



2011

**THE 2ND REGIONAL JUSTICE
SECTOR MEETING
24TH -27TH MAY 2011
DAR ES SALAAM- TANZANIA**

RECORD OF PROCEEDINGS

Preface/Acknowledgments

The 2nd Regional Justice Meeting would not have been possible without the help, assistance and support of many people. Special thanks to the Uganda Justice, Law and Order Sector Development Partners that hosted the first regional justice sector development partner meeting and who passed the mantle to CIDA Tanzania. Special thanks to the Canadian High Commissioner in Tanzania for hosting the participants to a welcome reception at your residence; to Maury Miloff, Evelyn Mollel and all CIDA Tanzania staff who contributed tremendously to the success of the workshop. We are grateful to the participants for the candid discussions of achievements and lessons learnt from implementing justice reforms in their countries. We also thank the Government counterparts from Uganda, Malawi and Tanzania for their invaluable contribution to the meeting. On behalf of CIDA, many thanks to the facilitator Ms Valentine Namakula Mulindwa and the rapporteur Ms Rachel Forster. Many thanks to everyone!

Marcia Colquhoun and Janne Rajpar
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List of Acronyms

BSF	Budget Support funding
CIDA	Canadian International Development Agency
DPs	Development Partner
GJLOS	Governance, Justice, Law and Order Sector in Kenya
JLOS	Justice, Law and Order Sector
LRSP	Legal Reform Support Programme Tanzania
MDGS	Malawi Development and Growth Strategy
NDP	National Development Plan

Executive Summary

Justice reforms are complex yet critical. The establishment of rule of law in the Eastern African Region remains as critical a plank in the development of newly established states (Southern Sudan); those with light years away from conflict (Rwanda, Burundi and Uganda) just as for relatively stable countries (Kenya and Tanzania). Development partners supporting the establishment of rule of law and improvements in the administration of justice across the region often grapple with similar challenges. These range from design, implementation and establishment of what works, what does not and why. It is in recognition of a potential value in sharing of experiences and information that the second regional justice sector meeting was organized. The initial ground breaking meeting was organized in Kampala-Uganda in 2010 and hosted by Irish Aid- the chair of the Justice, Law and Order Sector Development Partner Group in Uganda.

This meeting was organized and hosted by the Canadian International Development Agency (CIDA) in Tanzania. It was held on the 25th- 27th May 2011. Fourteen (14) development partners and government officials representing Kenya, Ethiopia, Tanzania, Uganda, Rwanda and Malawi participated in the 21/2 day workshop under the theme” ***‘Sharing good practices; learning and practical steps in the Introduction and management of monitoring and evaluation systems’***

The meeting also utilised the opportunity to review country strategies on case backlog reduction; legal aid service delivery and measures to increase accountability and good governance in justice sector reforms.

Participant evaluation of the relevance, propriety and satisfaction with meeting outputs was very positive. Participants pointed to the need to have more time with government counterparts; more time for indepth discussions and overall lauded the initiative as beneficial at an individual and collective levels.

The next meeting will be held in Kigali- Rwanda with discussions rotating around accountability; addressing and management of vulnerability in justice reforms; integration of alternative dispute resolution mechanisms including customary law and traditional justice. Sharing of information among participants will continue.

Legal aid service delivery was also discussed because citizens within their respective groups need legal services especially the poor and marginalized. It is pending across all the countries especially those faced with a narrow definition of legal aid services by the state regarding to low financial resource allocation, limited number of lawyers and high legal aid service demand for example in Tanzania. For this reason the Justice Sector Reforms need to be innovative and creative enough to come up with a long term strategy for the sustainability and effectiveness of the legal aid service delivery.

The Fight against Corruption in the Justice Sector is in its infant stages across all the countries. The poor are the most affected by the petty corruption. A case in point, in Tanzania, over 40% of the family income is spent on small bribes to access vital social services and 93% do not report these incidents to the respective authorities. Conversely, the lessons learnt in this session included the need to understand the political economy of the justice sector and the dynamics of corruption at the national level and

secondly to build coalitions around corruption. Regardless of the above, the Civil Society and Private Sector have provided some transparency and increase of the demand for accountability.

The attached report provides a summary of the discussion. The Development Partners have a mailing list where requests for detailed information and/or follow up activities may be lodged. We invite you to utilize this opportunity to broadcast our success stories; share information and draw others to benefit from this initiative.

Introduction

This is a report of the second East Africa Justice Sector Development Partner meeting that took place from 25th - 27th May 2011 at Double Tree Hilton Hotel in Dar Es Salaam, Tanzania. The meeting was attended by 14 development partners and government officials representing Kenya, Ethiopia, Tanzania, Uganda, Rwanda and Malawi. The theme of the workshop was to share good practices; learning and practical steps in the introduction and management of monitoring and evaluation systems in the Justice sectors; measures and share experiences geared towards case backlog reduction, legal aid service delivery and anti-corruption initiatives in justice sector reform. The workshop recognised the varied stages of growth of the justice sectors across the region. Following are the highlights and key resolutions drawn from the two and a half day discussions. The themes are discussed in more detail in the full text report, along with numerous examples of both good practices and of challenges that remain to be addressed.

Meeting Objectives

This meeting was organised on the heels of the 1st regional Justice Sector Development Partner meeting held in Kampala-Uganda. The initial meeting recognised the commonality of approaches and challenges affecting development partners in the pursuit for justice sector reforms. As the countries organise their approaches under common strategies for reform, it is increasingly clear that there are lessons to be harnessed from sharing of approaches, challenges and brainstorming together on what works, what does not and why. It is in this spirit that the second development partner meeting was organised and hosted by the Canadian International Development Agency (CIDA) in Tanzania.

Approach and Methodology

The meeting was organised to run in an informal manner; with a focus on sharing of country experiences and insights. The discussion benefitted from two sources of information; one is background papers prepared regarding the theme of the meeting and circulated beforehand. The second were country experiences as experienced by the respective participants. The meeting was also designed to draw government representatives into the discussion on the second day of the workshop.

Workshop Highlights

The workshop was flagged off by the High Commissioner, CIDA... at a reception held in honor of Regional Justice Development Partner network at his residence on 24th May 2011. On the first day of the workshop Ms Marcia Colquhoun CIDA Tanzania welcomed the participants. She pointed out that Maury who attended the initial meeting in Kampala had had to return to Canada ahead of his time. She greatly appreciated Janne for taking over from him and organising the workshop. She also expressed appreciation to the participants and the facilitator for the immense work done online prior to the workshop. She called for frank and candid discussions to explore possible solutions to common challenges in the justice sector.

Workshop Resolutions

Session II: Moving towards a Results Approach in Justice Sector Reforms

The Results approach is Vital in Justice Sector Reforms

Participants were unanimously in agreement regarding the need to demonstrate results in justice sector reforms. Adopting and moving towards results based approaches was therefore viewed as a sine qua non in the delivery of justice services and effective management of justice sector reforms. Country Justice Sector reforms are at varying stages of adoption and implementation of results based management approaches. It was also recognised that functional Monitoring and Evaluation systems are part and parcel of the requirement to have a results oriented approach in the justice sector. Promising Country experiences of functional M&E systems in the Justice sectors were found to take into account the following considerations:

- **Linked to the Justice Sector Reform Strategy and aligned to the National Development Outcomes.** Rwanda, Uganda, Ethiopia and Tanzania shared experiences of consistent efforts to better align the Monitoring and Evaluation systems at institutional, sector and national levels. It was recognized that the M&E system cannot succeed if it is comprised of isolated activities and also if it is peripheral to the institutional, sector and national strategies. Members noted that a common challenge for justice sector reforms across the board is the limited time and priority accorded to development of M&E systems. Many systems are developed independent of the strategy; as an add-on to the strategy and receive limited scrutiny. Promising practices in Uganda, Rwanda and Ethiopia lie in use of the M&E system as a powerful tool that increases the credibility of the strategy; designing the M&E system as part and parcel of the strategy and increasingly shifting the sector focus away from process and outputs to results and benefits. As aptly put by the participant from Uganda

“ M&E is often an added- on extra - bolted on at the end of the process not an integral part of programming process. We need to use M&E as the beginning of the process so that you realise from the start what you are trying to achieve NOT just what activity do we want to do. So M&E is a good starting point, and we in Uganda are trying to reverse it - so that we define the target, then look at what we will do to get there and how we will measure if we are achieving it. Using a results-based approach makes it easier to explain what you want to achieve and to set targets and benchmarks”

- **Implementation of a Results based M&E system is an incremental, gradual process.** Participating countries were all agreed that they were in a transition. Adoption and implementation of a results based monitoring and evaluation system represents a shift in acting, thinking and ways of management by all actors in the justice system including development partners. For countries like Malawi that are at the beginning of the design process, participants advised against expectations of perfection. To Rwanda and Ethiopia, lots of improvements have resulted from the adoption of a “learning by doing” approach. In Ethiopia, the introduction of the results orientation was preceded by a multi year across the sector investment in capacity development and ICT. In

Uganda capacity development in results based management is ongoing with an intention of cascading it to the middle and lower level reform managers across the justice sector institutions. In Rwanda the early adoption of the approach was attributed to the national level drive and emphasis on results that offered legitimacy, accorded priority to results and left the justice sector with no option other than total reorganisation and compliance. In Tanzania the annual reviews are a great catalyst to the demonstration of results though the effort is yet to crystallise into a system.

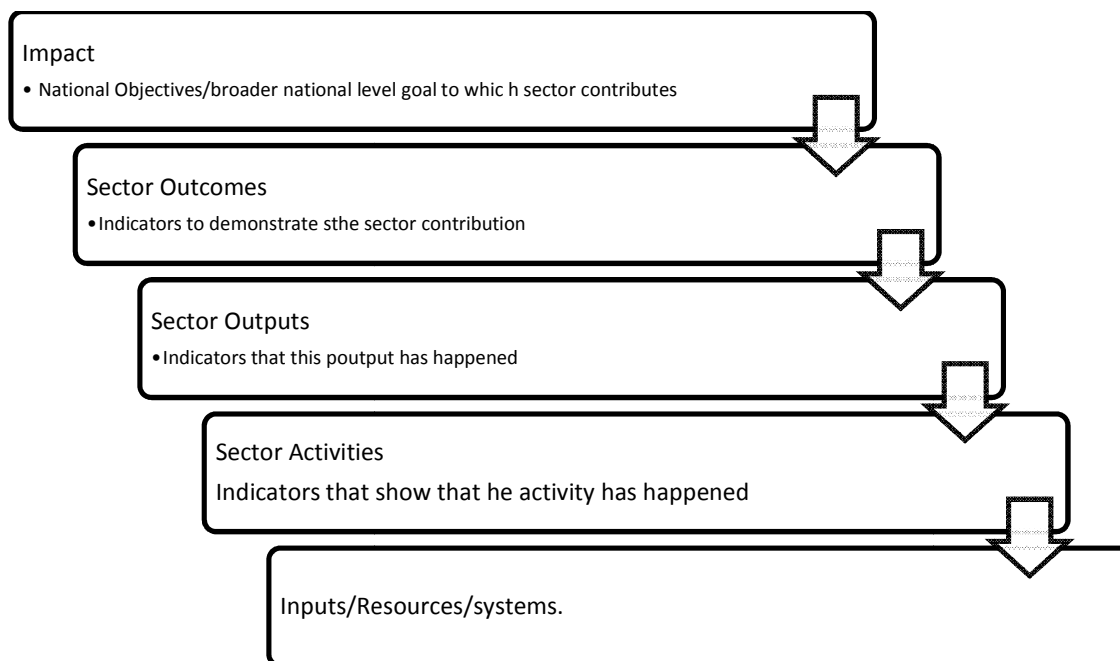
“ In Ethiopia a lot of time was spent on understanding the importance and value of data. The Leader of Supreme Court could demonstrate how he used data to make decisions and how he used it in his work – eg progress of cases and his access to that data and in managing his court. Technology has made this easier. There are data recorders in every court – although rural courts still often use manual data and computers break - . But now it is really easy to conduct studies. There is a website too.. But it is also important to make people realise that data is part of a broader process. People need to be involved and understand the process – those involved in the work often come up with the best indicators that really measure progress well.”

- Kenya Governance, Justice, Law and Order Sector (GJLOS)¹ provided a lesson in starting modestly and management of expectations. Whereas all countries were in agreement regarding the need to shift to results based monitoring and evaluation systems, this is often tempered by the country realities of limited capacity, weak systems and other barriers to implementation of this approach. The Governance, Justice, Law and Order Sector (GJLOS) program in Kenya implemented an ambitious outcome approach that proved unwieldy at the end. Whereas data was generated, there was limited analysis and utilisation of the information generated in program and resource allocation decision making. The challenge resonated with many country participants as well. Members therefore advised modest and incremental approaches with recommendations to subject the reform processes themselves to regular reviews, evaluations and revisions. This provides an opportunity to identify what is working, what is not working well and how the reform can be improved.
- Participants gained traction and identified common principles in **what all countries measure in justice sector reforms**. Access to Justice, Rule of Law, Human Rights and Accountability are some common benefits justice sectors across the country intend to deliver to their people. The challenges lie in crafting clusters of **indicators** that meet the sufficiency test, are cost effective in data collection and take into account the entire results chain. To address challenges of collecting perception based data, countries utilise national statistical offices; independent evaluation bodies and in countries like Rwanda, civil society organisations as well. There was agreement that working together with all institutions in the chain was vital to create ownership of the process of M&E and also to create an environment where everyone works together towards the same goal and

¹ Currently under redesign

recognises their part in the process chain. Uganda shared its experience of reversing the way the process has been done traditionally. Now, it is a more collective process, with all stakeholders looking at the results and impact and then assessing their role in achieving that, rather than looking at the goods and services, inputs and activities first. They also made the decision to develop their own strategic plan in-house and not by consultants in the hope that better overall ownership will result.

- There was also a recognition of how the legal sector is quite dependent on perception-based indicators but that these are difficult to record, and do not necessarily provide a good track of efficiency or effectiveness.
- Another concern raised with regard to indicators is the issue of attribution. Certain issues that are being measured can be beyond the sphere of control of the judicial institutions concerned. Sometimes indicators need to be pushed to a higher level outcome in order to be relevant.
- DP perspective on indicators can cause confusion to those at implementation level. Eg too many different indicators, too varied indicators, vague abstract language not translated into actionable activities, too many links in the chain that things get lost along the way. Also changing targets if activities do not seem to be reaching the goal, and changing focus, depending on political change at DP HQ level or fast DP staff turnover also cause problems. There is a need for good harmonisation and communication amongst DP's to ensure better results in strategies.
- What is measured across the region is derived from the core business of the institution. Many countries have adopted a limited number of higher level indicators that are tracked and feed into the national development strategy. Ethiopia reported tracking 5 higher level indicators while Uganda justice sector reports against 3 of the 6 governance indicators in the National Development Plan. Participants recognised that at operational level it is of importance to separate the broader and national policy outcomes from the specific policy actions at sector level and to attach indicators at every level. Failing to make this distinction makes reporting a challenge. A simple illustration of this as reproduced by participants reads as follows;



In Rwanda the process of selection of indicators and determination of targets is a joint exercise by development partners and government counterparts. The key consideration is the nature of transformation that the sector is aiming to attain and not as important the activities that are undertaken. Efficiency and effectiveness; SMART indicators and practical considerations of data sources and data collection capacity inform the selection of indicators. Lessons learned include the selection of indicators cutting across institutions and the need to consistently review and evaluate the M&E systems as well.

- Using results information. Participants agreed that engaging in the M&E effort is futile without an accompanying plan and focus to utilise the resulting information. A number of inbuilt sector structures including Periodic Reviews – common across all countries allow for sectors to utilise M&E information for programming purposes. A weak link happens with linking the information to resource allocation to influence budgetary decisions. This is desirable but something that all countries continue to work towards.
- Internalisation of the system of data collection. People should not be scrabbling around a few weeks before the annual review is due, trying to collate statistics. It needs to be an ongoing, workable, usable system accessible to all and with stakeholders understanding why the data is being collected. Ideally institutions will be using the data throughout the year in their own management system as a natural part of their work, and not merely for a DP report.
- **Downward accountability: Sectors shared experiences on accountability to the public. This takes the form of annual reviews of performance and Sector public forums in Uganda. There was a general feeling that more could be done in this area to get a clearer message out to a wider group of people.** More promising practices include the bi-weekly press conference; District level outreach activities – eg open court days, open police station days and Radio broadcast – talk shows with the District Commissioners. In Tanzania, Vodacom and airtel billboards with public messages. Ethiopia reported the conduct of a Justice week providing

information to the public. Kenya GJLOS funds an NGO to train journalists and media houses on objective reporting and dissemination of information to the public. In Rwanda, the Ombudsman Office is the best champion using the newspapers predominantly. It has resulted in the fact that the Ombudsman is the first port of call for complaints for the people. He is accessible. He also has the task to monitor the performance of government personnel and a code of ethics has been devised setting out the performance of public officials. Also top officials have to publicly declare each year their wealth and are shamed in print media in case of deviations from the norm.

- **Working with Civil Society and Independent Evaluation bodies/national statistical offices.** Participants recognised the complexity of data collection and the possibility of inundating sector activity if not creatively undertaken. Countries shared experiences regarding the co-option of civil society organisations, independent evaluation bodies and national statistical offices to collect data, provide baseline information, verify data submitted and as channels of dissemination. Uganda works hand in hand with the Uganda Bureau of Statistics (UBOS) and the Uganda Human Rights Commission- the latter is also part of the Sector. Kenya utilises NGOS to provide information and statistics to corroborate government reporting. In Ethiopia, NGO dynamism is restricted by the legal requirement to raise funds locally. International organizations like Human Rights Watch monitor abuses though dialogue with government is often limited. In Rwanda the DAD – Statistical office in Rwanda compiles figures and makes them accessible for everyone. But no evaluation or analysis is done utilising the data. Evaluation work is tendered to other organisations to deliver.

In conclusion of the session on M&E, participants were agreed that there is not a one size fits all approach to the design, pace, implementation of the results based approach to Monitoring and Evaluation across the region. The contextual factors related to the sources of pressure for results, capacity in the sector, leadership etc matter and have to be taken into account in the design. Participants were also firm in the belief that sectors need not await nor pursue perfection in establishing the systems.. an approach of learning by doing will steer and grow the system.

To propel and sustain the momentum, the following were identified as pre-conditions for implementation; willingness to measure performance, internalisation of the data collection process and the presence of top and middle level champions. As one participant noted,

“You need a willingness to measure performance – if not everything remains on paper. In Uganda the push came from Development Partners but Government is now taking this on board. 4-5 years ago, the only report on measurement of results we had was in the preamble to the budget. Now have every Ministry reporting to Office of Prime Minister every 6 months on their performance. We also rank them and institutions struggle to get in the top ranking. They are public documents and generate open discussion. That is a good pre-condition..Second is the need for idea champions – one person who pushes it ahead. In JLOS the leaders pushed results based progress forward – e.g Chief Justice says 15 sessions – so what? What impact and why? This moves things forward in your sector.”

A detailed listing derived from participant’s reflection of what works, what does not and what requires further clarification is attached as Annex III.

Session 2: Case backlog reduction Initiatives: Case Study of Uganda Justice, Law and Order Sector

Effective case management to reduce backlog in the region has proved to be demonstrably challenging across the region. Promising practices were identified in Ethiopia where business process reengineering has cleared the backlog in criminal cases. Efforts were also registered in Uganda through the implementation of the Quick Wins Project to Case Backlog reduction. Implemented as a first phase of the comprehensive backlog reduction program, the quick wins project approximated at 15-35% of the Uganda Justice, Law and Order Reform Program. Through the implementation of the Quick win Case Backlog Reduction Initiative, the average time spent on remand reduced from 27 months to 15 months against the statutory standards of 90 days for petty crimes and 6 months for capital offenders. The ultimate impact has been a reversal of position in the largest prison in Uganda where for the first time in many years, number of suspects on remand is lower than that of convicts. The issuance of community service orders too- an alternative to custodial imprisonment in non-capital offences increased from 4.000 to 10.000. In Uganda a case is categorised as “backlog” when it clocks 2years + from the time of its registration. At the start of the project, it was estimated that 40,000 cases were backlogged across the justice system.

In identifying what has worked in Uganda, the representative from Uganda identified the contents as including the rationalisation of physical presence; alternative dispute resolution and mediation clawing in modest success, though recognised as a lengthy and costly process; introduction of Paralegals to identify cases, plea for mandatory bail, etc; Stronger cooperation at District level by all justice agencies; Identification and purging of the “dead wood” cases from the system: conducting of sessions in numbers above the regular load: and introduction of Plea bargaining and the community service programme.

Participants were agreed that case backlog reduction necessitates identification and management of the root causes of the problem. It was also clear that backlog numbers are in almost all countries exercises in approximation due to the paucity of data in the justice system. External causes of backlog outside the sector include increasing criminalisation of social behaviour; an increasingly litigious population; population growth; inequity and lack of rational allocation of resources across the justice system.

To buttress the preliminary achievements under the Quick Wins Initiative, the Uganda Justice system will lay emphasis on the design and implementation of the Performance based management system across the justice system and particularly in the Judiciary; strengthening the Districts Justice Agencies’ coordination system; implementing the legal aid policy; strengthening the provision of expert evidence and their provision of evidence in court; legal reform for problematic offences; alternative dispute resolution and strengthening the application of alternatives to custodial imprisonment.

In the ensuing discussion, it was clear that case management remains an intractable challenge across justice reforms in the region. All countries continue to grapple with the challenge albeit through varied approaches. Ethiopia is, so far, the leading country, with registered success in case management. The following are noteworthy practices in case management:

Reengineering of judicial processes. Ethiopia revealed that considerable time and financial investment was made into simplification and automation of justice processes prior to the start of the reforms. Justice sector teams were facilitated by external consultants to identify redundancies and reduce court processes to a minimum. The leadership role taken by the justice sector teams guaranteed ownership and commitment from the justice sector middle level managers who later became charged with the responsibility to implement the reforms. Through the business processes reengineering, the justice system was able to develop case management standards that have formed the content for case management capacity development across the sector.

Automation and adoption of technology as an enabler to effective Case Management: Ethiopia adopted technology aided case management to minimise inconvenience to court/system users. The use of video links; e-filing and other forms of appropriate technology were piloted at the centre and upon evaluation are gradually being rolled out nationally.

Applying the principle of subsidiarity. This refers to the requirement to have a case handled at the lowest level of court that is qualified to handle the matter. “In Ethiopia, the petty offences are going to be pushed to the local system. Whereas the intention is still at policy level there are already directives out to this effect”

Real Dispatch hearings: These happen in criminal matters in petty offences where the offender is caught in the act and where witnesses are ready and willing to testify. In this case the standard stipulates a maximum of three years.

Other noteworthy practices include the contracting of task based and time limited contractual judicial officers to clear the backlog in Rwanda; the ongoing simplification of procedures in Tanzania: targeting of homicide backlog in Malawi: the increased reference to traditional justice systems in Ethiopia and the move towards increased court specialisation in Uganda.

In conclusion participants resolved that there is need to apply multiple strategies to manage the backlog to ensure prevention and effective response. Through this justice reformers will better understand the link between the traditional justice mechanisms e.g the Gacaca and Abunzi: simplify/reengineer court processes and develop functional performance based systems as well.

Session 3: Case Study Legal Aid Service Delivery in Malawi

Participants shared and discussed steps taken in the different countries to increase access to legal services for the poor and vulnerable groups. Recognising the international, regional and national government commitments to ensuring respect of human rights for all individuals who come into contact with the law, participants reiterated the need to construe legal aid in the broadest sense, to focus on expanding government financial commitment to legal aid service delivery and ensuring that this commitment is enforceable in law.

Malawi presented a case study that resonated with many country experiences. Sections 41-42 of the Malawi constitution of 1994 guarantee all the right to a fair trial and access to justice and legal remedies including recognition of the State Obligation to provide free legal aid services in instances where not so doing presents a miscarriage of justice. The challenges in realising the constitutional provision have been practical.. Malawi has a total of 300 lawyers and 75 paralegals serving a total population of 13million. The Department of Legal aid services constituted within the Ministry of Justice has a staff of 19 lawyers with most of them possessing under 5years of legal practice experience. In addition the geographical concentration of the lawyer s in urban areas makes access difficult for over 81% of the population that is based in rural areas. Indeed the 2010 Justice Baseline Survey in Malawi had demonstrated that only 18% of court users had access to legal representation in court.

In response to this the justice reforms in Malawi reviewed, through a 2003 Special Commission the 1964 Legal Aid Act passing the Legal Aid Act of 2010. The departure in the new law is the establishment of a semi – autonomous Legal Aid Bureau that reports to the National assembly; expansion of forms of legal assistance to include representation, education, information and advice at all stages of the justice system; and the formalization of the framework to cooperate and engage with other Non-State legal aid providers. Legal Aid Services in Malawi were de-concentrated to regions and districts through the creation of regional and district legal aid service and a Legal Aid Fund created to finance legal aid service delivery. Amidst these advances the Malawi Justice Sector reform faces challenges particularly related to the independence of the Bureau; absence of targets for the vulnerable groups particularly children and the limitation of legal representation to cover Local Courts that provide services to the poorer segments of society.

As a way forward, the Malawi Justice Sector Reform will lay emphasis on three forward looking steps; One, is the implementation of the Act through putting in place regulations, structures, staff capacity development and an overarching legal aid strategy. Two is the creation of public awareness on the mandate and public access mechanisms of the bureau. Lastly the Justice Reform will continue to engage with the development partners, Government of Malawi and civil society to ensure review of related laws, guarantee availability of funds and coordinated approaches to legal aid service delivery. Good practices including waiver of fees- filing, court etc in cases of legal aid will be consolidated and integrated into the regulations.

Uganda presented an experience not dissimilar to that of Malawi. The Justice Sector reform is in the process of formulating a legal aid policy to bring together the different initiatives that have been piloted since the beginning of the reforms in 2000. Key among these is the amendment to the Advocates Act to provide for the Pro-bono service- a mandatory requirement for all registered advocates to provide 40 hours of service in legal aid or payment in lieu; the introduction of paralegal advisory services; Justice Centres and the establishment of a Legal Aid Fund.

Ethiopia utilises the Public Defender Office – an establishment similar to the Legal Aid Bureau in Malawi. The challenge in Ethiopia justice sector reforms relates to ensuring quality of services provided to justice claimants. It is a growing concern that the success rates of all cases handled by the public defenders are low/limited. In Uganda judicial officer feedback in all cases handled by legal aid service providers has been one practice of assuring the quality of legal aid services.

In Rwanda State provision of legal aid is limited to juveniles/minors. As such there is a huge discrepancy between the demand for legal aid service provision and service provision. The legal professionals are yet to demonstrate interest in providing services beyond those that earn them money. In response the Justice reforms and mainly through civil society have isolated activities for instance the Legal Aid Week and Maisons d'accès au justice (MAJ) – professionals advising people on their rights and merits of their case. A pilot project that posts lawyers from the Ministry of Justice to districts to provide legal services for a period of time has made a big difference in terms of advice though not legal representation.

Tanzania has for the last five years toyed with the establishment of a Legal Aid Fund. The current situation is a decision has been taken against this initiative.

In sum it was clear that the challenges of legal aid service delivery are common across the countries. Faced with a narrow definition of legal aid services offered by the State; a low priority ranking for financial resource allocation, limited numbers of lawyers and a huge demand for legal aid services, justice sector reforms have to be creative, innovative though with a focus on long term sustainability of legal aid service delivery. Advances in having unfettered

assumption of this role by the Governments should take first priority taking into account the contribution of a functional legal aid service to access to justice. Stop gap measures for instance Development Partner funding of legal aid provision; pro bono schemes and civil society action should only be complementary to the State government commitment.

Session 4: The Fight Against Corruption in the Justice Sector

In the background to this presentation Tanzania reiterated that the poor are most affected by petty corruption – spending over 40% of their family income on small bribes to access vital social services; and according to the Transparency International Index, 68% of respondents seeking services from the Judiciary were asked to pay a bribe (40% in 2009) and 41% secured services only upon paying a bribe (25% in 2009) in Tanzania. It was also noted that 93% of those who paid a bribe did not report the incident to persons in positions of authority. A number of grand corruption cases were highlighted in the media between 2007 and 2009. The challenge for the Justice sector is ensuring timely prosecution of perpetrators. It was noted that only 2 of the 20 grand corruption cases filed in court between 2008 and 2010 had been decided. Independent analysts of the reasons for the delays in prosecution have pointed to weak government commitment; poor policy and regulatory framework and to a general culture of impunity.

To address corruption within the administration of justice, Tanzania established Judges Ethics Committees within the Judiciary for discipline of judges, judicial officers and magistrates in the Judiciary; a Special Tribunal for investigation of judges appointed by the President (Until today 2 special tribunals have taken place) and undertaken a Reform of Court Procedures. The outstanding challenges are to ensure that Ethics committees are established everywhere (appointments outstanding); that the Committees are functional and that the trial procedures require strict case management.

Corruption and development of a unified response by development partners remains a challenges across justice sectors in the region with the exception of Rwanda. In all countries harmonising development partner response to corruption is a process in transition. In Uganda, a unified response to reported cases of corruption by Development Partners is an initiative spearheaded by the DFID Governance Section. DFID and the Governance Sector working Group rallied Development Partners together to develop the Graduated Response to corruption in the country. In the recent case of grand corruption related to procurements under the Commonwealth Heads of Governments Meeting (CHOGM) held in Kampala-Uganda in 2007, the Government – Development Partner dialogue centred on government registering progress on a number of undertakings. Failure in this resulted in unanimous DP action to reduce the funding. A unified and focused action on the part of the DPs raises the possibility that Governments will take action.

A practical challenge faced everywhere is to build consensus among DPs on what constitutes sufficient progress especially given the variances in thresholds.

With response to management of cases of grand corruption within the justice sectors, participants agreed that the Sector has three primary roles. One is to improve and strengthen the policy, legal and regulatory framework related to accountability in public management. Access to Information; establishment of anti-corruption institutions and assuring their independence; witness protection, asset disclosure and development of regulations are cited examples under this role. Ethiopia also pointed to reform of its anti-corruption law making corruption a non-bailable offence. Drawing upon international and regional treaties on anti-corruption to strengthen the national legal framework was

identified as important in justice sector reforms. There was discussion about the efficacy of asset declaration policies and related law reforms, including public access to such information. Tanzania is in the process of introducing “blind trusts” to increase transparency in asset acquisition, declaration and management

The second role referred to the fast and timely disposal of reported cases- through support and capacity development of the investigation, prosecution and adjudication functions. Uganda pointed to the establishment of specialised anti corruption case management units in investigation, prosecution and court to fast track management of corruption cases, introduction of prosecution led investigations and joint capacity development initiatives. Ethiopia has an anti-corruption bureau with mandate to investigate and prosecute. A number of convictions have been secured led by the Bureau. In addition automation of court processes including electronic scanning of court files has minimised malpractices of loss of files that previously contributed to delays in case management.

The last role relates to the creation of public awareness of the laws and restoring confidence in court users particularly witnesses to support the management of cases in courts of law.

To manage corruption within the Sector participants shared country experiences. Tanzania has laid emphasis on the simplification of procedures to reduce the number of entry points for corrupt tendencies. Uganda kicked this off with an assessment that highlighted the high risk areas in the Sector Financial Management Systems. This informed the formulation of the Financial Management Strategy and also the Sector Anti Corruption strategy- the latter remains in draft. At institutional level, institutions developed Anti-Corruption strategies- Judiciary created the Judicial Integrity committees to better understand and devise action against judicial corruption; Police created the Professional Standards Unit. All institutions have complaints management systems to complement the work of the Inspection units. In Ethiopia Traffic Police- where corruption is said to be highest, are now paid on a commission basis.

Malawi too has an Anti Corruption Bureau and a key focus has been on public education and prevention. They have invested immensely in public awareness campaigns.. The use of paralegals at police stations and poster campaigns have contributed significantly to the declining perception of corruption in the police and the Judiciary.

Rwanda is an exceptional case. The intensity of the Government led anti-corruption drive has minimises corruption in the formal structures to the extent of paralysis in the conduct of public business particularly in services like procurement. Budgets are often not fully absorbed due to fear of making mistakes. Rwanda Local defence groups used to abuse powers but they have now been incorporated into the national police and are subject to a code of conduct. 94% of the population said that they were happy with the way the police operated.

According to the report of the Ombudsman, corruption is prevalent at the lower levels of service delivery. Higher level administrators are summarily terminated on suspicions of corruption. Rwanda in a unprecedented demonstration of will to fight corruption volunteered for the UN Anti Corruption Review (UNCAC). In such circumstances, little/minimal Development Partner pressure is exerted.

The lessons from Rwanda included the opportunity derived from starting small, with immense social pressure to perform and existence of a community spirit to rebuild the country. Ethiopia managed the inefficiencies through simplification and automation of justice procedures and was strong on punishment of grand corruption offenders for purposes of deterrence. The core lessons learned from all included the need to understand the political economy of the justice sector and the dynamics of corruption at the national level. Two is to build coalitions around corruption- civil society and private sector have assisted transparency and increasing the demand for accountability. Justice

Sector diagnostic assessments of risk and devising strategies in response was also a lesson derived from country sharing of experiences.

Session 5: Future Collaboration in the Region

Participants were unanimously agreed that future collaboration in the justice sector reforms is essential, should be strengthened and expanded. The following resolutions were made to enhance future collaboration

- a. **Approach:** the workshops have from inception been organised with a focus on simplicity, guarding against excessive formality and maximising individual and country sharing of experiences. The focus was on the practical lessons, hands on experiences derived from different country experiences in the implementation of justice reforms. This approach was affirmed to have worked to the satisfaction of the participants and will be maintained in future meetings.
- b. **Involvement of Government Counterparts:** Members agreed that the introduction of government Counterparts in the discussion had added value to the discussion. Members resolved that coordinators of reform programmes too needed to be linked across the region just as development partners have been linked through the meetings. The meeting resolved that the Country leads provide the initial contact of their country reform coordinators, introduce the idea and that the Uganda representative Sam Wairagala be requested to initiate the link and collaboration. This will be organic for some time and the next meeting will review its performance.
- c. **Information Sharing:** Members resolved that information sharing continue through the general mailing list. The report will be circulated to all for approval and sign off. Dissemination in-country will be at the discretion of the respective DPs
- d. **Next Meeting Set up:** Participants agreed that 21/2 days is appropriate. However to ensure value for the government counterparts, it was resolved that the initial 2days will run as joint sessions. The last half day development partners will meet to take care of DP issues.
- e. **Next Chair and host of Regional Justice Sector Meeting:** Rwanda offered and was unanimously supported to chair the network with effect from 4th January 2012. In this capacity, Rwanda will host the next meeting. The preferred time is in the second week of June. Government counterparts' preference will be sought by current chair regarding appropriate timing. Tanzania will hold the Chair up to the end of the year 2011. In addition Burundi (attended initial meeting), Zambia and South and North Sudan will be kept in the loop through sharing of information and invitation to subsequent meetings. The host country will continue to meet the venue, facilitator and meals costs while the participants take care of their travel, accommodation and meals outside the workshop requirements. Members resolved that support to the attendance of government counterparts will be at the discretion of the respective Development Partners. With regard to civil society representation, members agreed that the discussion be limited to DPs and Governments for now- though host countries may invite civil society to informal sharing events like cocktails and receptions.
- f. **Next Year Themes.** Possible themes include the following; continuation of anti-corruption and case backlog; Vulnerable groups – gender, children, and customary law & traditional justice and linking of formal and traditional systems. Email discussions will firm up this issue.
- g. **Visit to Ethiopia:** This was identified as outstanding arising out of the resolutions of the first meeting. Participants then proposed to conduct a group tour to Ethiopia to understudy the case management reforms among others. In the last year this had not happened. In this meeting it was resolved that interested DPs initiate the arrangements through the Chair. Where sufficient interest

is generated and agreement on the dates and modalities is done, the Chair will contact the DP from Ethiopia to explore and firm up dates with her Ethiopian counterparts.

Session 6: Next Steps.

The following were agreed upon as key next steps:

1. Production of draft report= on of before Friday 3rd June 2011
2. Circulation to all members for review and input Friday 10th June 2011
3. Final Reports circulated to all members Wednesday 15th June 2011
4. Communicate to the Chair potential government counterparts who will benefit from the technical level government counterparts- Friday 10th June 2011
5. Chair to forward contacts to Sam Wairagala Uganda JLOS Friday 17th June 2011
6. Participants submission of documents referred to in meeting Friday 10th June 2011
7. Chair to circulate suggested documents – as soon as members forward documents.

Annex 1: List of Participants

1. Chisomo Kaufulu – Malawi UNDP
2. Augustine Kaheru Bahemuka – UNDP Malawi
3. Sam Wairagala– JLOS secretariat Uganda
4. Marcia Colquhoun – CIDA Tanzania
5. Chipiliro Thombozi– Economist, Policy and Planning Unit Malawi Ministry of Justice & Secretariat for Democratic governance
6. Lehto Marco – Finnish Embassy Kenya
7. Frieda Nicolai Dutch Embassy Rwanda
8. Judith Maas Dutch Embassy Uganda JLOS Chair
9. Emebet Kebede - CIDA Ethiopia
10. Janne Rajpar - CIDA Tanzania
11. Valentine Namakula – Facilitator
12. Emmanuel
13. Dismus
14. Rachel Forster, Rapporteur

Annex II: Workshop Program

Program for the Regional Justice Meeting East Africa in Dar es Salaam, Tanzania, May 25 – May 27

Evening of May 24	
7 pm	Reception at the Canadian High Commissioner's Residence with participants of the meeting and respective HoCs

Day 1, May 25			
Time	Program	Lead	Output
8.30 – 9.00	Opening Remarks from Hosts Introduction Review of the Agenda & Expectations	Tanzania	Establish Profile and expectations of Participants Sketch out program for next 2.5 days
9.00 – 10:30	Introduction and updates on country developments in Justice Reforms since the 2010 Kampala Meeting	Tanzania	Country representative presentation of highlights of progress in justice reforms in previous year Poster and Gallery Walk
10:30 – 11.00	Coffee/Tea Break & Group photograph		Issues for Discussion
11.00 – 1.00	M&E System – Challenges and Prospects: Practical Approaches to the development of an integrated M&E system for legal/justice sector reforms	Ethiopia	Why is M&E considered important in justice sector reforms? Practical ideas on what is measured and what should be measured in justice reforms? Examples of common indicators for shared results in justice reforms? How do DPs facilitate the development and implementation of an integrated M&E system? How do we link outcomes to strategy? How are DPs reporting, providing for credibility of information and ensuring meaningful utilization of M&E findings? How are DPs ensuring an appropriate link between M&E results with the budgeting process? What are the available technical resources; partnerships and networks to improve M&E capacity?
1.00 – 2.00	Lunch		
2.00 – 2.45	Presentation Case Backlog Reduction in Uganda	Uganda	Case Study –Lessons learnt; Good practices Priority issues identified what lessons can be drawn from the Project M&E?
2.45 – 3.30	Presentation Legal Aid Service	Malawi	Case Study –Lessons learnt; Good

	Delivery in Malawi		practices Priority issues identified what lessons can be drawn from the Project M&E?
3.30 – 4.00	Coffee/Tea Break		
4.00 – 4.30	Discussion in Plenary	Facilitator	
Day 2, May 26			
Time	Program	Lead	Outcome
8.30 – 9.00	Opening Remarks from Host Introduction Review of the Agenda & Expectations	Tanzania	Establish Profile and expectations of Participants Sketch out program for the day
9:00-9:30	Focus and Key themes in Justice sector reforms among participating countries	Rwanda	Introduction of Government counterparts to country justice sector reforms: Poster and Gallery Walk
9.30 – 10:30	Development and Implementation of Integrated and Results Based M&E Systems in Justice Sector Reforms in the Region : Issues, Prospects and Challenges	Malawi	15min Presentations by Ethiopia, Kenya and Rwanda Brief country overview of experiences in developing and implementing M&E systems with emphasis on the practical, identifying good practices, learnings and practical steps that could be of use to other countries.
10:30 – 11.00	Coffee/Tea Break & Group Photograph		
11.00 – 13.00	Plenary Discussion of Key issues; challenges, learnings and promising practices in M&E in the Justice Sector	Uganda	Participant Reflection: Strengths of what works, what does not and why in own countries.
13.00 – 14.00	Lunch		
14.00 – 14.30	Group work		Concrete resolutions on what can be done to resolve M&E challenges in justice sector reforms.
14.30 – 16.30	Plenary Discussion, Conclusions and Next Steps	Kenya	
16:30	Closing Remarks	Tanzania	
	Coffee/Tea Break		
17:00	End of Day II		
17.00 – 18.00	Cocktail at the hotel		

Day 3, May 27			
Time	Program	Lead	Outcome
8.30 – 9.30	Recap of Days 1& 2	Facilitator	
9.30 – 10.30	Discussion of emerging issues in Justice Sector Reforms:	Tanzania	Understanding of role of Justice Sectors; lessons and promising practices

	Governance and Accountability: the response of Justice Sector Reforms		
10.30	Coffee/Tea Break		
11:00 – 12:00	Recommendations on future collaboration in the region	Uganda	Consensus on next steps and meeting resolutions
12:00-1:00	Summary of Meeting Resolutions and Next Steps	Ethiopia	
1:00	Closing Remarks, Lunch and Departure		

Annex III- Tabulation of Participant Reflection on what works in M&E, what does not and areas that require further clarification

Reflections on Strengths / what has worked.	
<ul style="list-style-type: none"> • Identify a champion institution already having good data and use them as a leader and example for others to follow. • Need political will within the system – from top levels • Need government ownership and commitment • Gov must be in the driving seat when it comes to collection of data. • When M&E is part of a bigger exercise it works and all are involved in the design. • Part of the broader process • Need ownership • Needs to be practical – what is possible & realistic • Needs to be linked to capacity • Conviction • Don't be too ambitious and wait until everything is perfect – the ideal world doesn't exist. Just start with what you have • Impact oriented – not activities. More complicated but more important to go one step further • Make sure institutions know how they can work with it. • Not sectoral - policy decisions • Have more detailed institutional M&E frameworks • Have M&E framework in-house – a secretariat and prioritised people responsible for M&E with salary, training etc. • Need demand • Individuals must be accountable. • Need a common understanding of language of M&E – what are your definitions? • Coordination of data aggregation points • “What is in it for me? “ – need organisation to buy in. • Don't give up – keep persevering even if they are not perfect. • Use the M&E framework as your budgeting tool – use it to rationalise the budget lines • Use NGO statistics, reports to give more objective and external indicators • Cohesion and coherence within the sector – eg case backlog from beginning to end showing the linkages between all the actors. 	<ul style="list-style-type: none"> • Need hands on the ground to help achieve indicators eg secretariat • Internalise and common understanding with clear responsibilities • Use information for policy decisions • Link to national/ broad indicators • Capacity building that is sustainable • Evidence based • Show importance • Strategic focus on sector priorities • Actors use information generated • Make sure that you find an indicator that demonstrates change • Make sure everybody in the organisation knows that they are contributing to achieving the results and to the overall goal. Currently people don't relate what they are doing to the final product. • Identify the chain and the bottlenecks and then put indicators in place around those identified points. • Get all parts of the chain to talk to each other and realise the constraints they are all under and together come up with indicators that may work • Unpack assumptions • Need thorough analysis of the data and indicators to figure out why.
Participant reflection on what does not work	Participant reflection on what remains unclear
<ul style="list-style-type: none"> • No one central system – e.g. off budget donors – make sure there is transparency in total contribution to a system. 	<ul style="list-style-type: none"> • How to have indicators on difficult areas – e.g. human rights, corruption?

<ul style="list-style-type: none">• Disengage if not captured• Waiting for perfect system to be in place.• Waiting until reporting time to collect data – not a one-off event.	<ul style="list-style-type: none">• Performance of individuals in an organisation – need to hold people more accountable• SMART indicators – on common justice reforms.• How do I get started on an effective M&E system?• How to build in gender and children into indicators?• Are we evaluating our struggles in running M&E systems?• Reporting – to the public, to politicians, to the wider community
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