numbers of children in the streets and without parental care has multiplied to the point of outstripping the Department's capacity for attention and policy making. In particular, the department is faced with enforcement of law relating to children, and court orders are weakened by general lack of support from the security arms of government. For example, the security arm is more involved in more pressing issues of security rather than domestic issues at hand. Also, unlike Labour Officers, children's officers are not designated as public prosecutors to deal with parents who are negligent.

### **Strategic Response**

The immediate remedial actions that can be undertaken to solve some of the current problems are to recruit additional staff and increase budget allocation for the Department. Under the implementation of the Quick Start Project an action plan on the strengthening juvenile justice has identified the key issues for the department as follows:

- knowledge and skills on social welfare officers;
- compliance with governing laws, procedure and orders on juveniles;
- laws and guidelines on how to deal with juveniles leaving in difficult circumstances and in conflict with the law;
- profile, placement and recognition of the Department thereby impeding adequate performance with regard to juvenile justice administration;
- awareness of juveniles' rights and responsibilities;
- infrastructure and facilities in approved schools and remand home and lack of adequate approved schools and remand homes; and
- number of social welfare officers.

## **2.4 Ministry of Industries and Trade**

### **2.4.1 Business Registration and Licensing Agency (BRELA)**

BRELA is an executive agency established in 1999 by an order of the Minister for Industries and Trade made under Section 3 of the Executive Agencies Act No 30 of 1997. BRELA administers and maintains the registers for registered companies, business names and patent as provided<sup>15</sup>. The .Agency has the following autonomy to

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<sup>15</sup> Companies Ordinance No.46 of 1931 and Ordinance No. 33 of 1933 and Business Names Ordinance No. 1 of 1930; Cap 213, Trade and Service Marks Act No. 1 of 1987; Patent Registry administered

enable it to improve public delivery and create a conducive environment for efficient and effective management:

- capable to entering into contracts in its own name;
- be capable of being sued in its own name;
- have power to borrow and to acquire;
- consult users of its services for improvement of its efficiency and effectiveness.

### **Organisation and Management**

The day to day management of BRELA is vested under the Chief Executive Officer assisted by deputy registrars intellectual properties, commercial laws and licensing divisions and business support manger, the chief accountant and internal auditor. BRELA has no regional offices in the country it has only one office thus inhibiting accessibility of its services by the majority. The Agency lacks adequate skills for its scope of work and modern techniques for registration, records and information management.

### **Key Problems and Challenges**

The key problems and challenges in the role of BRELA business registration agency is to ensure that registered business entities and intellectual properties are in accordance with laid out procedures and operate in sound commercial principles. In addition BRELA is required to ensure accessible and timely services by the majority by expanding its services to the regions.

### **Strategic Response**

BRELA since its establishment in 1999 has developed strategies for improvement of its performance. The strategies are based on expansion of customer base at the same costs using cost effective measures. All the operations of the Agency are funded by its revenue and excess amount is generated to the Government. In this regard BRELA envisages the following:

- enforcing compliance with governing laws;
- creating customer friendly working environment;
- applying modern business management practiced;
- applying modern human resource development and management techniques; and
- enhancing revenue generation for self sufficiency.

The revenue generate by the Agency is expected to finance achievement of above goals or objectives.

## **2.5 Ministry of Land and Human Settlement Development**

### **2.5.1 Office of the Registrar of Titles**

Land Registration Ordinance No. 36 of 1953 provides for maintenance of a Land Registry at Dar es Salaam or at any other place that the Minister for Lands and Human Settlement Development may declare. The registry shall maintain a land register for registration of the title to land in Tanzania and recording dispositions, transmissions and in cumbrance of and over registered land.

### **Organization and Management**

The maintenance of the Register of Title is vested under the Register of Title assisted by deputy registrars and 5 assistant registrars heading the Zonal Registries of Titles. The Registry is

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under the Patents Act No. 1 of 1987, and National Industries (Licensing and Registration) Act No 13 of 1982.

among the Departments of the Ministry of Lands and Human Settlement Development under the Permanent Secretary. The performance of the registry is affected by lack of effective management information system, up to date working procedures and techniques, adequate facilities and competent staff.

### **Key Problems and Challenges**

The Registration of Land is a vital for ensuring protection of property rights in the Country. This calls for reliability of record management by the Registry. Due to the rapid increase of land registrations the Registry requires efficient record keeping, storage and information systems that would facilitate timely transfers, mortgaging and search of information by the public.

### **Strategic Response**

The Government has allowed retention of revenue collected by the Registry to meet other charges that personal emolument as measure towards performance improvement. The registry has utilised the retention scheme proceeds to improve its performance. Performance improvement so far implemented has not attained acceptable level of efficiency. It is therefore necessary to ensure the following:

- compliance with governing laws;
- customer friendly working environment;
- modern management practices and techniques;
- modern human resource development and management techniques; and
- revenue generation for self sufficiency.

## **2.6 Ministry of Higher Education, Science and Technology – aspects of legal training institutions**

The legal training institutions include University of Dar es Salaam- Faculty of Law, Open University of Tanzania- Faculty of Law, Mzumbe University- Faculty of Law, Tuzi University- Faculty of Law and Institute of Judicial Administration (under Judiciary). The graduates from the universities have to apply to the Council of Legal Education for admission as Advocates of the High Court of Tanzania after undertaking an internship programme organized and managed by the Attorney General Chambers.

Generally, the functions of the legal education institutions can be summarised as follows:

- » ensuring an adequate background of legal education prior to entry into the legal professions or employed to provide legal services/any other related work;
- » giving detailed and proper instruction in areas of substantive law of practical relevance to the operation of dispute settlement in a common law jurisdiction; and
- » giving adequate instruction in adjectival law and in established professional practices in connection with the functioning of the various modes of dispute settlement;

### **Key Problems and Challenges**

The demand for legal education at the university level is growing quite substantially. The problem of limited academic infrastructure in the form of libraries and documentation centres, research capacity, teaching and support staff, must be addressed. Tanzania lacks a national legal training curriculum or standards for national legal training for controlling the quality of legal training. It will, in this circumstance, be a major challenge coordinating the law programmes of these universities with the mandate and operation of the Council of Legal

Education to regulate entry into legal practice. In addition the emerging technological, social and economic trends necessitate for programmes addressing the needs of the labour market. The Legal training institutions have ill capacity for providing continued practical training programmes for practicing lawyers both in public and private practice.

### ***Strategic Response***

Inherent functions of the legal training institutions are major challenges that require adequate infrastructure (building and space, well stocked libraries, computer and information sourcing systems, professional and support staff service), for due performance. The training institutions require both core and adjunct staff to conduct courses for magistrates, as well as for various categories of government officers and for paralegals. The institutions will have to formulate structured programmes for continuing legal education, and to coordinate with other stakeholders (such as the Law Society of Tanzania, the Attorney General's Office, the Universities, etc), in order to facilitate continuing legal education. Clearly the multi-faceted scope of strategic responses in this area can only be effectively addressed in a sector-wide programme as depicted in this Medium Term Strategy.

## **2.7 Council for Legal Education**

The Council of Legal Education is established by Section 5A a of the Advocates Ordinance No 25 of 1954 to provide general supervision and control over legal education in Tanzania and advise the Government in matters relating legal education. Members of the Council are the Principal Judge of the High Court as Chairperson, representative of the Attorney General, Dean of the Faculty of Law, University of Dar es Salaam, Practicing Lawyers elected by Tanganyika Law Society. The Council meets at places and time when the Chairperson decides.

### **Organization and Management**

The Council has neither an executive chairperson nor an executive secretary. It meets regularly to examine applicants for enrolment as advocates. The Council for Legal Education provides secretarial support by the office of the Registrar, High Court of Tanzania which is inadequate for effective monitoring and control of the quality of training the legal and education in the country.

### **Key Problems and Challenges**

The free market economy has necessitated for enrolment of more advocates to expand the private practice in Tanzania. In addition number of law graduates now stands at about 400 per annum. The Council is constrained both financially and human resource to make interviews for enrolment of advocates. In addition the Council does not have a permanent secretariat to assist in the process, while at the same time it has the role of controlling the quality of legal training in the country.

### ***Strategic Response***

The Medium Term Strategy envisaged at creating a permanent secretariat with necessary facilities and technical support for the Commission to undertake the responsibility effectively.

## **2.8 Tanganyika Law Society- professional organisation for lawyers**

There are about 470 lawyers in private practice in Tanzania who are members of the Tanganyika Law Society established by Ordinance No 30 of 1954 as a body corporate. The objects of the Society are:

- (a) to maintain and improve the standards of conduct and learning of the legal profession in Tanzania;
- (b) to facilitate the acquisition of legal knowledge by members of the legal profession and others;
- (c) to assist the Government and the Courts in all matters affecting legislation, and the administration and practice of the law in Tanzania;
- (d) to represent, protect and assist members of the legal profession in Tanzania as regards conditions of practice and otherwise;
- (e) to protect and assist the public in Tanzania in all matters touching, ancillary or incidental to the law;
- (f) to acquire, hold, develop or dispose of properties of all kinds, whether movable or immovable, and to derive capital or income from them, for all or any of the foregoing objects;
- (g) to raise or borrow money for all or any of the foregoing objects in any manner and upon any security which may from time to time be determined by the Society;
- (h) to invest and deal with moneys of the Society not immediately required in any manner which may from time to time be determined by the Society;
- (i) to do all other things which are incidental or conducive to the attainment of the foregoing objects or any of them.

### **Organisation and Management**

The overall management of the Society is vested in the Council consisting of a President, a Vice-President, a Treasurer and seven other members elected by the Society in a general meeting. The Council establishes committee for monitoring the Society members and activities. These include the Ethics Committee responsible to oversee the members' ethical conduct.

Establishment of the Ethics Committee has been a positive development for enhancing professional etiquette of the members of the Society. However, due to public awareness on their rights and unethical conduct by advocates, complaints against advocates have increased to a great extent. The members of the committee have other duties and collegian relationship has undermined the effectiveness of the committee, as a result majority of complaints are handled by the advocates committee.

### **2.9 Non- Governmental Organisations responsible for legal aid, paralegal training and dissemination of legal information.**

There are a variety of Non-Governmental Organizations (NGOs) in Tanzania that are involved in providing legal advice, referral services, legal representation and sometimes dispute resolution services to the poor and vulnerable. Among such leading institutions are Tanzania Lawyers Association (TAWLA), Legal and Human Rights Centre (LHRC) and Women Legal Aid Centre (WLAC).

The NGO's tend to provide legal services either through legal aid clinics, or through the establishment of paralegal networks. Such clinics are usually staffed by paralegals (i.e. persons with a basic legal training but not qualified to practise as advocates) or by qualified and salaried advocates. Generally, it has been challenging accessing lawyers willing to provide their services for free ("pro bono").

Paralegals networks in other countries, such as South Africa, Uganda, Malawi and Namibia have proved to be very successful. They have a number of advantages:

- The services they provide are cheap or free;
- Paralegals communicate in familiar language – the vernacular and not in legalese;
- They feed the legal profession with work;
- They encourage lawful means of redress; and
- They can tap into either the formal or informal justice system.

### **Key Problems and Challenges**

The NGOs mission is generally to serve the poor, the disadvantaged and the physically constrained. NGOs therefore depend on funding which is not easily accessible. A lot of core time is also spent either fundraising or accounting for the funds. Sustainability is therefore a major problem. Consequently, on a section Tanzanians in the target groups have benefited from the services of the NGOs. This is particularly the case with those in the rural areas or the slums of large towns. Therefore the key issue in respect of legal advice clinics and paralegal networks is how to expand the scope and geographical coverage of these highly successful initiatives.

### **Strategic Response**

The establishment of the national legal aid scheme will go a long way in alienating the sustainability problem and also ease the legal aid provision burden. Generally, it is expected that NGOs are cognisant of how far they collectively fall short of their mission. However, there cannot be a generalised response to this challenge. Each NGO will have to fathom a specific response, to ensure proper collaboration, coordination and management of a National Legal Framework.

## **2.10 CONCLUSION**

The legal sector is uniquely characterised by a multiplicity of institutions that have overlapping as well as reinforcing mandates, roles and functions. As may be noted from above there are many major diverse problems that required measures that are complex and costly. The key institutions reform initiatives are already well underway. However, many of the problems and challenges facing the individual organisations can only be addressed with the cooperation, coordination and collaboration among the sector institutions. Therefore, a sector-wide approach is the only way appropriate overarching strategic response to the problems and challenges facing the legal sector institutions.