

Final Report

Comprehensive Capacity Assessment of the Justice, Law and Order Sector (JLOS)

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Acronyms

ACHPR	African Charter on Human and Peoples' Rights
ACRWC	African Charter on the Rights and Welfare of the Child
CADER	Centre for Arbitration and Dispute Resolution
CCLE	Compulsory Continuing Legal Education
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
COMESA	Common Market for Eastern and Southern Africa
CSO/s	Civil Society Organization/s
GBV	Gender-Based Violence
GDP	Gross Domestic Product
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit (German Federal Enterprise for International Cooperation)
GPA	Global Political Agreement
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRC	International Committee of the Red Cross
ICT	Informational and Communication Technology
IMC	Inter-Ministerial Committee on Human Rights and International Humanitarian Law
IOM	International Organization for Migration
JCT	Justice for Children Trust
JLOS	Justice Law and Order Sector
JSC	Judicial Service Commission
LAD	Legal Aid Directorate
LDC	Law Development Commission
LRF	Legal Resources Foundation
LSZ	Law Society of Zimbabwe
MDC-M	Movement for Democratic Change - Mutambara
MDC-T	Movement for Democratic Change - Tsvangirai
MoFA	Ministry of Foreign Affairs
MoFED	Ministry of Finance and Economic Development
MoHA	Ministry of Home Affairs
MoHCC	Ministry of Health and Child Care
MoJLPA	Ministry of Justice, Legal and Parliamentary Affairs
MoPSLSW	Ministry of Public Service, Labour and Social Welfare
MoWAGCD	Ministry of Women Affairs, Gender and Community Development
NANGO	National Association of Non-Governmental Organizations
NGO/s	Non-Governmental Organization/s
PICES	Poverty, Income, Consumption and Expenditure Survey

SADC	Southern African Development Community
SAHRIT	Human Rights Trust of Southern Africa
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UNFPA	United Nations Population Fund
UPR	Universal Periodic Review
URSB	Uganda Registration Services Bureau
WILSA	Women in Law in Southern Africa
ZACC	Zimbabwe Anti-Corruption Commission
ZACRO	Zimbabwe Association for Crime Prevention and Rehabilitation of the Offender
ZANU-PF	Zimbabwe African Union – Patriotic Front
ZEC	Zimbabwe Electoral Commission
ZHRC	Zimbabwe Human Rights Commission
ZIM-ASSET	Zimbabwe Agenda for Sustainable Socio-Economic Transformation
ZIMSTAT	Zimbabwe National Statistics Agency
ZLHR	Zimbabwe Lawyers for Human Rights
ZPCS	Zimbabwe Prisons and Correctional Service
ZRP	Zimbabwe Republic Police
ZUNDAF	Zimbabwe United Nations Assistance Framework
ZWLA	Zimbabwe Women Lawyers Association

Executive Summary

This report presents the findings of a comprehensive capacity assessment of the Justice, Law and Order Sector (JLOS) in Zimbabwe, with a view to identifying the capacity needs and gaps in the Sector and recommending measures to address these. The assessment was undertaken in the context of the four-year project on “Enhancing Justice Delivery and Human Rights for All,” designed by the Ministry of Justice, Legal and Parliamentary Affairs (MoJLPA) with the support of the United Nations Development Programme (UNDP). The project aims to strengthen the capacities of the JLOS institutions and improve access to justice for the vulnerable and marginalized groups in Zimbabwe.

PURPOSE AND SCOPE

The overall objective of the assessment was to identify the capacity gaps and needs within the JLOS institutions, systems and processes and to make recommendations for a capacity development strategy to be designed for all institutions in the Sector. The report is primarily intended for use by the MoJLPA and UNDP to inform their joint efforts to devise and implement a capacity development strategy for the JLOS.

METHODOLOGY

The assessment drew on a modified version of the UNDP Capacity Assessment Framework. It was undertaken in two main phases. The first phase involved the preparation of an inception report outlining the Consultants’ understanding of the task and the proposed methodology to undertake it; a desk review of reports and other documents concerning the JLOS and its constituent institutions; interviews with representatives of the JLOS institutions; focus group discussions with the JLOS Coordination Mechanism, the Inter-Ministerial Committee on Human Rights and Humanitarian Law (IMC) and civil society organizations (CSOs) identified by the MoJLPA and UNDP; and discussion of the draft report at a workshop of key JLOS stakeholders in December 2013.

The second phase, undertaken following discussions between the MoJLPA, UNDP and the Consultants, involved the collection of additional information through a self-assessment questionnaire developed by the Consultants and completed by the JLOS institutions. The self-assessment exercise was followed by a workshop of senior officials from Government ministries and departments involved in the JLOS, in May 2014, at which additional information was sought from the institutions. The workshop also served to generate more information on the capacity development priorities of the institutions although the information provided by stakeholders in

this regard was sparse. Thus, the capacity development strategy presented with this report is a proposal by the consultants for further consideration by the stakeholders.

OVERALL FINDINGS

The findings indicate that there are significant capacity gaps and needs across the entire Sector, which affect the ability of the JLOS institutions to implement their mandates effectively. All JLOS institutions are to a greater or lesser degree under-resourced, lacking physical and technological facilities and resources (such as buildings, motor vehicles, telephones and computers) and facing a shortage of qualified and trained staff to fulfil the mandates of the institutions. A number of institutions suffer from frequent staff turnover, particularly of professional staff such as lawyers. In addition, the conditions of service for professional staff are generally poor and tend to de-motivate staff. This underscores the need to identify barriers to retaining staff and creative ways of addressing these. There is also a need to develop more effective staff renewal strategies.

With regard to physical and technological infrastructure, the key challenge for the JLOS is to develop a coherent strategy for addressing the various infrastructure needs in a prioritised manner in order to ensure the appropriate allocation of financial resources.

Most of the enabling legal and policy frameworks for the JLOS institutions are either outdated or, in the case of newly created or transformed institutions, not yet in place. There is therefore a need for these frameworks to be aligned to the new Constitution or to be established as a matter of urgency. A major challenge relating to alignment of laws to the Constitution that needs to be addressed urgently is the issue of fragmentation of these efforts. There are instances of parallel processes of research, amendment and alignment being undertaken by different Government ministries but in relation to the same laws. This fragmentation has held back progress in the alignment effort. There is therefore a need for the JLOS institutions to explore ways of coordinating the alignment efforts being undertaken by the various Government ministries.

In addition, many institutions lack policies and strategies on gender mainstreaming and human rights-based approaches (HRBAs), while, for the most part, personnel have inadequate knowledge of these issues.

There is a critical need for a sector-wide capacity development strategy that addresses JLOS reforms in view of the provisions of the new Constitution adopted in May 2013 (hereinafter referred to as the Constitution). The Consultants hope that this report will help inform the design of a plan for the implementation of a robust capacity development strategy.

SUMMARY OF KEY RECOMMENDATIONS

Key recommendations include that:

- The JLOS institutions should provide detailed statistical information concerning the sector capacity challenges which they are facing, including staff establishment, professional capacity (including knowledge of the cross-cutting issues of gender and human rights) and financial and physical resource requirements, to inform the costing of the capacity development strategy proposed in this report.
- The JLOS institutions should undertake a comprehensive review of their legal and policy frameworks in order to identify areas that require amendment to ensure consistency between the frameworks and the new Constitution.
- To ensure coherence in the processes of alignment of laws with the new Constitution currently being undertaken by the different Government ministries, the JLOS should consider establishing a mechanism to coordinate their efforts.
- To address human resources challenges, four key areas should be covered under an integrated human resources strategy: staff recruitment; skills, competencies and training; motivating staff; and human resources management systems. This would help reduce staff turnover, deliver a higher number of skilled and suitably qualified personnel, facilitate retention of skilled personnel and assure the availability of motivated staff who can work efficiently and effectively.
- The JLOS should consider re-organizing its management structure by, inter alia, establishing a high-level leadership committee and thematic working groups. This could be done by adopting the structure of the Uganda JLOS modified as appropriate to reflect the local circumstances in Zimbabwe. This would address the issue of inadequate policy support and relieve the workload of the Steering Committee and the Secretariat.
- The JLOS should consider developing and implementing a sector-wide human rights action plan to inform its policies, programmes and activities.
- The JLOS should prioritise gender mainstreaming across the Sector. This entails undertaking a sector-wide audit to identify the needs and gaps in relation to gender mainstreaming and developing a Gender Strategy to ensure gender mainstreaming in the Sector's objectives, programmes and activities as well as in staffing and human resources. It also requires enhancing understanding of gender concerns among personnel in the JLOS institutions through training.
- The JLOS should explore ways to interact with CSOs, including faith-based organisations and non-governmental organisations (NGOs). A key aspect of this is the

establishment of effective participation structures for CSOs, division of labour and clarification of roles.

- The JLOS should develop and implement a sector-wide communications strategy to improve communication and coordination across the Sector and with development partners and other stakeholders.
- The JLOS should establish a more effective mechanism for development partner coordination, including the development of an information strategy which includes an updated database of development partner-supported activities.
- Given that the challenges facing the JLOS are unlikely to abate in the short-term, development partners should adopt a pragmatic approach and target their support to the priority areas identified by the JLOS.
- The JLOS should, in consultation with all stakeholders, including development partners, devise a plan for implementation of the Capacity Development Strategy proposed in this report.
- The JLOS should establish a strategic partnership with development partners which provides a jointly funded and managed “umbrella” programme for the delivery of support to the JLOS and which systematically addresses all Sector priorities within a single programme framework. This will enable better planning, implementation, monitoring and evaluation of development partner-supported interventions within the JLOS.

Glossary of Key Terms

Access to justice:	A broad concept encompassing people's effective access to the systems, procedures, information and locations used in the administration of justice. It requires that laws and remedies must be just, equitable and sensitive to the needs of all, especially the poor and marginalized. It also entails that the difficulties encountered by vulnerable populations in understanding and asserting their legal rights must be addressed by a country's legal institutions. It is there an essential component of the rule of law and critical for the enjoyment of all human rights.
Capacity:	The ability of individuals, institutions and societies to perform functions and set and achieve objectives in a sustainable manner (UNDP, Capacity Development Methodology Guide, 2007).
Capacity assessment:	An analysis of desired capacities against existing capacities designed to generate an understanding of capacity assets, gaps and needs, which informs the formulation of a capacity development response.
Capacity development:	The process through which individuals, organizations and society obtain, strengthen and maintain the capabilities to set and achieve their own development objectives over time (UNDP Practice Note: Capacity Assessment, September 2008). Capacity development focuses on improvements in institutional systems, structures and processes, to improve performance, stability and adaptability. It also focuses on the formal, non-formal and informal learning to enhance the skills, competence, behaviour, commitment, experience and values demonstrated by staff as well as the ability of stakeholders to contribute to and support the effective and efficient implementation by institutions of their mandates.

Evaluation:	A time-specific, rigorous, evidence-based and independent assessment of whether a project or programme has achieved its goals or delivered what was expected according to the original plan.
Gender equality:	The equal enjoyment by women and men of socially valued goods, opportunities, resources and rewards. The achievement of gender equality requires changes in the institutional practices and social relations which tend to reinforce and sustain disparities.
Gender equity:	A just distribution of benefits and rewards between women and men.
Gender mainstreaming:	The process of assessing the implications for women and men of any planned policy action, including legislation and programmes, in all areas and at all levels. It is a strategy for ensuring that women's as well as men's concerns and experiences are an integral part of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated.
Gender:	The social meaning given to being either female or male in a given society. It also refers to the economic, social, political and cultural attributes and opportunities associated with being male or female.
Human rights:	Human rights are <i>inalienable</i> rights to which every individual is entitled simply because he or she is a human being (hence the term: 'human rights'). The United Nations has defined human rights as ' <i>those rights which are inherent in our nature and without which we cannot live as human beings</i> ' (United Nations, 1987). The preambles to the 1966 UN Covenants state that human rights 'derive from the inherent dignity of the human person'. The notion of human rights is founded on the belief that every human being is entitled to enjoy their rights without distinction of any kind.

Human Rights-Based Approach:	A framework that integrates the norms and principles of the international human rights system into the plans and processes of development. A rights-based approach recognizes poverty as an injustice and identifies discrimination, marginalization and exploitation as the root causes of poverty and seeks to ensure justice and dignity for all individuals.
Monitoring:	An on-going process by which stakeholders obtain information on the progress being made towards achieving the goals and objectives of a project or programme.
Sector-Wide Approach (SWAp):	A method of working that brings together government institutions, development partners and other stakeholders within the JLOS. It entails the adoption of a common and unified approach to the formulation of policies and plans, as well as the management and allocation of resources across the JLOS under the leadership of the government.

1 Introduction

This report presents the findings of a comprehensive capacity assessment of the Justice, Law and Order Sector (JLOS)¹ in Zimbabwe with a view to identifying the capacity needs and gaps in the Sector and recommending measures to address these. The assessment was undertaken in the context of the four-year Project on “Enhancing Justice Delivery and Human Rights for All,” designed by the Ministry of Justice, Legal and Parliamentary Affairs (MoJLPA) with the support of the United Nations Development Programme (UNDP).

1.1 BACKGROUND

The aim of the Project on “Enhancing Justice Delivery and Human Rights for All,” is to strengthen the JLOS capacities and improve access to justice for the poor, vulnerable and other marginalized groups. The Project recognizes that the JLOS is vital to building and strengthening the human rights framework, deepening democracy and enhancing popular participation in governance, as well as strengthening accountable and democratic institutions that are responsive to the population’s justice demands and the realization of human rights.² Nevertheless, capacity challenges have the potential to adversely impact on the implementation of the programme and achievement of expected outcomes. Consequently, the Project recognizes the importance of designing a robust framework to address key capacity gaps within the JLOS based on empirical information.³

The JLOS consists of a broad range of institutions and organizations, both State and non-State, yet there is insufficient coordination between them. The JLOS is therefore working on identifying and supporting strong and sustainable partnerships for mutual cooperation and understanding of the collective responsibility of all sector institutions towards the achievement of development results. In this regard, the establishment of a more formalised coordination processes, mechanisms and structures in the JLOS to assure a more coherent and coordinated approach to the delivery of justice is imperative.⁴

1.2 POLITICAL, SOCIAL AND ECONOMIC CONTEXT

The capacity issues discussed in this report must be understood in the context of certain factors

¹ The JLOS comprises several State and non-State institutions. See section 2 below.

² See http://www.zw.undp.org/content/zimbabwe/en/home/operations/projects/democratic_governance/enhancing-justice-delivery-and-human-rights-for-all/. See also UNDP, “Enhancing Justice Delivery and Human Rights for All,” Annual Work Plan 2013, p. 2; and Government of Zimbabwe and UNDP, “Enhancing Justice Delivery and Human Rights for All,” Annual Work Plan 2012, p. 2.

³ Ibid.

⁴ Ibid.

which have a bearing on the ability of the JLOS institutions to effectively deliver on their mandates. These include the political, social and economic context.

During the period 1998 to 2008, Zimbabwe was in a state of socio-economic and political crisis, marked by disputed elections and electoral processes, contentious legislation such as the Public Order and Security Act [Chapter 11:17], contested human rights architecture, hyperinflation, high levels of unemployment and mistrust and intolerance amongst citizens, as well as the erosion of skills.⁵

In September 2008, the country's three main political parties, Zimbabwe African National Union-Patriotic Front (ZANU-PF) and the two Movement for Democratic Change (MDC) formations, MDC-T and MDC-M, signed a Global Political Agreement (GPA) in terms of which they formed a Government of National Unity in February 2009. These developments heralded a new political system and dispensation and generally had a positive impact on the country's socioeconomic and political situation. Thus, for example, following a decade of contraction from 1998 to 2008, Zimbabwe's economy recorded real gross domestic product (GDP) growth of more than 9 per cent per year in 2010-2011, before slowing down to 5 per cent in 2012 and an estimated 1.8 per cent in 2013. The GPA set out key governance reforms as part of a transitional mechanism to move the country towards economic and political stability and sustainable human development.⁶

On 31 July 2013, the country held harmonized elections which saw ZANU-PF win the presidency by 61.09 per cent of the total votes cast and a two thirds majority in the House of Assembly (160 out of 210 seats). The elections marked the end of tenure of the Government of National Unity. Newly elected Parliamentarians were sworn in on 3 September 2013 and a new Cabinet announced on 10 September 2013.

Nevertheless, the Government still faces a number of difficult economic challenges including dilapidated infrastructure, a large external debt burden (estimated at 70 per cent of GDP at end-2012),⁷ high levels of unemployment and widespread poverty with an estimated 75 per cent of the population living below the poverty line.⁸ A recent poverty report on the 2011-2012 Poverty, Income, Consumption and Expenditure Survey (PICES) indicates that 72.3 per cent of Zimbabweans are poor, with poverty being most prevalent in the rural areas where an estimated 84.3 per cent of the people are considered poor.⁹ Approximately 62.6 per cent of households are deemed poor, whilst 16.2 per cent of them are in extreme poverty.

The economic sanctions imposed on the country¹⁰ have affected sustainable economic growth and the Government's ability to access external financing for the achievement of inclusive

⁵ Government of Zimbabwe and UNDP, *Project Document: Enhancing Justice Delivery and Human Rights for All*, p. 8.

⁶ Ibid.

⁷ Zimbabwe is deemed to be in debt distress. See <http://www.worldbank.org/en/country/zimbabwe/overview> (accessed 28 July 2014).

⁸ *Strategic Plan for the Ministry of Justice and Legal Affairs*, p. 11.

⁹ Zimbabwe National Statistics Agency (ZIMSTAT), *Poverty, Income, Consumption and Expenditure 2011/2012 Report* (April 2013).

¹⁰ For example, soon after the US Government passed the Zimbabwe Democracy and Economic Recovery Act of 2011, the IMF cut off all resources to Zimbabwe.

growth, poverty reduction and job creation.¹¹ Moreover, the erosion of human and institutional capacities in both the public and private sectors has adversely affected the scope for economic development and provision of public services.¹²

All of these factors have implications for the effective delivery of justice and human rights for all by the JLOS institutions,¹³ as well as for the design of a capacity development strategy for the Sector. Thus, for instance, the economic challenges that the country has faced in recent years have undermined the ability of the Government to provide basic services in line with its constitutional and international human rights obligations. On the other hand, it may be argued that the adoption of a new Constitution and election of a Government unburdened by the political uncertainties associated with a government comprising several political parties with conflicting policies offer enormous potential for a singular focus on addressing the country's challenges.

1.3 PURPOSE AND SCOPE OF THE ASSESSMENT

The overall objective of the assessment was to identify the capacity gaps and needs within the JLOS institutions, systems and processes and to make recommendations for a capacity development strategy to be designed for all institutions in the Sector. In particular, the assessment sought to:

- Identify performance challenges that impede the effective performance of all the JLOS institutions;
- Identify skills and competencies required for effective performance of the JLOS institutions;
- Highlight issues related to the relevant institutional structures, systems and processes required for effective performance of the JLOS;
- Identify capacity gaps at different levels in the JLOS;
- Identify capacity gaps in the JLOS that could hinder the implementation of the programme on “Enhancing Justice Delivery and Human Rights for All”;
- Identify priority areas for capacity development and enhancement;

¹¹ See International Monetary Fund, *Staff-Monitored Program: Letter of Intent, Memorandum of Economic and Financial Policies, and Technical Memorandum of Understanding*, 5 June 2013.

¹² African Development Bank, *Zimbabwe Country Brief 2013-2015*, SARC Department, October 2013, p. 4. On a positive note, the country has, at over 90 per cent one of Africa's highest literacy rates.

¹³ Government of Zimbabwe and UNDP, *Project Document: Enhancing Justice Delivery and Human Rights for All*, p. 9.

- Take stock of what skills are available in the JLOS institutions and compare with what the institutions have to achieve;;
- Identify defective systems in the management of each institution; and
- Identify and recommend best practices from other jurisdictions.

The assessment also examined to what extent the cross-cutting issues of gender and human rights are factored into the planning, decision making and processes relating to the delivery of justice, including allocation of resources.

The Consultants were expected to produce a Capacity Needs Assessment Report and a framework for a capacity development strategy for all JLOS institutions.

1.4 METHODOLOGY

The assessment drew on a modified version of the UNDP Capacity Assessment Framework reflecting the core issues identified in the terms of reference. It was undertaken in two phases. The first phase involved the preparation of an inception report outlining the consultants' understanding of the task and the proposed methodology to undertake it; a desk review of reports and other documents concerning the JLOS and its constituent institutions; interviews with representatives of the JLOS institutions; focus group discussions with the JLOS Coordination Mechanism, the IMC and CSOs identified by the MoJLPA and the United Nations Country Team; and discussion of the draft report at a workshop of key JLOS stakeholders in December 2013.

The second phase, which was undertaken following discussions between the MoJLPA, UNDP and the Consultants, involved the collection of additional information through a self-assessment questionnaire developed by the Consultants and completed by officials in the JLOS institutions.¹⁴ The self-assessment questionnaire was designed to elicit information pertaining to the capacity challenges faced by the JLOS institutions in relation to their legal and policy frameworks, human resources, financial resources, physical and technological infrastructure, human rights based approaches and gender mainstreaming, interaction with stakeholders and accountability mechanisms. In May 2014, a workshop of senior officials from Government ministries and departments represented in the JLOS was held in Harare for the purpose of enabling the sharing of additional information by the JLOS institutions and the Consultants. The workshop also served to generate more information on capacity development priorities of the

¹⁴The self-assessment questionnaire sought information on the capacity challenges relating to the legal and policy frameworks, human resources, financial resources, physical and technological infrastructure, HRBAs and gender mainstreaming. The following institutions responded to the self-assessment questionnaire: MoJLPA; Ministry of Women Affairs, Gender and Community Development; Ministry of Public Service, Labour and Social Welfare; Attorney-General's Office (Civil and Legislative Drafting Divisions); National Prosecuting Authority; Law Development Commission; Legal Aid Directorate; Department of Constitutional and Parliamentary Affairs (MoJLPA); Department of Community Service (MoJLPA); Zimbabwe Prisons and Correctional Service; and Zimbabwe Republic Police.

institutions although some of the information provided by the stakeholders in this regard was rather sparse. Thus, the capacity development strategy presented with this report is a proposal by the Consultants for further consideration by the JLOS.

1.5 CONSTRAINTS AND LIMITATIONS

The assessment draws heavily on the perspectives of the duty bearers within the JLOS institutions and does not take into consideration the views of the rights holders or end-users of JLOS services. To a limited extent, this constraint was addressed by obtaining the views of non-State actors involved in the JLOS.

There were some challenges relating to access to documents. Although the MoJLPA had requested all the JLOS institutions involved to make relevant documents, including strategic plans, available to the Consultants only a few responded to this request. Thus, for the most part, the assessment is based on the information supplied by the institutions through interviews and the self-assessment questionnaire. In addition, only UNDP and a small number of the JLOS institutions provided feedback on the draft report prepared after the May 2014 workshop.

Finally, the terms of reference for the assignment did not include field visits to the regional offices of the stakeholder institutions as part of the methodology. During the initial meeting between the stakeholders and the Consultants, it was agreed that field visits could not be undertaken due to time and resource constraints. Consequently, the assessment only covers the views of the people based at the head offices of the JLOS institutions.

1.6 STRUCTURE OF THE REPORT

The report is divided into seven main sections. Section 1 offers a brief background to and context for the assessment, noting the political, social and economic issues that have a bearing on the effectiveness of the JLOS. Section 2 briefly describes the JLOS, focusing on management, coordination and Sector achievements and challenges. Section 3 provides a detailed analysis of each JLOS institution, highlighting the key capacity issues relating to the Sector for each institution. Section 4 deals with access to justice, with a particular focus on the cross-cutting issues of gender and human rights. Section 5 discusses the role of non-State actors in fostering access to justice for the poor and vulnerable, focusing on the efforts of CSOs as well as their relationship with the JLOS in improving access to justice. Section 6 shares best practice from the Uganda JLOS, providing information on coordination, financing and monitoring and evaluation arrangements, as well as access to justice for the poor and vulnerable. Section 7 summarizes the main conclusions, offers some key recommendations to address the capacity gaps and needs identified in the report and outlines a proposed capacity development strategy for the JLOS.

1.7 ACKNOWLEDGEMENTS

This assessment was undertaken by a team consisting of Rudo Chitiga (National Consultant) and Cephas Lumina (International Consultant). The Consultants are grateful to the Government of Zimbabwe, in particular, the MoJLPA, and UNDP for affording them the opportunity to undertake this assignment and for the support provided during the assignment. The Consultants are especially grateful to the Management of the UNDP Zimbabwe Country Office for its support, and to Tafadzwa Muvingi (Justice and Human Rights Specialist - UNDP), Goretti Mudzongo (Programme Coordinator - UNDP) and Priscilla Mbanga, Tipei Sibindi and Monica Chikwene of the MoJLPA, for their help in setting up interviews as well as providing logistical support and documents.

The Consultants note particular appreciation to Honourable Fortune Chasi, Deputy Minister; Mrs Virginia Mabhiza, Permanent Secretary; Mr Maxwell Ranga, Acting Secretary; and Mrs Mabel Msika, Director of the Policy and Legal Research Department in the MoJLPA for their interest in and support for the assignment.

A wide range of stakeholders in Zimbabwe and specifically the individuals whose names are set out in Annexure C to this Report provided information for the assessment. The Consultants would like to express their gratitude to all these individuals as well as to all those who participated in the validation workshop in December 2013 and the stakeholder workshop in May 2014 for their comments which greatly enriched the report.

2 The Justice, Law and Order Sector: An Overview

2.1 SECTOR INSTITUTIONS

The JLOS is a sector-wide approach to the delivery of justice which aims to ensure a harmonized and coordinated system for strengthening justice delivery and the enjoyment of human rights. It comprises several institutions involved in the administration of justice, maintenance of law and order, as well as promotion and protection of human rights in Zimbabwe. These include the MoJLPA; Ministry of Home Affairs (MoHA); Ministry of Women Affairs, Gender and Community Development (MoWAGCD); Attorney-General's Office; Law Development Commission (LDC); National Prosecuting Authority (NPA); Legal Aid Directorate (LAD); Judicial Service Commission (JSC); Zimbabwe Prisons and Correctional Service (ZPCS); and Zimbabwe Republic Police (ZRP). UNDP, the United Nations Children's Fund (UNICEF) and UN Women provide technical and advisory support to the JLOS, while the Ministry of Finance and Economic Development (MoFED)¹⁵ and the Ministry of Public Service, Labour and Social Welfare (MoPSLSW)¹⁶ are also members. Other entities and institutions participate in the JLOS by invitation. These include law-based CSOs, such as Justice for Children (JCT), Zimbabwe Women Lawyers Association (ZWLA), Childline and Musasa Project; the Zimbabwe Human Rights Commission (ZHRC); Zimbabwe Anti-Corruption Commission (ZACC); Zimbabwe National Statistics Agency (ZIMSTAT), Parliamentary portfolio and thematic committees, traditional leaders and academia.

2.2 COORDINATION

The coordination framework for the JLOS consists of a Steering Committee of team leaders from each institution within the JLOS, supported by a Secretariat located in the MoJLPA. The Steering Committee was established in October 2012 and became operational in 2013. It consists of the Permanent Secretary of Justice, Legal and Parliamentary Affairs (or representative); Permanent Secretary of Home Affairs (or representative); Permanent Secretary of Women Affairs, Gender and Community Development (or representative); Permanent Secretary of Finance and Economic Development (or representative); Permanent Secretary of Public Service, Labour and Social Welfare (or representative), as well as representatives of the Attorney-General's Office, NPA, LDC, LAD, JSC, ZPCS, ZRP and law-based CSOs (two representatives). The JLOS Programme Coordinator serves in an *ex officio* capacity while UNDP, UNICEF and UN Women provide technical and advisory support. The Committee is chaired by the MoJLPA.

¹⁵ The involvement of the MoFED in the JLOS is based on the fact that it is responsible for the State budget and budgetary allocations.

¹⁶ The MoPSLSW plays a critical role in the enforcement and domestication of international labour standards. Its activities in this regard thus have a direct bearing on the delivery of justice.

The objectives of the Steering Committee are to provide general leadership and guidance to the Sector; to develop, facilitate and coordinate dialogue among the JLOS institutions on individual institutional programming; to formulate Sector policies that will enhance the effective fulfilment of institutional mandates; to coordinate efforts in joint programming for sector-wide results and maximum impact; to share experiences and lessons learnt for improvement of coordination in the Sector; to promote accountability and quality assurance of JLOS results; and to develop and establish any other mechanisms that would boost the operations of the Sector.¹⁷ Its functions are fairly detailed and include providing a unified policy and programmatic sectoral response to the administration of justice, law enforcement and promotion and protection of human rights in Zimbabwe; providing deepened and broadened access to justice and human rights services with emphasis on legal, policy and regulatory frameworks and the impact on marginalized groups, the poor, women, children and persons with disabilities, among others; defining sector priorities and shifting resource focus to these in line with the strategic focus of value for money; identifying capacity gaps (human, technical, equipment, etc) within the Sector and designing holistic approaches to meeting these; defining the information communication and technology (ICT) strategy for the Sector; defining the media policy of the Sector; deciding on all matters and issues affecting the running of the JLOS Steering Committee including membership; promoting stakeholder involvement; providing guidance on new and emerging issues in the Sector; and undertaking any other duties and responsibilities as may be defined from time to time.¹⁸

The Secretariat provides administrative services to the JLOS.¹⁹ The specific responsibilities of the Secretariat include supporting the JLOS Coordination Mechanism; developing periodic work plans for the approval of the Coordination Mechanism and reviewing reports; monitoring the implementation of work plan activities in the Sector institutions; facilitating communication, coordination and cooperation within and between Sector institutions; identifying linkages with stakeholders and promoting joint programming; and performing any other Sector enhancement responsibilities as directed by the Project Board.²⁰

At the time of writing this report, the full-time staff of Secretariat consisted only of the JLOS Programme Coordinator. It is expected that a Project Officer and a Finance Officer will be recruited to the Secretariat once funds are secured. The absence of full-time staff has resulted in staff in the MoJLPA doubling up to serve as the Secretariat in addition to their other duties.

¹⁷ See Government of Zimbabwe, "Terms of Reference for the JLOS Coordination Mechanism," pp. 2-3.

¹⁸ Ibid, p. 3.

¹⁹ Ibid, p. 5.

²⁰ Ibid.

2.3 ACHIEVEMENTS AND CHALLENGES²¹

2.3.1 Achievements

Under the Project on “Enhancing Justice Delivery and Human Rights for All,” the JLOS has recorded a number of achievements. In relation to the Project Outputs, key achievements include:²²

Output 1: Strengthened coordination framework of the JLOS

Under Output 1, the JLOS Coordination Mechanism and Secretariat have been established and are functional, while a Programme Coordinator has been recruited. Furthermore, the Steering Committee has held a number of meetings, including a policy briefing to familiarize heads of ministries with the activities and outcomes of the JLOS and a training workshop for 20 participants in the context of which lessons from the Uganda JLOS were shared with the participants and a JLOS work plan developed. According to UNDP, these meetings have resulted in “an increase in capacities to dialogue on justice delivery and access to justice issues, skilling and knowledge building through learning from the best practice and in particular the Uganda experience.”²³

In relation to the Anti-Corruption Strategy, several JLOS institutions have participated in a television talk show which focused on issues affecting justice delivery.

Output 2: Policies and laws formulated in line with existing reforms, international obligations and the Constitution

Achievements under Output 2 included a preparatory meeting in May 2013 concerning the training of legal drafting personnel in the Attorney-General’s Office and other Government ministries; participation by three officers in a training workshop held in Vienna, Austria, from 22 to 26 April 2013, focusing on the revision of the UN Standard Minimum Standard Rules on the Treatment of Offenders; a report and action plan for implementation of lessons learned prepared by the three officers; and procurement of computers and accessories for the LDC which were critical for it to perform its functions effectively.

²¹ The achievements and challenges outlined in this section are drawn from two main sources: (1) Government of Zimbabwe and UNDP, “Enhancing Justice Delivery and Human Rights for All”, Annual Progress Report (1 January – 31 December 2012) and Government of Zimbabwe and UNDP, “Enhancing Justice Delivery and Human Rights for All”, Quarterly Progress Report (1 April – 30 June 2013). It should be noted that these are the only progress reports that UNDP provided to the Consultants. Additional information was obtained from http://www.zw.undp.org/content/zimbabwe/en/home/operations/projects/democratic_governance/enhancing-justice-delivery-and-human-rights-for-all/.

²² It should be noted that the numbering of these project outputs in the two progress reports availed to the Consultants is not identical. Consequently, the present report does not necessarily set them out in the order employed in either progress report.

²³ See http://www.zw.undp.org/content/zimbabwe/en/home/operations/projects/democratic_governance/enhancing-justice-delivery-and-human-rights-for-all/.

Output 3: Strengthened capacity of the JLOS institutions to effectively and efficiently execute their mandates

The achievements recorded under Output 3 include a training workshop on the human rights mechanisms in October 2012; a workshop on the treatment of offenders for 75 participants from the JLOS institutions dealing with offenders; procurement of office equipment (including computers) for use by, inter alia, the JLOS Secretariat and the IMC; evaluation of the Zimbabwe United Nations Development Assistance Framework (ZUNDAF) programme for the period 2008-2011; and procurement of a JLOS project motor vehicle. Other accomplishments are the commencement of work on development of the strategy for the ratification and domestication of international standards and a meeting to discuss the way forward in implementing the Anti-Corruption Strategy and Action Plan.

Output 4: Enhanced legal aid mechanisms

The main achievements under this output include supporting the LAD to promote public awareness of its activities through an exhibition at the Trade Fair in April 2013 and the Agricultural Show in August 2013; a study visit to South Africa by the LAD and other stakeholders (including representatives of the IMC Secretariat, UNICEF and the Legal Resources Foundation) to learn about decentralisation of legal aid; and consultations between the JSC and the Chief's Council for the purposes of developing a curriculum for use in training Local Court officials;

Output 5: Ratification and domestication of regional and international human rights instruments

The key accomplishments under this output include an assessment of the national laws to determine the degree of ratification and domestication of international standards and production of a Manual on State Party reporting under the international and regional treaty bodies.

Output 6: Strengthened national capacity of the State to comply with international obligations.

Achievements under this Output include stakeholder workshops held in 2012 to develop the National Plan of Action on the Implementation of the Universal Periodic Review (UPR) Recommendations ("the National Plan of Action"); supporting two members of the IMC and one member of the IMC Secretariat to attend the presentation of the State

Party report due under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); adoption of the National Plan of Action; and workshops to finalize the drafting of the State Party reports due under the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR);

2.3.2 Challenges

Notwithstanding these achievements, the entire JLOS faces a number of critical challenges which affect the effective delivery of justice and human rights for all, notably inadequate human, financial and physical resources. The general freeze on recruitment to the Public Service has affected access to justice as many Government departments are operating below capacity. This is compounded by a lack of financial resources which makes it difficult for institutions to deliver justice to citizens, in particular those outside Harare and Bulawayo.

These challenges have been acknowledged by both the Government and the UN Country Team. Thus, the ZUNDAF 2012-2015, notes that the country's system for the delivery of justice "is overstretched due to financial, human and material resources constraints. Courts are faced with a backlog of cases and the country's prisons are overcrowded. The judicial service is understaffed due to capacity erosion of professional and skilled personnel. This has resulted in courts operating at sub-optimal level."²⁴ The poor conditions of service and lack of incentives have not only resulted in high staff turnover but also make staff vulnerable to corruption.

At the operational level, the JLOS Steering Committee faces a number of problems. Among these are the lack of a comprehensive sector-wide strategic plan;²⁵ lack of a communication strategy; lack of continuity of membership in that it is not the same people from the stakeholder institutions that participate in the JLOS Steering Committee meetings and, with very few exceptions, there are no formal mechanisms for those representing the Government institutions to provide feedback to their institutions; lack of expertise on issues of relevance to the Sector including human rights and rights-based approaches; lack of gender sensitivity among the duty bearers at all levels; and lack of incentives (such as allowances or promotional opportunities) for members of the Steering Committee which causes them to prioritize their institutional responsibilities over those related to their involvement in the JLOS. It should be noted that the staff performance appraisal and rewards system for Public Service personnel does not take into account the work that staff do as part of the JLOS steering Committee.

A fundamental issue was the evident lack of guidance from the policy heads in the various ministries to support the work of the JLOS, which was attributable to the fact that the policy heads were not fully informed on the work of the JLOS. This can be addressed by, inter alia,

²⁴ Government of Zimbabwe and UNDP, *Zimbabwe United Nations Development Assistance Framework 2012-2015*, April 2011, p. 8.

²⁵ It is our understanding that the steering committee has developed a strategic plan which incorporates a communication strategy

establishing a Leadership Committee comprising the heads of ministries and other institutions responsible for the JLOS sector as is the case with the Uganda JLOS (see section 6 of this report).

The JLOS Secretariat also faces some key challenges, including limited appreciation by the responsible parties of the modalities of identifying programme activities which renders implementation difficult and the lack of commitment by heads of Ministries to the activities of the JLOS.²⁶ As has been noted, the latter challenge requires that the JLOS Steering Committee devise ways of encouraging policy makers to be more actively involved in the affairs of the JLOS.²⁷

Progress reports on the JLOS programme identify a number of areas requiring further action.²⁸ These include enhancement of relations between the Government and CSOs; participation by IMC members in human rights treaty body sessions; introduction of incentives for IMC members; enhanced human rights awareness raising within Government institutions; training JLOS focal persons in project management; development of a monitoring and evaluation framework for the JLOS; and training on legal drafting. A key priority identified is the development of a manual on HRBA.²⁹

²⁶ Government of Zimbabwe and UNDP, "Enhancing Justice Delivery and Human Rights for All," Quarterly Progress Report (1 April – 30 June 2013), p. 5.

²⁷ Ibid.

²⁸ See Government of Zimbabwe and UNDP, "Enhancing Justice Delivery and Human Rights for All", Annual Progress Report (1 January – 31 December 2012), pp. 7-8; and Government of Zimbabwe and UNDP, "Enhancing Justice Delivery and Human Rights for All", Quarterly Progress Report (1 April – 30 June 2013), pp. 5-6.

²⁹ Government of Zimbabwe and UNDP, "Enhancing Justice Delivery and Human Rights for All", Quarterly Progress Report (1 April – 30 June 2013), p. 6.

3 Sector Institutions: Mandates and Issues

3.1 MINISTRY OF JUSTICE, LEGAL AND PARLIAMENTARY AFFAIRS

Mandate

The mandate of the MoJLPA is to provide and ensure effective and efficient justice delivery through supporting the machinery that provides the framework for provision of legal services to the Government, its allied institutions and the general public.³⁰ The MoJLPA defines its vision as “to achieve accessible world class justice for all by 2020”³¹ and its mission as to uphold the Constitution of Zimbabwe, develop and provide accessible and effective justice delivery. The overall functions of the MoJLPA are to provide sound legal services to the State; to incarcerate and rehabilitate offenders; to revise, reform and review the laws of Zimbabwe; to undertake legal research and formulate policies; register and protect proprietary rights in land, formal business and intellectual property; to provide legal assistance to the indigent; to administer the Constituency Development Fund (CDF); to promote and uphold the Constitution; and to coordinate parliamentary business.³² The MoJLPA also serves as the lead institution of the JLOS.

The MoJLPA has adopted an ambitious Strategic Plan which identifies three Key Result Areas: (1) Justice Delivery; (2) Incarceration and Rehabilitation of Offenders; and (3) Public Sector Accountability and Transparency Laws.³³ The Plan also sets out several goals which the MoJLPA intends to pursue in order to effectively fulfil its vision and mission. These are to increase provision of legal services from 57 to 85 per cent by 2018; increase accessibility of proprietary rights from 35 to 90 per cent by 2018; improve the welfare of prisoners from 55 to 85 per cent by 2018; improve policy intervention from 81 to 95 per cent by 2018; reduce the rate of default by offenders on community service from 30 to 5 per cent by 2018; attain a national appreciation of constitutional information from 20 to 80 per cent by 2018; improve the review of the Public Administration laws from 40 to 80 per cent by 2018; improve the administration and accountability of the CDF from 40 to 80 per cent by 31 December 2018; and reduce the rate of repeat offending from 30 to 15 per cent by 2018.³⁴

³⁰ Its core values are professionalism, integrity and impartiality. See Ministry of Justice, “Legal and Parliamentary Affairs: Service Charter” and *Strategic Plan for the Ministry of Justice, Legal and Parliamentary Affairs*, p. 5.

³¹ *Strategic Plan for Ministry of Justice, Legal and Parliamentary Affairs*, p. 5.

³² *Ibid.*, p. 8.

³³ *Ibid.*, pp. 35-38.

³⁴ *Ibid.*

Structure³⁵

The MoJLPA is headed by a Cabinet Minister who is assisted by a Deputy Minister. The administrative head of the Ministry is the Permanent Secretary. The Ministry consists of several departments, including the Attorney-General's Office (which is further divided into the Legal Advice, Legislative Drafting and Civil Divisions); Policy and Legal Research;³⁶ Constitutional and Parliamentary Affairs; LAD; Community Service; Deeds, Companies and Intellectual Property; and ZPCS. The LDC, NPA, ZHRC and Zimbabwe Electoral Commission (ZEC), are independent institutions affiliated to MoJLP.

Sector Issues

Legal and policy framework. The MoJLPA derives its mandate from the Constitution and a broad range of legislation.³⁷ According to information provided by the MoJLPA, the Policy and Legal Research Department has completed the alignment of Acts of Parliament, administered by the Ministry, to the Constitution and submitted the amendments to the Legislative Drafting Division.³⁸ It is not clear whether these amendments have been effected.

Furthermore, a number of external and internal policy documents define the operating policy environment of the MoJLPA. These include the Zimbabwe Agenda for Sustainable Socio-Economic Transformation (ZIM-ASSET), Millennium Development Goals, Agrarian Reform Policy, National Gender Policy, HIV/AIDS Policy, UN Minimum Standard Rules on the Treatment of Prisoners, Civil Service Commission Regulations, Treasury instructions, circulars, Operational Procedures and Accounting Officer's Instructions.³⁹

Human resources. The MoJLPA has a shortage of qualified staff, especially lawyers, with some of the most experienced staff leaving to seek better opportunities outside the Government. However, the Public Service freeze on recruitment has prevented the recruitment of personnel to fill the vacancies created by the departure of staff. Poor conditions of service have not only led to high staff turnover, but also to low staff morale and corruption.

As regards staff development, the MoJLPA has no formal mentoring programme. Members of staff who wish to enhance their educational qualifications often seek external funding to pursue further study. However, there are also opportunities for skills development when funding is available.

³⁵ See www.justice.gov.zw/jdownloads/ministry_of_justice_structure.pdf.

³⁶ This department is responsible for identifying, initiating and supporting policy and legal research initiatives and advising the Ministry on policy and legal priorities. It also coordinates human rights and humanitarian law activities, coordinates activities relating to the Zimbabwe United Nations Development Assistance Framework, executes statutory functions derived from Acts of Parliament administered by the Minister and coordinates activities relating to intellectual property rights.

³⁷ See *Strategic Plan for Ministry of Justice, Legal and Parliamentary Affairs*, pp. 6-8 and 30-31.

³⁸ Ibid, p. 16.

³⁹ Ibid, pp. 6-8 and 30-31.

Financial resources. The lack of adequate financial resources is a key issue for the MoJLPA. Over the four years preceding the adoption of its Strategic Plan, the MoJLPA has been receiving 50 per cent of its annual budget from the Treasury, and the allocated funds have been released late.⁴⁰ This has led to the postponement and non-implementation of programmes and activities.⁴¹ The MoJLPA does not have a comprehensive resource mobilisation strategy although different departments receive support for specific activities from development partners, such as UNDP, UNICEF and UN Women.

HRBA and gender mainstreaming. The MoJLPA has not taken any measures to familiarize staff with human rights and gender issues. However, it has designated an officer as a Gender Focal Person with the responsibility of ensuring that gender issues are taken into account in all of the Ministry's activities.

Stakeholder engagement. The MoJLPA has well-established networks and collaborative partnerships with other Government departments, regional agencies, development partners and CSOs. Among these are Parliament, the Civil Service Commission, JSC, the MoFED, ZRP, UN, African Union, the Southern African Development Community (SADC), World Intellectual Property Organization and African Regional Intellectual Property Organization. The MoJLPA recognizes the need to nurture these relationships and to strive to meet the expectations of its various stakeholders.⁴²

As noted above, the MoJLPA serves as the lead institution for the JLOS and chairs the IMC. It therefore plays an important coordinating role as regards justice delivery and the promotion and protection of human rights in the country.

3.1.1 Department of Constitutional and Parliamentary Affairs

Mandate and Functions

This is a new department whose mandate is to continue with the role played by the departments of Constitutional and Parliamentary Affairs of the former Ministry of Constitutional and Parliamentary Affairs. Its functions include the promotion and development of the Constitution in terms of section 7 of the Constitution, coordination of Parliamentary activities and administration of the CDF. It also has the mandate to enhance coordination of Government business between the Executive and the Legislature and to improve the capacity of the 210 Parliamentarians and constituency committees in the management of the CDF.

⁴⁰ Ibid, p. 20.

⁴¹ Ibid.

⁴² Ibid, p. 22.

Structure

The staff establishment of the department consists of a Director, Deputy Director and five Law Officers. However, it currently has no substantive Deputy Director. The department is divided into two sections, namely, Constitutional Affairs (which is responsible for promoting the Constitution) and Parliamentary Affairs (which is responsible for administering the CDF and coordinating Parliamentary activities).

Sector Issues

Legal and policy framework. As stated above, the department is responsible for administering the CDF. However, the legal framework concerning the CDF is not yet in place. The MoJLPA is currently drafting a Constituency Development Fund Bill. If passed into law, the bill will regulate the application of and accounting of funds allocated to Parliamentarians for development of their constituencies.

While it is responsible for promoting awareness of the Constitution, the department does not have policies on civic education and public awareness which would guide its efforts in this regard.

Human resources. The department did not indicate whether its current professional staff complement of six is sufficient for it to implement its mandate effectively and efficiently. However, as can be seen from Table 1 below, the total number of staff in the department is just one short of its desired level of seven. Thus, it appears that its staffing situation is not as severe as that faced by other departments in the MoJLPA, such as the LAD and the Civil Division in the Attorney-General's Office (see below).

Table 1: Professional staff in the Department of Constitutional and Parliamentary Affairs

	Current Level	Desired Level
Total number of professional staff	6	7
Professional staff: women	3	-
Professional staff: men	3	-
Staff with a first degree	6	6
Staff with a postgraduate degree	3	-
Staff with other professional qualification	2	7

The department has a staff development programme in terms of which junior members of staff are mentored by more senior and experienced staff until such time that they become familiar with the operations of the department.

Physical and technological resources. Although the department is responsible for outreach work, it lacks systems for following up and capturing data concerning the people it reaches through its capacity building activities.

Financial resources. According to the department, the funding it has been allocated from the budget of the MoJLPA, is significantly less than the amount of \$700,000 which the department estimates it requires to perform its functions more effectively. The department has also received funding from development partners and will continue to rely on them to support its constitutional awareness programmes. Other challenges relate to shortage of financial resources for outreach work which is part of the core business of the department. More recently, the department has not been able to implement key projects such as civic education, capacity building of communities and monitoring and evaluation of the CDF.

Stakeholder engagement. The department's stakeholders include Parliament, line ministries and CSOs. The department uses the media for outreach and to obtain feedback from the public. It also obtains feedback from CSOs through workshops.

3.1.2 Department of Policy and Legal Research

Mandate and Functions

The Department of Policy and Legal Research is responsible for identifying, initiating and supporting policy and legal research initiatives and advising the MoJLPA on policy and legal priorities. It also coordinates international human rights and humanitarian law activities, coordinates activities relating to the ZUNDAF, executes statutory functions derived from Acts of Parliament administered by the Minister and coordinates activities relating to intellectual property rights.⁴³

The department's performance outcomes include revised legislation, improved compliance with human rights obligations and improved provision of legal services.

Structure

The department is headed by a Director who reports to the Permanent Secretary of the MoJLPA. Its personnel consist of Law Officers and support staff. No information on staff composition was available to the Consultants.

⁴³ Ibid, p. 8.

Sector Issues

Human resources. The department is understaffed and has a high staff turnover. As Table 2 below shows, the department has a total of 13 professional staff as opposed to an ideal staff complement of 20.

Table 2: Professional staff in the Department of Policy and Legal Research

	Current Level	Desired Level
Total number of professional staff	13	20
Professional staff: women	11	-
Professional staff: men	2	-
Staff with a first degree	13	-
Staff with a postgraduate degree	6	-
Staff with other professional qualification	1	-

The department has proposed two main strategies to address the staff shortage it currently faces: (1) lifting the freeze on recruitment to the Public Service; and (2) improving the conditions of service for staff.

Financial resources. The main source of funding for the department's activities is the Treasury through the MoJLPA. Although it did not provide figures, the department has indicated that its budgetary allocations are insufficient to enable it perform its functions effectively. As stated above, one of the department key functions is to coordinate human rights and humanitarian law activities. To do this effectively, members of staff need to be exposed to international best practices. However, the lack of financial resources has made such exposure difficult. This underscores the need to increase the department's budgetary allocation.

HRBA and gender mainstreaming. The department has a policy/action plan on human rights. However, no details of the policy/plan were made available to the Consultants. There is no policy on gender mainstreaming. Although bound by the National Gender Policy, it is unclear how this has impacted on the activities of the department. No information was provided on measures, if any, implemented by the department to ensure that its staff was familiar with HRBA, gender mainstreaming and justice delivery issues.

Stakeholder engagement. The department interacts with a broad range of stakeholders including members of the public, other Government ministries and departments, development partners and CSOs. Development partners support a number of the department's activities. Its cooperation with CSOs focuses on a range of human rights initiatives including collaboration in the preparation of the Universal Periodic Review and State Party reports to the human rights treaty bodies.

The department also hosts the JLOS Secretariat, and chairs both the JLOS Coordination

Mechanism and the IMC. According to the department, however, these multiple roles pose a particular challenge in relation to its ability to collaborate effectively with other stakeholders. In particular, the absence of a full-time JLOS Secretariat has meant that departmental personnel have had to assume some of the Secretariat's functions in addition to their normal functions within the department. As stated above, the department is understaffed. Consequently, these responsibilities have put enormous pressure on the department to meet the demands of different stakeholders without additional staff.

3.1.3 Department of Community Service

Mandate and Functions

The Department of Community Service was established under the Criminal Procedure and Evidence Amendment Act 1/92 with a mandate for the rehabilitation and re-integration of offenders. Its vision is "[t]o achieve effective rehabilitation of all offenders placed on community service by 2040," while its mission is to provide guidance and recommendations to the courts on offenders to be considered for community service and monitor compliance with community service orders⁴⁴ in order to achieve total rehabilitation. According to the department, its vision and mission are not well understood by its clients and other stakeholders.

The department's overall functions include providing the courts with professionally compiled pre-sentence enquiries reports on probationers to be considered for community service, identifying placement institutions with suitable work assignments for probationers, supervising compliance with community service orders and providing community service training for Magistrates, prosecutors, Community Service Officers and heads of institutions.⁴⁵ Community service officers undertake routine visits to placement institutions to ensure compliance with court orders. They also have a mandate to promote community awareness on community service in their areas of jurisdiction.

The department has a number of key strategic objectives which it aims to achieve by December 2014. These include:

- To increase the number of pre-sentence reports by 10 per cent;
- To reduce the rate of defaults by community service offenders by 4 per cent;
- To carry out 8 training workshops for stakeholders and staff; and

⁴⁴ A community service order is intended to achieve re-integration of the offender into the community through punishing the offender by requiring them to perform unpaid work and the discipline of punctual reporting for work and loss of free time.

⁴⁵ *Strategic Plan for the Ministry of Justice, Legal and Parliamentary Affairs*, p. 9.

- To establish and operationalize an anti-corruption committee within the department.

Structure

The department consists of a National Coordinator (as head), Deputy National Coordinator, Principal Community Service Officers, Senior Community Service Officers and Community Service Officers. It has offices in all the ten provinces each of which is headed by a Provincial Community Service Officer and 17 district stations. The National Coordinator reports to the Zimbabwe National Steering Committee on Community Service⁴⁶ as well as to the Permanent Secretary of the MoJLPA.

Sector Issues

Legal and policy framework. Apart from the statutory framework mentioned above, the department's legal and policy environment consists of the Community Service Regulations and the Community Service Guidelines. The latter sets out the principles of community service as understood in the context of penal reform efforts in Zimbabwe.

As stated above, the National Coordinator reports to both the Permanent Secretary of the MoJLPA and the National Steering Committee on Community Service. According to the department, this dual reporting structure poses a challenge for the effective implementation of its mandate.

Human resources. Key human resources challenges for the department are the large number of vacancies and high staff turnover.⁴⁷ The department has a total of 65 professional staff, which is significantly below the desired total complement of 100. Of these, 33 are women and the rest men.

Table 3: Professional staff in the Department of Community Service

	Current Level	Desired Level
Total number of professional staff	65	100
Professional staff: women	33	50
Professional staff: men	32	50
Staff with a first degree	65	100
Staff with a postgraduate degree	-	-
Staff with other professional qualification	-	-

⁴⁶ The National Steering Committee is a policy body chaired by a judge of the High Court and consisting of major stakeholders in the administration of justice. It is responsible for advising the Minister of Justice, Legal and Parliamentary Affairs on community service; issuing guidelines on community service to those concerned with the administration of justice and those concerned with supervising offenders on community service; conducting workshops and seminars for those concerned with implementation of community service; and generally, supervising, coordinating, promoting and developing community service throughout the country. See s. 4 of the Community Service (General) Regulations, 1997.

⁴⁷ *Strategic Plan for the Ministry of Justice, Legal and Parliamentary Affairs*, p. 16.

The department has identified a number of critical needs in relation to enhancement of staff skills. These are counselling skills, computer skills, case management, report writing and justice delivery.

Physical and technological infrastructure. While the department estimates that it requires at least 20 motor vehicles to be able to carry out its mandate effectively, it currently has only two vehicles. This has resulted in limited mobility of staff, which, in turn, has impacted negatively on the effectiveness of community service as a tool for rehabilitation of offenders. Due to lack of transportation, community service officers are unable to provide the much needed supervision of probationers and guidance to supervisors of the programme, thereby compromising the quality of rehabilitation.

The department faces significant challenges in relation to technological resources: it has a total of four computers (compared to the required 50) and it does not have its own website, local area network or e-mail system. In addition, the databases and case management reporting systems in all the provinces are outdated while the software of the database system currently in use in the National Coordinator office also needs to be updated.

Financial resources. Insufficient budgetary allocations have had an adverse impact on the operations of the department as it has not been able to implement its planned activities over the years. For example, it has received only \$5000.00 of the \$224,000.00 it had budgeted for 2014.⁴⁸ This has undermined the effectiveness and efficiency of the department and hindered the growth of the community service scheme in particular. The lack of financial resources has also prevented the department from conducting an evaluation of the community service programme to assess its achievements and failures. As a result, the scope for growth of the programme has been limited.

The department lacks funds to hold regular meetings and workshops with other institutions including the JSC, NPA and other stakeholders. These are key actors in the implementation of the programme and, as such, the department's interaction with them is critical to the success of the community service scheme.

While the department acknowledges the need to have a strategy for mobilising resources beyond those available through its budgetary allocation from the MoJLPA, it is yet to finalise its concept note on the issue.

HRBA and gender mainstreaming. The department has no policy or action plan on rights-based approaches and mainstreaming gender across its activities. Further, there are no measures in place to ensure that members of staff are familiar with HRBA, as well as gender mainstreaming and justice delivery issues. It is notable, however, that two members of staff have attended a workshop on human rights and two others a workshop on gender mainstreaming. The

⁴⁸ The department estimates that it needs at least \$796,000 to be able to implement its mandate effectively.

department recognises the need for training on these issues for all staff.

Stakeholder engagement. The department's main stakeholders are the Civil Service Commission, placement institutions, communities, provincial committees, faith-based organizations and other JLOS institutions. Institutions such as the JSC, NPA, ZPCS and ZRP are members of the department's Provincial and District Committees. However, poor communication channels between the department and other institutions, such as the ZRP and ZPCS, which are a consequence of cumbersome administrative procedures for accessing services, present a major obstacle to effective collaboration with the department's key stakeholders. There is therefore a need to bolster channels of communication with other Government departments.

The department interacts with CSOs through workshops and District Committee meetings and with the country's development partners through meetings and workshops. It also holds exhibitions to raise public awareness of its services.

Accountability. Complaints by aggrieved members of the public concerning the service provided by the department are dealt with by the National Coordinator on behalf of the Permanent Secretary of the MoJLPA. It is unclear how feedback is provided to complaints or what remedies are available.

3.2 ATTORNEY-GENERAL'S OFFICE

The overall functions of the Attorney-General's Office are to act as the principal legal adviser to the Government; represent the Government in civil and Constitutional proceedings; draft legislation on behalf of the Government; and promote, protect and defend the public interest.⁴⁹ The Office has three main divisions: Legal Advice, Civil and Legislative Drafting, each of which is headed by a Deputy Attorney-General. The brief discussion in this section focuses on the Civil and Legislative Drafting Divisions as these were the only departments which provided information for this assessment.

3.2.1 Civil Division

Mandate and Functions

The core mandate and functions of the Division are to represent the Government in civil and constitutional proceedings and to provide advice on litigation issues to various Government

⁴⁹ Under the Constitution of Zimbabwe, 1980, the Attorney-General was the Government's chief legal adviser and was also responsible for prosecuting criminal cases on behalf of the State. Under the new Constitution, these two functions have been separated: the Attorney-General continues to be the chief legal adviser to the Government (section 114) but responsibility for criminal prosecutions is vested in a new National Prosecuting Authority established by section 258 of the Constitution.

departments. The Division also performs conveyancing work and collects debts on behalf of the Government. Its strategic objectives are to:

- Decentralize its operations to Bulawayo by 31 December 2014 and thereafter to Gweru and Mutare;
- Register all Government property rights received by the Division;
- Enhance its capacity through staff training and development;
- Improve its communication system;
- Ensure involvement and participation of all staff through daily briefings; and
- Improve recovery of debts owed to the Government by 5% by 31 December 2014.

Structure

The Division is headed by the Deputy Attorney-General (Civil) and consists of a Director, Chief Law Officers and Law Officers. The Deputy Attorney-General reports to the Attorney-General.

Sector Issues

Legal and policy framework. One of the major constraints to the ability of the Civil Division to execute its mandate effectively is the nonexistence of a separate Act of Parliament governing the Division's work as was the case prior to 1981. This affects the ability of the Division to offer attractive conditions of service which match those offered in the private sector. The Division has expressed the hope that the entry into force of the Attorney-General's Office Act⁵⁰ will help address this problem.

Human resources. The Division has a shortage of qualified and experienced professional staff. While it has an establishment of 14 Law Officers, 6 Chief Law Officers and one Director, it currently has 12 Law Officers, 2 Chief Law Officers and no substantive Director.⁵¹ The figures provided in Table 3 below relate to Law Officers only. With senior personnel included, the Division's total staff complement is 21. As Table 3 shows, the Division's current staffing levels are significantly below what it considers sufficient to enable it execute its mandate effectively.

⁵⁰The Attorney-General's Office Act [Chapter 7:19] passed in 2011 has never entered into force because of concerns about some of its provisions. A bill to amend the Act was presented to Parliament but has since been overtaken by events including the adoption of the new Constitution which transfers the responsibility for prosecuting criminal cases on behalf of the State previously vested in the Attorney-General to the National Prosecuting Authority. A new Attorney-General's Office is yet to be enacted.

⁵¹ *Strategic Plan for the Ministry of Justice, Legal and Parliamentary Affairs*, p. 12.

As is the case with other Government departments, poor conditions of service had resulted in high staff turnover in the Division. However, it is unable to recruit staff due to Civil Service Commission restrictions. Moreover, most of the lawyers in the Division have less than three years' experience.⁵²

Table 4: Professional staff in the Attorney-General's Office: Civil Division

	Current Level	Desired Level
Total number of professional staff	14	50
Professional staff: women	9	-
Professional staff: men	5	-
Staff with a first degree	All	-
Staff with a postgraduate degree	-	-
Staff with other professional qualification	-	-

Currently, the Division has 5,200 active case files. Relative to the number of lawyers in the Division, this represents a heavy workload which has left officers are overwhelmed.

The Division has identified a number of priorities to address these challenges, including increasing its staff complement by between 10 – 15 lawyers in the short-term (although to operate optimally, it needs a professional staff establishment of 50), offering competitive conditions of service, providing regular in-service training for staff (including capacity building workshops) and introducing a staff reward system to ensure that deserving staff are promoted. The Division also needs to address a number of skills and knowledge gaps, notably litigation techniques, legal drafting, case management and information technology.

Physical and technological infrastructure. The Division operates from Harare and is not decentralized to the provinces. It also lacks pool vehicles with lawyers having to use public transport whenever they travel outside Harare. This state of affairs often results in the Divisions legal personnel being unable to attend court and in the courts being forced to grant judgements in default of appearance against the Government. The Division considers that it needs at least three pool motor vehicles and to decentralize its operations if it is to carry out its functions effectively.

The Division does not have sufficient information technology facilities such as computers. It also does not have a database of case law. An electronic database and information technology facilities would help it perform its functions more efficiently. It should be noted however that some of the Division's personnel, especially those at senior level, lack information technology skills. It is therefore critical that members of staff receive training in information technology.

Financial resources. The main source of funding for the Division's activities is the MoJLPA. However, the funds allocated to the Division are insufficient to cover its operational

⁵² Ibid.

requirements. This situation has left the Division unable to undertake some of its responsibilities. For example, lawyers in the Division are sometimes unable to attend court outside Harare due to lack of transport as well as travel and subsistence allowances. The Division also relies on the Court Retention Fund. No details concerning the Fund were provided by the Division. The Division has no strategy for mobilising additional financial resources.

Apart from the general financial management and accounting procedures generally applicable to the public service, the Division has formal internal financial controls. For instance, travel and subsistence claims must be approved by the head of division and must be accompanied by a notice of set down.

HRBA and gender mainstreaming. The Division has no policy or strategies for mainstreaming human rights and gender in its work, nor has it implemented any measures (such as training or awareness-raising) to provide staff with knowledge of HRBA, gender mainstreaming and justice delivery issues. Moreover, the job descriptions for professional staff do not require an understanding of and/or commitment to gender equality and human rights.

Stakeholder engagement. The Division's clients include other Government institutions such as the ZRP and ZPCS. Apart from representing these institutions in litigation, the Division has not engaged them on issues, such as the need for these institutions to fully adhere to the international human rights standards to which the State has committed, that could prevent costly litigation against the State. The Division also liaises with other institutions such as the Law Society of Zimbabwe (LSZ) and the courts.

According to the Division, regular stakeholder meetings and capacity building programmes with other JLOS institutions would significantly help improve collaboration between the Division and other JLOS institutions.

Accountability. The Division has no formal mechanism through which affected members of the public can lodge complaints concerning the level of service provided by the Division or the conduct of its personnel. Nevertheless, aggrieved individuals may lodge complaints with the Director. The aggrieved party may then be interviewed and, where appropriate, the member of staff concerned requested to provide a report to the Director. Written feedback, which may include suggestions regarding possible remedies, is provided to complainants.

3.2.2 Legislative Drafting Division

Mandate and functions

The core functions of the Legislative Drafting Division are to draft legislation in the form of bills for presentation in Parliament by Government Ministers and to draft legislation in the form of

statutory instruments and general notices for publication in the Government Gazette.⁵³ The Division also provides advice on the implications of proposed and existing legislation.

At present, the most pressing responsibility of the Division is to align all legislation to the new Constitution. In this regard, the Division has identified the priority legislation for alignment and its legislative drafting personnel have been trained on how to align legislation with the Constitution.

Structure

The Division is headed by the Deputy Attorney-General (Legislative Drafting) who reports to the Attorney-General. It also consists of a Director, Chief Law Officers, Law Officers and support staff (office assistants).

Sector Issues

Human resources. The Division has a staff complement of 16, of which four are Executive Assistants, eight Law Officers, two Chief Law Officers, a Director and a Deputy Attorney-General. According to the Division, its staff complement is sufficient for it to implement its mandate. Nevertheless, most of the legislative drafting personnel lack experience. Only three have been in the division for five years or longer. Thus, most of the Division's legislative drafting personnel require supervision to assure quality of their work.

The Division has an in-house training programme where consultants are hired as tutors. It also has an agreement with the Centre for Applied Legal Research to train Government law officers on legislative drafting. Nonetheless, the lack of adequate financial resources limits staff training.

Physical and technological resources. The Division has insufficient technological resources, such as computers, which are critical for it to discharge its responsibilities efficiently. The absence of official email accounts has made internal communication, particularly with regard to sharing documents such as legislative drafts, among staff difficult. Members of staff are of the view - and the Consultants agree - that it is inappropriate for them to conduct Government business using private e-mail platforms such as Yahoo! and Gmail. The Division considers that an intranet - a computer network for sharing information, operational systems or computing services - would help facilitate internal communication and with colleagues in other Government institutions, as well provide a platform for more efficient peer review of legislative drafts. The Division also lacks equipment such as projectors which could be used for the presentation of drafts at meetings held to facilitate peer reviews of drafts. In the absence of such equipment, drafts have to be printed and distributed to all staff at a meeting. This is unduly onerous, time consuming and expensive.

⁵³ *Strategic Plan for the Ministry of Justice and Legal Affairs*, p. 8.

Another issue relating to the technological challenges faced by Division which is worthy of mention is the fact that although the MoJLPA has a website it has not been used to post bills prepared by the Division. The reasons for this are not clear.

Financial resources. The Division depends on funds appropriated by Parliament through the MoJLPA, for that purpose. However, the lack of adequate financial resources is a key obstacle to the implementation of the Division's mandate as well as on staff training activities.

HRBA and gender mainstreaming. There are no specific internal policies or action plans on HRBA and gender mainstreaming. It is notable, however, that the training on alignment of legislation with the Constitution which the Division's legislative drafting officers have undergone included the use of language which promotes the principles of gender equality and human rights.

Stakeholder engagement. The Division's main stakeholders are the Government ministries from which it receives instructions for drafting legislation. It also works closely with the legal officers in Government ministries. One of the key obstacles to the Division's ability to execute its functions efficiently is that some legal advisers in Government ministries face challenges in drafting their principles and laymen's drafts.

3.3 LEGAL AID DIRECTORATE

3.3.1 Mandate and Functions

Established under section 3(1) of the Legal Aid Act [Chapter 7:16], the LAD provides legal services, including advice, drafting and representation in criminal, civil and other related matters, to indigent members of the public.⁵⁴ It also undertakes dispute resolution (arbitration). The LAD does not charge any legal fees to its clients. Nevertheless, clients may be requested to contribute towards the strengthening of the Legal Aid Fund.

The LAD's vision is to "ensure that all indigent persons have access to justice regardless of their geographical location in Zimbabwe" while its mission is "to provide legal aid services to all persons who are considered to be eligible for such legal aid or assistance." Although well understood by its staff, the LAD's vision and mission are not well understood by its clients. It is notable, however, that with the support of development partners, the LAD has undertaken initiatives, such as distributing pamphlets during the Trade Fair and Agricultural Show, to raise public awareness about the services it offers.

The Directorate does not have a long-term strategic plan which clearly defines the results which

⁵⁴ Legal Aid Act [Chapter 7:16], s. 3(2). In terms of section 7 of the Act, any person may apply for legal aid and the application is considered by the Director. The eligibility criteria include insufficient means, reasonable grounds for initiating, carrying on, defending or being a party to the proceedings for which legal aid is sought; and need for or potential benefit from services being provided in respect of the proceedings.

it aims to achieve. However, it defines its strategic objective as the “decentralisation of Legal Aid Services which translates into access of legal services to indigent people in Zimbabwe.”⁵⁵ It is notable that with the support of UNICEF, the LAD is undertaking a full capacity assessment and developing a strategic plan.

3.3.2 Structure

The LAD consists of a Director, Deputy Director, Principal Law Officers, Senior Law Officers, Law Officers and other support staff who form part of the Public Service.⁵⁶ The Director reports to the Permanent Secretary of the MoJLPA.

3.3.3 Sector Issues

Legal and policy framework. According to the LAD, its enabling statutory framework (the Legal Aid Act) has some limitations which have implications for access to legal aid. Chief among these are the gaps relating to the pro-deo scheme previously provided for under the Legal Assistance and Representation Act [Chapter 9:13] which was repealed by the Legal Aid Act. The Legal Assistance and Representation Act provided for the granting of legal assistance to indigent persons appearing in the courts with respect to criminal proceedings, with costs borne by the State. It also provided for compensation of lawyers who represented such persons in the High Court and Supreme Court. According to the LAD, the repeal of the Legal Assistance and Representation Act has left a vacuum in relation to pro-deo matters.

Human resources. As Table 5 below shows, the LAD is currently understaffed. It has a total of 16 lawyers (compared with a desired level of 35), with 12 based in Harare, three in Bulawayo and one in Gweru. The shortage of staff is a key obstacle to the ability of the LAD to realize its vision of ensuring that “all indigent persons have access to justice regardless of their geographical location in Zimbabwe.”

Table 5: Professional staff in the Legal Aid Directorate

	Current Level	Desired Level
Total number of professional staff	16	35
Professional staff: women	15	-
Professional staff: men	1	-
Staff with a first degree	16	35
Staff with a postgraduate degree	5	16
Staff with other professional qualification	4	10

⁵⁵ Response to Self-Assessment Questionnaire, 2 May 2014.

⁵⁶ Legal Aid Act [Chapter 7:16], s. 4(1).

To compound matters, the conditions of service for staff are generally poor and there is system in place to reward staff for their performance. There is also no formal mentoring programme for staff.

According to the LAD, lifting the freeze on recruitment to the Public Service could help address the shortage of professional staff, while the availability of bursaries and scholarships would contribute to staff development.

The LAD has also identified a number of knowledge and/or skills gaps that need to be addressed if it is to effectively implement its mandate. These include knowledge of and skills in criminal litigation, case file management, record keeping, standard operating procedures, human rights and legal drafting.

Physical and technological resources. The LAD has offices in Harare, Bulawayo and Gweru. It has recently secured office space in Mutare but that office is not yet operational. Plans have been made for setting up provincial offices as well as short term legal aid clinics but these have not been implemented due to financial constraints. As a consequence, it is difficult for the LAD to extend its services to those who need them the most – the poor and marginalized, most of whom live in the rural areas.⁵⁷ In addition, all of the LAD's offices require refurbishment.

Other issues affecting the capacity of the LAD to effectively carry out its responsibilities are the lack of transport and technological resources. It currently has two motor vehicles (compared to the 15 which it estimates it requires). Thus, the LAD's legal personnel are constrained to use their own vehicles or public transport when travelling to court.

As regards technological resources, the LAD currently has 13 computers as opposed to a total of at least 30 which it estimates it requires for its operations. The LAD has no case management database, website or e-mail system in place.

Financial resources. Like most Government departments, the LAD faces a critical shortage of financial resources. The Legal Aid Act created a Legal Aid Fund for purposes of funding legal aid. This Fund consists of monies appropriated for the purpose by Parliament, contributions by persons seeking legal aid and deductions from awards to aided persons by a court or under a settlement agreement and any levies paid to the Fund.⁵⁸ According to the LAD, however, the monies from the Fund never trickle down to the Directorate and when they do they are spent on operational costs. The LAD does not have a strategy for mobilizing additional resources.

The financial resources available to the LAD are managed in accordance with the Public Finance Management Act [Chapter 22:19], Treasury Instructions and the LAD Regulations. Other financial controls include internal and external audits and approval of any expenditure by

⁵⁷ It is estimated that 80 per cent of those that require legal aid do not have access to it. See *Strategic Plan for the Ministry of Justice and Legal Affairs*, p. 16.

⁵⁸ Legal Aid Act [Chapter 7:16], s. 14(1).

a Procurement Committee.

HRBA and gender mainstreaming. The LAD does not have policies on HRBA or gender mainstreaming. In recognition of the special needs of clients who are victims of gender-based violence (GBV), the LAD has adopted guidelines for provision of legal aid services “in a manner that best conforms to human rights standards and best practices in dealing with gender-based violence while meeting the institutional needs for order and the practical needs of the clients” and the staff involved.⁵⁹ However, for reasons that are not clear, these guidelines have not been implemented.

The LAD has not implemented any measures (such as training) to ensure that staff are familiar with human rights, gender and justice delivery issues, although it recognises the importance of filling skills gaps in these areas. It is notable, however, that two members of staff have Master of Laws degrees with a specialization in women’s law and they are familiar with gender issues. What is more, some of the lawyers in the LAD have completed short courses on human rights but none has expertise in human rights.

Stakeholder engagement. The LAD has both formal and informal partnerships with Government institutions. It frequently collaborates with the NPA, LDC, JSC and the Department of Policy and Legal Research in the MoJLPA. It also works in partnership with a number of NGOs, such as the LRF, Zimbabwe Lawyers for Human Rights, Musasa Project, ZWLA, and JCT, which also offer legal aid services and with development partners. In this regard, the LAD has entered into strategic partnerships with UNICEF and the LRF to provide legal aid for children, and to develop a Legal Aid Strategy for Children.

However, the absence of a coordination mechanism for all the providers of legal aid services hampers the LAD’s efforts to work together with other providers of legal aid services in an effective manner. In this regard, it should be noted that the Legal Aid Act does not give the LAD a coordination role in relation to the provision of legal aid services in the country. Amending the Act to provide for a coordination mechanism for all providers of legal aid services will assist in ensuring coherence in the provision of legal aid services. It is worth mentioning that CSOs have called for the establishment of a mechanism for monitoring and evaluating the work that CSOs do in the legal aid sector.

The lack of public awareness of the existence of the LAD is a key factor impeding access to legal aid by the poor and marginalized. Although the LAD would like to address this problem through public awareness raising campaigns, its ability to do so is limited due to lack of funding. Nevertheless, the LAD has, with the support of development partners, taken measures to increase its visibility through exhibitions at the Trade Fair and Agricultural Show and distribution of pamphlets.

⁵⁹ Standard Operating Procedures for Legal Aid Services in Zimbabwe, with a special focus on Survivors of Gender-Based Violence (Draft), p. 6.

Accountability. There is no formal mechanism for handling complaints lodged by members of the public. Complaints are addressed on an ad hoc basis and are investigated by management of the LAD. Members of staff against whom complaints are lodged may be subjected to disciplinary proceedings should a basis for such a course of action be established after investigation. The LAD recognises the need to have a well-documented and publicized complaints mechanism.

3.4 LAW DEVELOPMENT COMMISSION

3.4.1 Mandate and Functions

The LDC is a statutory body established on 1 November 1988 in terms of section 3 of the Law Development Commission Act [Chapter 1:02]. Its mandate is “to contribute to the attainment of an equitable and just legal system through the revision, harmonisation, development and reform of the laws of Zimbabwe.” Its functions are to promote the development and reform of the law; review the law and its administration; make proposals for the elimination from the law of any defects of a policy and substantive nature; make proposals for the simplification or codification of any branch of the law; make proposals for bringing the law in line with current national and international trends; make proposals for the fusion or harmonization of customary law with the general law; promote awareness of the law by the public, government departments and other authorities or bodies; and propose new or more effective procedures for the administration of the law and the dispensing of justice.⁶⁰ An additional responsibility deriving from the Statute Law Compilation and Revision Act [Chapter 1:03] is to compile the statutes in revised form and to ensure that each statute is continuously revised in such manner that an up-to-date text of each statute is available as a single document.⁶¹

The LDC also maintains a database of Supreme Court, High Court, Labour Court and Administrative Court judgments. In this regard, it has updated the country’s statutes to 30 September 2013 and summarized and indexed the judgments of the Supreme Court to 31 December 2011 and of the Harare and Bulawayo High Courts to 31 December 2012.

To assist it in executing its mandate, the LDC has identified three Key Result Areas with five goals: (1) Research and Law, with the goals of promoting the development and reform of the law from 75 per cent to 90 per cent by 2018, proposing new and more effective procedures for the administration of the law or the dispensation of justice from 20 per cent to 60 per cent by 2018, and making at least 10 proposals for bringing the law into accord with current and international trends by 2018; (2) Statute Law Compilation and Revision Development, with the goal of revising and compiling 90 per cent of amended statutes by 2018; and (3) Court Judgements Database, with the goal of improving access and reference to judgments from 60 per cent to 80 per cent by 2018.

⁶⁰ Law Development Commission Act [Chapter 1:02], s. 5.

⁶¹ See Statute Law Compilation and Revision Act [Chapter 1:03], s. 10.

Although the LDC is established as a body corporate under the Law Development Commission Act, its independence is limited. It operates as a department under the MoJLPA and its projects are subject to the approval of the Minister of Justice, Legal and Parliamentary Affairs.

3.4.2 Structure

The LDC consists of a chairperson,⁶² deputy chairperson, the Attorney-General, the Law Reviser appointed in terms of the Statute Law Compilation and Revision Act and not less than three and not more than seven other members appointed by the Minister of Justice, Legal and Parliamentary Affairs, the majority of whom must be legal practitioners, law lecturers or persons qualified to be judges.

3.4.3 Sector Issues

Human resources. The LDC faces a number of human resources challenges. It is currently understaffed, with legal personnel consisting of one Chief Law Officer and three Law Officers (compared with the desired level of seven). The position of Chief Law Officer (Law Revision) has never been filled, thus leaving a gap in the implementation of that mandate. While the Deputy Chairperson of the LDC provides some guidance to law officers in this area, the small number of staff makes it difficult for the LDC to fully execute this mandate alongside the mandate concerning to law reform.

In addition, the LDC has a high staff turnover. This poses a challenge in that new members of staff have to be trained when they join the department. The staff complement is generally characterized by officers who are fairly new to the department and the Civil Service. This has a negative impact on institutional memory. The LDC has suggested that a manual for new staff would help promote institutional memory.

Table 6: Professional staff in the Law Development Commission

	Current Level	Desired Level
Total number of professional staff	4	7
Professional staff: women	3	50%
Professional staff: men	2	50%
Staff with a first degree	4	100%
Staff with a postgraduate degree	-	All
Staff with other professional qualification	11	-

⁶² Who is appointed by the Minister of Justice, Legal and Parliamentary Affairs after consultation with the JSC and who must be a judge of the Supreme Court.

The LDC does not have a specific staff development programme. Thus, professional development is undertaken in the general context of the MoJLPA's staff development programme. According to the LDC, this situation has had a negative impact on the capacity of the LDC to carry out its mandate effectively and efficiently.

The LDC largely undertakes research on topics referred to it by the MoJLPA, other Government ministries or stakeholders since its legal personnel generally lack the levels of exposure that would enable them to identify research topics. In addition, members of staff lack exposure to international or regional forums, such as the UN treaty bodies which often make recommendations for reform of national laws, and they generally have no opportunities to interact with other law reform agencies in the region. This limits opportunities for them to access information on law reform trends in the area of compliance with international standards, as well as access to best practices. The lack of interaction with other law reform agencies in the region also deprives the LDC of opportunities to collaborate on law reform and law revision, as well as other areas of mutual interest.

According to the LDC, its legal personnel need the capacity to compile issues and discussion papers in a manner that ensures that the message contained in these papers is communicated to stakeholders clearly enough to solicit their views. Such papers should then be translated into legislative tools, such as draft bills, to enhance consultations among stakeholders before they can be submitted to the Attorney-General's Office for the formal drafting procedures. There is therefore a need for training to enhance the capacities of LDC staff in this regard.

An important challenge has emerged in relation to the endeavours to align all laws with the new Constitution. While the LDC has identified the need for an alignment programme that is designed to assist ministries align laws for whose implementation they are responsible, the LDC does not have the human resource capacity to meet that demand. This has led to alignment efforts proceeding at a slow pace.

The above-mentioned challenges underscore the need for LDC staff to receive comprehensive training to enhance their capacities to execute their duties effectively and efficiently. The LDC shares this view. Thus, it has identified staff skills development, exposure to the relevant international and regional forums and further study, as key capacity development needs.

Physical and technological resources. The LDC faces some challenges with respect to information and communication technology. Although it has procured computers with the support of development partners under the JLOS programme, it lacks the necessary software to establish an online database of court judgments. Thus, at present, the database of judgments which it has compiled is available only on CD-Rom and has to be physically installed in the libraries and other facilities where it is required. This makes it difficult for the LDC to update the database on a regular basis.

It is also important to note that the revision and updating of statutes requires a good understanding of the relevant computer programmes, as well as technical knowledge of how to update statutes. The LCD's capacity in this regard needs to be improved.

Financial resources. The LDC is exclusively dependent on funds appropriated by Parliament through the MoJLPA, for that purpose. However, the financial resources allocated to it are insufficient to enable the LDC fully implement its mandate. In 2014, for example, it has been allocated \$28,000, well short of the expected \$639,000. As a result of financing shortfalls, the LDC has not been able to carry out important initiatives such as organizing consultations with the public, conducting field visits and running training programmes on human rights or gender training for its staff.

HRBA and gender mainstreaming. The LDC does not have a policy or action plan on HRBA or gender mainstreaming, nor does it have the institutional capacity in relation to gender mainstreaming and using rights-based approaches. Consequently, insufficient attention is paid to these cross-cutting issues in the LDC's activities. The LDC acknowledges the need to enhance the capacities of its members of staff in relation to this critical access to justice issues.

Stakeholder engagement. In carrying out its mandate, the LDC interacts with a broad range of institutions. For example, it collaborates with the LAD, the Department of Policy and Legal Research and the Legislative Drafting Division in the Attorney-General's Office in relation to research for law reform. It also consults with Government ministries and CSOs on law reform and revision, organizes workshops involving various stakeholders, including CSOs, on issues of common interest with the aim of raising awareness of the law, and interacts with law reform agencies from other countries.⁶³ However, the effectiveness of the LDC has been limited by its lack of visibility to the general public.

Accountability. The LDC has a mechanism affording aggrieved members of the public the opportunity to lodge complaints against members of staff of the LDC or concerning the level of service provided by the LDC. These complaints are investigated through formal procedures in the MoJLPA. Mechanisms for providing feedback to complainants include correspondence, telephone discussions and meetings.

3.5 NATIONAL PROSECUTING AUTHORITY

3.5.1 Mandate and Functions

Established under section 258 of the Constitution, the NPA is responsible for instituting and undertaking criminal prosecutions on behalf of the State and discharging any functions that are

⁶³The LDC is a member of the Association of Law Reform Agencies of Eastern and Southern Africa (ALRAESA) and currently serves on the Executive Committee of that organization.

necessary or incidental to such prosecutions.⁶⁴ Its vision is “accessible world class criminal justice for all citizens,” while its mission is “[t]o secure the proper and efficient functioning of the criminal justice system and upholding of the rule of law.”

The functions of the NPA include prosecuting criminal cases; prosecuting appeals in the High Court and Supreme Court; drafting legal opinions on criminal matters; providing legal advice to the State and individuals; and giving instructions to police to investigate cases.⁶⁵

The strategic objectives of the NPA are:

- To prosecute all cases pending in the criminal courts;
- To prosecute all appeals/reviews in the High Court and Supreme Court;
- To prosecute all constitutional matters affecting the State in the Constitutional Court; and
- To provide guidance and direction to the police on criminal matters.

3.5.2 Structure

In terms of section 259 of the Constitution, the NPA is headed by a Prosecutor-General whose office is a public office but does not form part of the Civil Service. The Prosecutor-General is appointed by the President on the advice of the JSC but is independent and not subject to the direction or control of anyone.

Section 259(10) of the Constitution states that “[a]n Act of Parliament must provide for the appointment of a board to employ persons to assist the Prosecutor-General in the exercise of his or her functions”. Section 5 of the National Prosecuting Authority [Chapter 7:20], enacted in 2014, provides for the setting up of an NPA board to consist of the Prosecutor-General appointed in terms of section 259 of the Constitution, and other members. The board will be responsible for administering and supervising the NPA and appointing and disciplining its prosecutors and other staff members.

3.5.3 Sector Issues

Legal and policy framework. The National Prosecuting Authority Act provides the enabling statutory framework for the NPA. As stated above, the Act provides for the appointment of an

⁶⁴ The NPA has assumed the functions previously performed by the Criminal Division in the Attorney-General's Office. That Division is no longer in existence. See note 49 above.

⁶⁵ *Strategic Plan for the Ministry of Justice and Legal Affairs*, p. 10.

NPA with specified functions. Section 14 empowers the Minister of Justice, Legal and Parliamentary Affairs to give directions on matters of policy to the board. While the Prosecutor-General has been appointed, it is not clear whether the board contemplated under the Act has been appointed.

Human resources. The NPA faces an acute shortage of qualified staff. As Table 7 below shows, the NPA has 244 professional staff, compared with a desired level of 600. Of the 244 staff, 90 are female and 154 are men. The situation is compounded by a high staff turnover due to poor remuneration and working conditions.

Table 7: Professional staff in the National Prosecuting Authority

	Current Level	Desired Level
Total number of professional staff	244	600
Professional staff: women	90	300
Professional staff: men	154	300
Staff with a first degree	200	600
Staff with a postgraduate degree	10	100
Staff with other professional qualification	14	100

There are two key human resources challenges facing the NPA. First, because the NPA is essentially a new institution there is great uncertainty among its staff – most, if not all, of whom were previously under the Attorney-General's Office - concerning their conditions of service. While the National Prosecuting Authority Act provides that the board appointed in terms of the Act has the responsibility for, inter alia, determining the conditions of service for staff of the NPA, it is not clear whether the board has been appointed or when the conditions of service for staff will be set. Second, there is a need to provide incentives for prosecutors in order to prevent corruption. According to its management, the NPA was keen to look at best practices in the region and to learn from the experience of other countries.

Physical and technological facilities. As stated above, the NPA replaces the Criminal Division of the Attorney-General's Office in the MoJLPA. It still occupies offices within the MoJLPA which were used by the Criminal Division. However, there is an expectation that once the NPA becomes fully independent as envisaged under the Constitution and operational, it will require offices and office equipment. Moreover, the planned decentralization of the NPA to the provinces will have implications for office space, equipment and staff housing. The Consultants were not provided with any indication of the extent of these requirements.

The NPA also faces a critical shortage of transport. It currently has 20 motor vehicles for its operations throughout the country. The NPA estimates that it requires at least 200 vehicles to be able to carry out its functions more efficiently and effectively.

As regards information and communication technology, the NPA has a total of 50 computers.

This is significantly less than the 600 which it requires to function efficiently. The NPA is in the process of establishing a website though progress has been limited by lack of financial resources and the need to finalize the strategic plan of the NPA. In addition, the NPA does not have qualified staff to manage information and community technologies, while members of staff also need training in computer skills. The NPA currently uses a manual case management database. To enhance the efficiency of the NPA, it is necessary to put in place an electronic case management system. The NPA also lacks sufficient communication equipment including telephones and fax machines.

Financial resources. The lack of sufficient funding is a critical obstacle to the capacity of the NPA to implement its mandate effectively. As is the case with other Government departments, the NPA receives its funding from the Treasury. For 2014, the NPA has been allocated a total of \$500,000. It can be argued that this amount is insufficient for a new institution with an ambitious decentralization plan, let alone one that does not have a strategy for mobilising resources to supplement those it receives from the Treasury.

HRBA and gender mainstreaming. The NPA has policies on HRBA and gender mainstreaming but these have not yet been implemented due to lack of resources.

Lawyers within the NPA are required to have an understanding of human rights and gender issues. In this regard, some have participated in human rights training programmes offered by the now-defunct Human Rights Trust of Southern Africa (SAHRIT). Members of staff also receive on the job training concerning the rights of accused persons. Nevertheless, the NPA recognizes the need for members of staff to be trained, inter alia, on the fundamental rights provisions of the Constitution.

Stakeholder engagement. The NPA interacts with various stakeholders, including Government institutions, development partners and CSOs. It liaises with the ZRP on issues of evidence in criminal evidence proceedings; works closely with the police in the context of the Victim Friendly System for victims of GBV and sexual abuse; is part of the National Steering Committee on pre-trial diversion (a programme that is supported by USAID and UNICEF); and works with the Ministry of Health and Child Care on sexual abuse and mental health issues. In addition, it has collaborated with other stakeholders to raise awareness on corruption; it participates in the African and International Associations of Anti-Corruption Authorities; and is a member of the international group on cybercrime. Prosecutors from the NPA are frequently invited to provide input to police training on standard operating procedures. The NPA also cooperates with NGOs, such as the JCT and Musasa Project, on issues of common interest.

It is notable that the shortage of human and financial resources has rendered it difficult for the NPA to build more effective partnerships with other JLOS institutions. For example, in relation to its cooperation with the ZRP concerning training on standard operating procedures, the NPA has expressed interest in developing a manual to provide guidance to the police and to be used

for training, but it does not have the resources to implement this initiative.

Accountability. Complaints concerning the level of service provided by the NPA and against its personnel are investigated by the management of the NPA. Feedback is provided to complainants through meetings, telephone calls and correspondence. An analysis of trends in complaints is done and is used to inform policy interventions. The NPA has signalled the need for an office with a specific mandate to deal with complaints.

3.6 JUDICIAL SERVICE COMMISSION

3.6.1 Mandate and functions

The JSC is established in terms of section 189 of the Constitution.⁶⁶ Its functions are to give advice to the Government on any matter relating to the judiciary or the administration of justice, which the Government is obliged to give due regard to; and to promote and facilitate the independence and accountability of the judiciary and the efficient, effective and transparent administration of justice.⁶⁷ Section 190(4) of the Constitution provides that an Act of Parliament may confer on the JSC functions in connection with the employment, discipline and conditions of service of persons employed in the Constitutional Court, the Supreme Court, the High Court, the Labour Court, the Administrative Court and other courts. The JSC is required to conduct its business in “a just, fair and transparent manner.”⁶⁸

The JSC has adopted a comprehensive Strategic Plan for the period 2012 to 2016 to guide the implementation of its mandate.⁶⁹ The Plan outlines a number of Strategic Objectives designed to help the JSC achieve its broad role of facilitating an environment that is conducive to an independent, transparent and impartial judiciary that can deliver justice for all.⁷⁰

3.6.2 Structure

The JSC consists of the Chief Justice, the Deputy Chief Justice, the Judge President of the High Court, one judge nominated by the judges of the Constitutional Court, the Supreme Court, the High Court, the Labour Court and the Administrative Court; the Attorney-General; the Chief Magistrate; the chairperson of the Civil Service Commission; three legal practitioners of at least seven years’ experience designated by the Law Society of Zimbabwe; one professor or senior law lecturer designated by an association representing the majority of teachers of law at Zimbabwean universities (or, where such an association does not exist, appointed by the President); one person who at least for seven years has practised in Zimbabwe as a public

⁶⁶ Section 90 of the previous Constitution.

⁶⁷ Constitution, ss. 190(1) and (2).

⁶⁸ Constitution, s. 191. Additional functions of the JSC are set out in section 5 of the Judicial Service Act [Chapter 7:18].

⁶⁹ The Plan was adopted after an extensive consultative process from July to November 2011.

⁷⁰ Judicial Service Commission, *Strategic Plan 2012-2016*, p. 16.

accountant or auditor, and who is designated by a statutory association representing such persons; and one person with at least seven years' experience appointed by the President.⁷¹

The JSC is supported by a Secretariat, headed by the Secretary to the JSC and two Deputy Secretaries, one responsible for the Court Services Division (consisting of the Office of the Chief Magistrate, the Office of the Registrar and the Office of the Master of the High Court) and the other for the Support Services Division (comprising Administration, Information Technology and Records Management, Finance and Human Resources Department).⁷² In order to decentralize decision making authority, the head office structure is replicated nationwide at various provincial offices.⁷³

It is worth noting that there is a judiciary, which is distinct from the JSC and consists of the Chief Justice, the Deputy Chief Justice and the other judges of the Constitutional Court; the judges of the Supreme Court; the Judge President of the High Court and the other judges of that court; the Judge President of the Labour Court and the other judges of that court; the Judge President of the Administrative Court and the other judges of that court; persons presiding over magistrates courts, customary law courts and other courts established by statute.⁷⁴ The judiciary is headed by the Chief Justice.

3.6.3 Sector Issues

Legal and policy framework. The Judicial Service Act [Chapter 7:18] provides the statutory framework for the operations of the JSC. However, the statute, which was enacted in 2006, contains references to provisions in the repealed Constitution of 1980. It therefore needs to be aligned to the new Constitution.

Human resources. The Judicial Service faces staffing shortages partly due to the general freeze on recruitment and frustration linked to lack of opportunities for promotion. The country has a total of 29 judges and 225 magistrates (of which 25 are regional magistrates). According to the JSC, however, these staffing levels are, in the light of a population of over 13 million, the existing case load and the fact that magistrates deal with 98 per cent of all the cases in the country (excluding local court cases), woefully inadequate. In the JSC's estimation, each province should have a minimum of three regional magistrates. The heavy workloads and the attendant pressure to quickly dispense justice have the consequence of affecting the quality of justice.

As is the case with the Public Service generally, the JSC conditions of service including salaries and benefits, though different from the Civil Service Commission, are poor.⁷⁵ This has resulted

⁷¹ Constitution, s. 189. Cf. s. 90 of the previous Constitution.

⁷² Judicial Service Commission, *Strategic Plan 2012-2016*, pp. 10-11.

⁷³ Ibid, p. 11.

⁷⁴ Constitution, s. 163(1).

⁷⁵ Judicial Service Commission, *Strategic Plan 2012-2016*, p. 26.

in low staff morale. The JSC has therefore identified the improvement of the conditions of service for its employees as a key strategic priority.

Physical and technological resources. The Judicial Service faces a number of challenges relating to infrastructure, including an insufficient number of court rooms, inadequate office space and facilities which are generally in very poor condition. Other issues of grave concern are insufficient and obsolete court recording and transcription equipment,⁷⁶ lack of a comprehensive information technology based case management system to track the status of cases in all courts and lack of vehicles for its officers.

Financial resources. The JSC is funded from the State budget through Treasury. It also retains 40 per cent of court revenues. These funding arrangements appear to be unsatisfactory. For example, while the JSC has a communications strategy in place, it has not been able to implement the same due to financial constraints. Consequently, in its Strategic Plan 2012-2016, the JSC has indicated that it will “consider funding options that will generate adequate infrastructure finance, capital expenditure and working capital finance without compromising its independence.” These options include State funding (direct budget allocation defended directly by the Secretariat before Parliament); a Trust Fund which has already been established and into which contributions from “appropriate” local and international development partners, donors and well-wishers will be paid; and retaining 100 per cent or such other rate as may be agreed with other stakeholders, of court revenues.⁷⁷

Other challenges. According to the JSC, the country’s court system (especially the lower courts) is generally perceived to be highly corrupt.

3.7 ZIMBABWE PRISONS AND CORRECTIONAL SERVICE

3.7.1 Mandate and Functions

Formerly known as the Zimbabwe Prison Service, the ZPCS is responsible for the protection of society from criminals through the incarceration and rehabilitation of convicted persons and others, who are lawfully required to be detained, and their reintegration into society; and the administration of prisons and correctional facilities.⁷⁸ In discharging its functions, the ZPCS is required to be non-partisan, national, patriotic and subordinate to the civilian authority.⁷⁹

The ZPCS does not have a strategic plan. As part of the MoJLPA, however, it subscribes to the strategic plan of the MoJLPA.

⁷⁶ For example, in Harare High Court, only seven of the 14 courtrooms have digital recording equipment and only 52 magistrates’ courts are computerised and online. These were procured with financial assistance from the Royal Danish Embassy.

⁷⁷ Judicial Service Commission, *Strategic Plan 2012-2016*, p. 19.

⁷⁸ Constitution, s. 227(1)(a) and (b). See also Prisons Act [Chapter 7:11] and the Zimbabwe Prison Service Charter.

⁷⁹ Constitution, s. 227(2).

3.7.2 Structure

The ZPCS is headed by a Commissioner-General of the Prisons and Correctional Service who is appointed by the President after consultation with the Minister responsible for the Prisons and Correctional Service.⁸⁰ The Commissioner-General is assisted by three Deputy Commissioners-General and six Commissioners.

The Constitution also establishes a Prisons and Correctional Service Commission consisting of a chairperson (who must be the chairperson of the Civil Service Commission), and a minimum of two and a maximum of six other members appointed by the President. The functions of the Commission are to employ qualified and competent persons to hold posts or ranks in the ZPCS; fix and regulate conditions of service, including salaries, allowances and other benefits, of members of the ZPCS; ensure the general well-being and good administration of the ZPCS and its maintenance in a high state of efficiency; ensure that members of the ZPCS act in accordance with the Constitution and the law; foster harmony and understanding between the ZPCS and civilians; advise the President and the Minister on any matter relating to the ZPCS; and to exercise any other function conferred or imposed on it by the Constitution or an Act of Parliament.

3.7.3 Sector Issues

Legal and policy framework. The enabling statutory framework for the ZPCS, the Prisons Act [Chapter 7:11] was enacted in 1955 and entered into force in 1956.⁸¹ It should be noted that, at that time, the political, social and international context was different: the country was under colonial rule and the international human rights regime was in its formative stages. Although the Act has been amended several times, it is outdated and arguably does not reflect the obligations which Zimbabwe has assumed by ratifying the core international and regional human rights treaties. According to the ZPCS, the fact that the Act is not yet aligned to the new Constitution is a major constraint on the ability of the organization to execute its mandate effectively. It is therefore important that the Act is brought into line with the new Constitution which, it must be noted, incorporates many of the international human rights standards to which Zimbabwe has committed.

Human resources. As Table 8 below illustrates, the ZPCS is understaffed. Although the Prison Service Commission has given its approval for the ZPCS establishment to be increased to 22,000, this is yet to be implemented. At present, 93 per cent of the staff vacancies remain

⁸⁰ Constitution, s. 229(1).

⁸¹ The Act deals with a broad range of issues, including establishment of prisons; appointment of prison officers; the Prison Service Commission; powers and duties of prison officers; appointment of medical officers; official visitors; visiting justices; ministers of religion and prisoners aid societies; desertion and mutiny; admission and confinement of prisoners; segregation and classification of prisoners; custody and removal of prisoners; labour of prisoners; maintenance; prohibited articles and areas; discipline of prisoners; escapes; corporal punishment; prisoners under sentence of death; remission of sentence; release of prisoners on licence or order; report on long-term prisoners; and discharge of prisoners, among others.

unfilled. According to the ZPCS, this shortcoming can be addressed through recruitment and training.

Table 8: Professional staff in the Zimbabwe Prisons and Correctional Service

	Current Level	Desired Level
Total number of professional staff	10,268	22,000
Professional staff: women	272	-
Professional staff: men	750	-
Staff with a first degree	159	-
Staff with a postgraduate degree	24	-
Staff with other professional qualification	1,022	1,932

With regard to staff development, the ZPCS has a policy which aims to address gaps in its recruitment and training programmes. In terms of the Prisons (General) Regulations, 2003,⁸² officers may be granted study leave to enable them take courses which can help address the organization's skills gaps. Financial assistance is also provided to officers undertaking further studies.

The regulations recognize exceptional performance of duty by individual officers who excel in any skill, discipline or any other outstanding achievement, activity or act. The ZPCS confers performance-based awards (both monetary and non-monetary, including medals) on deserving staff to reward them for outstanding achievements.

Physical and technological resources. Prison conditions remain a concern for the ZPCS. The physical infrastructure is generally dilapidated with 30 prisons in need of renovation;⁸³ the prisons are overcrowded (resulting in an outbreak of communicable diseases);⁸⁴ 70 per cent of the prison population lacks adequate clothing; and 50 per cent lack adequate bedding nutrition.⁸⁵ Although the ZPCS Service Charter states that "[q]uality and quantity of food" for inmates is approved by a dietician in the Ministry of Health, reports indicate that nutrition-deficiency is a problem and that 70 per cent of the standard dietary scale is not being provided.⁸⁶

The ZPCS also faces serious challenges with regard to transportation of prisoners on remand to court. These problems are compounded by the lack of comprehensive legal aid support for

⁸² Statutory Instrument No. 196 of 2003.

⁸³ According to the Ministry of Justice, Legal and Parliamentary Affairs, about 50 per cent of prison infrastructure requires renovation while sanitation facilities are in need of improvement. See *Ministry of Justice and Legal Affairs Strategic Plan*, p. 15.

⁸⁴ It is estimated that the prison population exceeds 22,000 against a capacity of 16,000. See www.pfi.org/cjr/newsitems/pf-zimbabwe-addresses-prison-overcrowding (accessed 1 November 2013). The International Centre for Prison Studies estimates the prison population at 16,902 (including pre-trial detainees/remand prisoners) as at end February 2013. See http://www.prisonstudies.org/info/worldbrief/wpb_country.php?country=53 (accessed 1 November 2013).

⁸⁵ See *Ministry of Justice and Legal Affairs Strategic Plan*, p. 19. In 2008, a combination of poor harvests, a cholera outbreak and dire economic problems had led to serious malnutrition and widespread health problems in the country's prisons. See <http://www.icrc.org/eng/resources/documents/update/2010/zimbabwe-update-2010-10-28.htm> (accessed 1 November 2013). See also ZACRO, *Prison Visits Report 2012*, available at <http://www.zacro.org.zw> (accessed 1 November 2013).

⁸⁶ Ministry of Justice and Legal Affairs Strategic Plan, p. 19. In

accused persons who remain on remand for prolonged periods of time and delay in the finalization of cases of prisoners on remand.⁸⁷ The ZPCS estimates that it needs at least 10 vehicles per station to be able to carry out its functions effectively.

The Government has attempted to address some of these issues through a number of measures. For example, Statutory Instrument No. 149 of 2011 sets out the dietary requirements for prisons. For its part, the MoJLPA has outlined an ambitious plan to address some of these problems.⁸⁸ Nevertheless, as indicated earlier in this report, it faces financial and human resource constraints which may render it difficult to achieve the strategic objectives laid out in its Strategic Plan.

Although the ZPCS has plans to establish information and communication technologies, including human resources and inmates databases, it lacks the financial resources to do so. It also requires at least 15 computers for each station and

Financial resources. The ZPCS faces a critical shortage of financial resources. According to the management, the funding allocated to the ZPCS are insufficient to enable it effectively fulfil its mandate. For example, only 30 per cent of the budget allocated for 2013 has been received. Key impacts of inadequate funding include a shortage of prisoners and officers' supplies, inadequate security vehicles and fuel to transport prisoners to and from courts, insufficient transport for staff, insufficient inputs for activities such as farming which are an important part of the ZPCS's prisoner rehabilitation programme and lack of office space and staff housing.⁸⁹

In an attempt to mobilize financial resources to supplement those received from the Treasury, the ZPCS has entered into various income generating business arrangements including farming. It is also open to contributions from development partners.

HRBA and gender mainstreaming. The ZPCS has draft gender equality and human rights policies in place. It also has a gender office. According to its Service Charter, the ZPCS undertakes to make every effort to respect the rights enshrined in the Constitution and all staff of the ZPCS are required to carry out their functions with due respect for human rights.

According to the ZPCS, its officers are required to abide by the UN Minimum Standard Rules for the Treatment of Prisoners, and that some of its officers have, with the support of development partners, received training in human rights. Nevertheless, it lacks resources to be able to provide training for all prisons and correctional staff. Such training could be provided through specialized courses offered by external institutions and in the context of the training offered at the prison training college.

In relation to gender mainstreaming, the ZPCS has programmes which address the situation of female inmates including those with children in prison. The ZPCS has approved an open prison

⁸⁷ Ibid, pp. 19-20.

⁸⁸ Ibid, p. 26.

⁸⁹ Strategic Plan for the Ministry of Justice, Legal and Parliamentary Affairs, p. 16.

facility for female prisoners but lacks funding to implement this initiative.

Stakeholder engagement. The ZPCS works closely with other JLOS institutions, such as the MoJLPA, JSC and ZRP, through exchanges of information and meetings. However, cumbersome administrative procedures remain a major impediment to effective collaboration with these institutions.

It also cooperates with CSOs on issues of mutual concern. For example, it has held stakeholder meetings with the Zimbabwe Association for Crime Prevention and Rehabilitation of the Offender (ZACRO) and faith-based organisations which support the rehabilitation of offenders. It also participates in workshops and training programmes offered by CSOs.

Apart from its partnerships with the above stakeholders, the ZPCS cooperates with development partners through, inter alia, workshops and prison visits. It also interacts with the public through a variety of avenues including television programmes, exhibitions, career guidance programmes at educational institutions and prison day commemorations.

Accountability. In accordance with the ZPCS Service Charter, complaints by members of the public concerning the service provided by the organization are handled at various levels as follows: at station level, by the officer in charge; at regional level, by the commanding officer; and at national level, by the Commissioner General of Prisons and Correctional Service. Aggrieved individuals who are not satisfied with the outcome may approach the Permanent Secretary or the Minister of Justice, Legal and Parliamentary Affairs, or they may seek redress through external bodies such as the ZHRC.

3.8 ZIMBABWE REPUBLIC POLICE

3.8.1 Mandate and Functions

The ZRP is established under section 219 of the Constitution and is responsible for detecting, investigating and preventing crime; preserving the internal security of the country; protecting and securing the lives and property of people; maintaining law and order; and upholding the Constitution and enforcing the law without fear or favour.⁹⁰ Its vision is “to be a leading police service provider in the world by the year 2020.” Its strategic objectives are to:

- provide the highest quality service to the public;
- achieve maximum cooperation with the public;
- attain efficient and effective use of all existing resources;

⁹⁰ Constitution, s. 219(1)(a) – (e).

- attain the highest professional standards in managerial, operational and personal performance;
- achieve transparency in both individual and organisational performance; and
- achieve accountability.

3.8.2 Structure

The ZRP falls under the MoHA and comprises uniformed national police, the Criminal Investigation Department and traffic police.⁹¹ It also has specialist support units including the Police Support Unit and riot police, a Police Internal Security and Intelligence unit and ceremonial and canine units. In terms of section 221 of the Constitution, the ZRP is headed by a Commissioner-General appointed by the President after consultation with the Minister responsible for the police.

3.8.3 Sector Issues

Legal and policy framework. Section 219(4) of the Constitution provides that “[a]n Act of Parliament must provide for the organisation, structure, management, regulation, discipline and promotion and demotion of officers and other members and, subject to section 223, the conditions of service of members of the Police Service. At present, the Police Act [Chapter 11:10], which was enacted in 1995, provides the enabling statutory framework for the ZRP. Nevertheless, there are some inconsistencies between the provisions in the Constitution concerning the ZRP and the Police Act. For example, while the Constitution establishes and refers to a “Police Service”, the Act refers to a “Police Force.” Under section 221 of the Constitution, the Police Service is under the command of a “Commissioner-General” but section 5 of the Act refers to a “Commissioner of Police.” These examples underscore the need for the Act to be aligned to the Constitution.⁹²

Human resources. For security reasons, the ZRP was unable to provide figures relating to its staff complement. For that reason, the Consultants were unable to assess its capacity in this regard.

With regard to staff development, the ZRP carries out staff training programmes for both operational and administrative personnel. These are run by the Police Staff College which offers courses accredited by the Higher Education Examinations Council. All frontline managers are

⁹¹ Note that section 4 of the Police Act states that the Police Force consists of a Regular Force, a Police Constabulary and ancillary members.

⁹² Section 219(4) of the Constitution provides that “[a]n Act of Parliament must provide for the organisation, structure, management, regulation, discipline and promotion and demotion of officers and other members and, subject to section 223, the conditions of service of members of the Police Service.

required to complete a diploma in business studies offered by the Staff College while all personnel at the rank of sergeant and above attend mandatory induction courses upon promotion. There is also a mentoring system in terms of which all newly recruited police personnel are mentored by a senior member of staff (either a Sergeant or an Assistant Inspector) for a period of 12 months.

The ZRP has an incentive scheme to reward staff for their performance. Measures in this regard include acknowledgment of good performance, the Commissioner-General's commendation, the Commissioner-General's special commendation and promotion (including instant promotion by the Commissioner-General). It also has a code of conduct which binds all staff.

With reference to the capacity of its personnel to help it execute its mandate effectively and efficiently, the ZRP has identified skills in combating economic crimes and in management of public order situations as critical needs.

Physical and technological resources. The ZRP faces a number of challenges in relation to physical and technological infrastructure. These include lack of accommodation, transport, uniforms and equipment such as computers.

The ZRP has in place a docket management system and a database of criminal offenders. Among the information and communication technology capacity building priorities the ZRP has identified are the acquisition of technology that facilitates modern investigation techniques and the implementation of modern information management systems.

Financial resources. The ZRP's financial resources are insufficient. As a result, it faces a number of challenges in relation to physical and technological infrastructure which have a bearing on the ability of the ZRP to carry out its mandate effectively. Although the ZRP continues to lobby the Government for more funding, it is aware of the constraints faced by the Government as a result of the prevailing economic conditions.

The ZRP uses the Public Finance Management System to guide its financial management and accounting procedures. Other controls governing its financial operations are internal auditors in its Finance Directorate and external auditors from the MoHA.

HRBA and gender mainstreaming. The ZRP has internal policies and programmes in place to promote gender mainstreaming and human rights. These include enhancing career and promotion opportunities for women, transfer and placement systems that take into account women's circumstances, identifying and removing practices which discriminate against women and strengthening institutional and legal capacities to address GBV.

All managerial and operational personnel are required to have an understanding of human rights and gender equality. Thus, for example, the police training curriculum includes human rights as

a subject and the subject is taught at all training depots, Provincial Updating Centres and the Police Staff College.

It is also notable that the ZRP is part of the Victim Friendly System and provides facilities and resources to the Victim Friendly Units in all the provinces. It also conducts awareness campaigns on crimes against women and children and is developing a witness protection scheme. The ZRP has also supported investigation teams with tools for recording evidence so as to protect the rights of the accused.

Stakeholder engagement. The ZRP interacts with other JLOS institutions including the MoJLPA, the Attorney-General's Office, NPA, and ZPCS. These interactions occur through, inter alia, meetings, workshops and seminars. The main challenge to effective collaboration is that Government ministries have not adopted modern and more efficient communication systems but still rely on letters for communication. The ZRP also cooperates with stakeholders in the Victim Friendly System as well as those working on domestic violence issues.

In addition, the ZRP cooperates with the country's development partners through meetings, workshops and seminars and interacts with the public through suggestion boxes, telephone hotlines and social media (such as Facebook and Twitter).

Accountability. The Police Service Charter sets out the ZRP's complaints mechanism. Complaints by the public concerning the services provided by the ZRP or against police personnel are investigated by the Police Internal Investigations Department and the Legal Services Directorate. Complainants are contacted in writing or called for a meeting in an attempt to resolve their grievances. Each police station has a complaints desk.

3.9 MINISTRY OF WOMEN AFFAIRS, GENDER AND COMMUNITY DEVELOPMENT

3.9.1 Mandate and Functions

The mandate of the MoWAGCD is to promote the empowerment of women, gender equality and equity, and community development.⁹³ The MoWAGCD has overall responsibility for implementing and coordinating policies and programmes on gender (see below) through a multi-sectoral approach. It also has the mandate to administer the Domestic Violence Act [Chapter 5:16].

The MoWAGCD has three socio-economic objectives, namely, empowering women through

⁹³ The relevant legal and policy frameworks include the *Ministry Strategic Plan 2009-2014: Guiding framework for operations*; Broad Based Women's Economic Empowerment Framework: An Action plan for providing a practical and systematic approach to mainstreaming women in all sectors of the economy; National Gender Policy (2013), *National Gender Based Violence Strategy 2012-2015* (a framework for coordinating Government, civil society and development partners' prevention of and response to gender based violence), *Gender Budgeting Training Manual* (a guide for developing gender responsive budgets), *Family Laws Handbook* (a simplified version of all family laws designed to increase awareness and access to justice)

policies, strategies and programmes that promote their participation in national development; promoting gender equality and equity to ensure equal and equitable access, control, utilization and ownership of resources; and empowering communities so that they are self-reliant and are able to participate at all levels, in all spheres of their lives for sustainable development.

The MoWAGCD has implemented a number of initiatives in fulfilment of its mandate. These include introducing, with the support of UNDP, gender-responsive economic policy management and sensitizing Permanent Secretaries and training 75 economic planners and directors in this regard. Since 2009, the MoWAGCD has encouraged Government institutions to undertake gender-responsive budgeting through a circular it has issued which directs accounting officers to mainstream gender in their planning and budgetary processes.

3.9.2 Structure

The MoWAGCD is headed by a Cabinet Minister who is assisted by a Deputy Minister. The Permanent Secretary serves as administrative head. The MoWAGCD has three departments each of which is headed by a Director: Women Affairs, Gender and Community Development. The Department of Women Affairs leads initiatives on empowerment of women, gender equality and equity for community development. The Department of Gender focuses on promoting gender equity and equality with the ultimate aim of advancing equal and equitable access, control and ownership of resources between men and women. The Department of Community Development focuses on empowering communities so that they can be self-reliant.

The MoWAGCD is decentralized to the Provincial, District and Ward levels, making it accessible to all, particularly women and other vulnerable groups at community level.

3.9.3 Sector Issues

Legal and policy framework. The relevant legal and policy frameworks include the Constitution; several statutes;⁹⁴ *Ministry Strategic Plan 2009-2014* (a guiding framework for operations); *Broad Based Women's Economic Empowerment Framework* (an action plan for providing a practical and systematic approach to mainstreaming women in all sectors of the economy); *National Gender Policy (2013)*; *National Gender Based Violence Strategy 2012-2015* (a framework for coordinating Government, civil society and development partners' prevention of and response to GBV); *Gender Budgeting Training Manual* (a guide for developing gender responsive budgets); *Family Laws Handbook* (a simplified version of all family laws designed to increase awareness and access to justice by women and communities); the Southern African Development Community (SADC) Protocol on Gender and Development; the Common Market

⁹⁴These include the Matrimonial Causes Act [Chapter 5:13], Maintenance Act [Chapter 5:09], Administration of Estates Act [Chapter 6:01], Domestic Violence Act [Chapter 5:16], Sexual Offences Act [Chapter 9:21], Education Act [Chapter 25:04], Labour Act [Chapter 28:01], and Criminal Procedure and Evidence Act [Chapter 9:07].

of Eastern and Southern Africa (COMESA) Gender Policy; the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

It is notable that all of the national statutes which contain provisions advancing gender equality and equity were enacted before the new Constitution came into effect. It is therefore necessary that an assessment of the statutes is conducted to ensure that they are consistent with the Constitution in general and with the fundamental rights and gender equality provisions in particular, and that any inconsistencies revealed by such evaluation are addressed.

Human resources. As Table 9 below shows, the MoWAGCD has an acute shortage of professional personnel. At 553, the current professional staff complement is significantly less than the 2,175 which the MoWAGCD considers as the appropriate number of professional personnel it needs to be able to execute its mandate well.

The MoWAGCD also lacks the requisite in-house expertise to implement some of its programmes such as the development of factsheets on constitutional provisions relating to gender equality and equity. Although it has considered engaging consultants to undertake this work, resource constraints have rendered this difficult. Resource constraints have also prevented optimal implementation of the MoWAGCD's staff development programme.

Table 9: Professional staff in the Ministry of Women Affairs, Gender and Community Development

	Current Level	Desired Level
Total number of professional staff	553	2,175
Professional staff: women	368	1,450
Professional staff: men	184	725
Staff with a first degree	281	2,175
Staff with a postgraduate degree	30	2,175
Staff with other professional qualification	300	2,175

Physical and technological resources. The MoWAGCD currently has a total of 84 offices countrywide although it requires at least 87 to be able to operate more effectively. Transport is a huge challenge for the MoWAGCD. At present, it has a total of 35 motor vehicles compared with an estimated 85 which it needs.

The MoWAGCD lacks information and communication technology facilities to link it to other ministries and does not have a single communication strategy. At the provincial level, the offices have computers while the provincial heads have laptops. At the district level, each office has one computer which is shared by six officers. Computers are also available at ward level where they are most needed. Nevertheless, the MoWAGCD considers the current allocation of desktop computers and laptops, as well as fax machines, is inadequate for its purposes. It estimates that it needs at least 180 laptops, 180 desktop computers and 82 fax machines to be able to function

effectively.

The MoWAGCD recognizes that it needs to improve access to information and communication technologies if it is to interact more effectively with its various stakeholders. The MoWAGCD also believes an intranet would enhance communication and information sharing among its various offices. The intranet could also be used to provide online training for officers in the outlying areas.

Financial resources. As is evident from the foregoing discussion, the lack of financial resources is a key factor impeding the effective implementation of the Ministry's mandate. According to the MoWAGCD, it requires \$30,000,000 to be able to full implement its mandate. Thus, the amount of \$10,804,000 allocated by the Treasury falls well below its budgeted requirements. Over the last three years, the MoWAGCD has proposed a budget of \$100,000 for gender mainstreaming but, on occasion, the MoFED has not released the requested funds.

The MoWAGCD also receives financial and technical support from development partners, including UNDP, UN Women and the United Nations Population Fund (UNFPA).

HRBA and gender mainstreaming. There are policies/action plans on human rights and gender mainstreaming. However, the scarcity of human rights expertise among members of staff in the MoWAGCD has hampered efforts to implement some programmes. Therefore, the MoWAGCD recognizes that the provision of training on human rights and rights-based approaches to programming would equip members of staff with the requisite knowledge and skills to contribute more effectively to the execution of its mandate. In this regard, training on human rights and gender issues has been conducted for members of staff although this is limited.

The MoWAGCD also works with Gender Focal Persons in all Government ministries and local authorities. The Gender Focal Persons, who are officials at the level of Director, are responsible for mainstreaming gender in policies, programmes and projects in their ministries.

Stakeholder engagement. The MoWAGCD has a number of avenues for interacting with various stakeholders. For example, it participates in the preparation of the reports submitted by the State under the core international and regional human rights treaties to which it is a party and the Minister and Permanent Secretary have reported to the Parliamentary Portfolio Committee on Gender and Youth on the implementation of the National Gender Policy.

Cooperation with development partners is made possible through the Gender Thematic Group established under the ZUNDAF. However, this mechanism does not include CSOs. The MoWAGCD interacts with CSOs through the Gender Forum and the Women's Coalition.

Accountability. Complaints by members of the public are handled by the legal adviser and the Permanent Secretary of the MoWAGCD. Procedures for complaints are posted on the website

of the MoWAGCD. However, the website is not accessible to all stakeholders especially those at community level. Feedback on complaints is provided through the provincial, district and ward offices, or directly in writing as the situation demands.

3.10 MINISTRY OF PUBLIC SERVICE, LABOUR AND SOCIAL WELFARE

3.10.1 Mandate and Functions

The MoPSLSW derives its mandate from the Constitution and several statutes.⁹⁵ It is responsible for building the capacity of members of the Public Service to ensure excellence and efficiency in the delivery of public services and goods; initiating reforms to strengthen and ensure public service management and administration; promoting sound labour relations; preventing and managing labour disputes; and providing and coordinating social welfare services for the disadvantaged or vulnerable groups in the country. The MoPSLSW defines its vision as “an excellent public service and a socially secure nation by 2018”. Its mission is “[t]o facilitate the development of excellence in public service management, promote efficient labour administration and provide sustainable social protection services for socio-economic transformation.”

The MoPSLSW has several key strategic objectives which it would like to achieve by 31 December 2014. Among these are to:

- improve job-related skills of 8 per cent of civil servants;
- increase provision of child care protection and social welfare services to orphans and other vulnerable children from 525,000 to 770,000;
- extend social transfer to households living below the Food Poverty Line by 8 per cent;
- improve compliance with internationally accepted labour standards from 30 to 33 per cent;
- increase the financing of the Ministry's programmes from 68 to 73 per cent;

⁹⁵ These include the Boy Scouts Association Act [Chapter 25:19]; Children's Act [Chapter 5:06]; Disabled Persons Act [Chapter 17:01]; Ex-Political, Detainees and Restrictes Act [Chapter 17:10]; Factories and Works Act [Chapter 14:08]; Judges Salaries, Allowances and Pensions Act [Chapter 7:08]; Labour Act [Chapter 28:01]; National Heroes Act [Chapter 10:16]; National Social Security Authority Act [Chapter 17:04]; Older Persons Act [Chapter 17:11]; Pensions and Other Benefits Act [Chapter 16:01]; Pensions (Increase and Adjustments) Act [Chapter 16:02]; Pensions Review Act [Chapter 16:03]; Pneumoconiosis Act [Chapter 15:08]; Private Voluntary Organizations Act [Chapter 17:05]; Public Service Act [Chapter 16:04]; Refugee Act [Chapter 4:03]; Social Welfare Assistance Act [Chapter 17:06]; Social Workers Act [Chapter 27:21]; State Service (Disability Benefits) Act [Chapter 16:05]; War Pensions Act [Chapter 11:14]; War Victims Compensation Act [Chapter 11:16]; Parliamentary Pensions Act [Chapter 2:02]; Parliamentary Salaries, Allowances and Benefits Act [Chapter 2:03]; Presidential Salary and Allowances Act [Chapter 2:6]; Presidential Pensions and Retirement Benefits Act [Chapter 2:05]; Public Service Act [Chapter 16:04]; State Service (Pensions) Act [Chapter 16:06]; and Zimbabwe Institute of Public Administration and Management Act [Chapter 25:17].

- increase the number of households living below the Food Poverty Line accessing income-generating projects and productive social safety nets from 10 to 20 per cent;
- improve on the Ministry's facilities, tools and equipment for service delivery by 20 per cent;
- increase human capital establishment from 70 to 75 per cent;
- improve social dialogue from 25 to 35 per cent; and
- improve employment services delivery from 20 to 25 per cent.

3.10.2 Structure

The MoPSLSW merges the former Ministry of Public Service with the Ministry of Labour and Social Services. It is headed by a Cabinet Minister who is assisted by a Deputy Minister. The Permanent Secretary serves as administrative head. The MoPSLSW has three departments, Public Service, Labour and Social Welfare, each of which performs distinct functions relating to the mandate of the Ministry and is headed by a Director.

3.10.3 Sector Issues

Legal and policy framework. As stated above, the MoPSLSW draws its mandate from the Constitution and several statutes. According to the MoPSLSW, there are substantive and procedural lacunae in the enabling statutory framework, although it did not specify what these gaps are. In addition, the lack of alignment between these statutes and the new Constitution poses a challenge for the MoPSLSW in executing its mandate effectively. There are efforts underway to align the statutes to the new Constitution.

Human resources. The MoPSLSW did not provide information relating to the existing and desired levels of professional staff. It is notable, however, that one of its strategic objectives is to increase its human capital from 70 to 75 per cent by 31 December 2014. Furthermore, it has identified the non-availability of "qualified and experienced staff" as one of the factors that has implications for the effective implementation of its mandate.

Staff development is governed by the Public Service Regulations.⁹⁶ The MoPSLSW provides financial support to members of staff who wish to develop their expertise or skills through training. However, it did not provide details regarding the level of financial support or the number of staff who have benefitted from such support.

⁹⁶ Statutory Instrument No. 1 of 2000.

Staff performance is monitored on a quarterly basis. However, there is no policy in place to reward staff for their performance. Staff performance is rewarded at the initiative of the human resources department, although such rewards are often targeted at long-serving members of staff. There is no formal mentoring programme.

Physical and technological resources. The MoPSLSW has a shortage of offices and motor vehicles. The available office space is insufficient while some departments do not have vehicles. The MoPSLSW is of the view that its effectiveness would be significantly enhanced by the provision of vehicles for all the departments as well as availability of sufficient office accommodation.

As regards information and communication technologies, all offices within the MoPSLSW have desktop computers and selected members of staff have laptops. The MoPSLSW has a website and internet facilities. However, not all officers have internet access and not all offices have telephones. The MoPSLSW maintains a database of all the vulnerable groups requiring its assistance. It also has a case management system within the Department of Social Welfare.

Financial resources. The main source of funding for the MoPSLSW is the Treasury. Additional funding is available from grants provided by development partners, as well as fees paid by participants in the programmes offered by the Ministry's training institutions.⁹⁷ Nevertheless, the lack of sufficient resources represents a major constraint on the ability of the MoPSLSW to implement its mandate effectively.

The MoPSLSW financial management and accounting procedures are based on the Public Finance Management System.

HRBA and gender mainstreaming. In line with the National Gender Policy, the MoPSLSW has policies on gender mainstreaming. Key result areas of the policies include distribution of sanitary wear to female members of staff, inclusion of gender considerations in HIV and AIDS workplace policies and promotion of an active policy of gender mainstreaming in all of its policies and programmes. There are also efforts to ensure that a gender-responsive budgeting framework is put in place to guide the distribution of resources under the control of the MoPSLSW.

Notwithstanding the above mentioned initiatives, members of staff have not received any training on HRBA, gender mainstreaming or justice delivery issues. This has implications for their ability to use adopt rights-based approaches or mainstream gender in the Ministry's activities. It should be noted that while the MoPSLSW has made provision in its budget for

⁹⁷ The Ministry has several institutions which provide training to equip public servants with requisite skills, knowledge and attitudes that would ensure high quality performance and service delivery. Some also offer training to the private sector. The institutions include Highlands Institute of Training and Development, Elangeni Training and Development Institute, Domboshava Institute of Training and Development, Senga Institute of Training and Development, Alvord Institute of Training and Development, Chinhoyi Institute of Training and Development, Rowa Institute of Training and Development, Esikhoveni Institute of Training and Development, Thuli Institute of Training and Development, Inyathi Institute of Training and Development, Toronto Institute of Training and Development, Bikita Institute of Training and Development, and Murewa Institute of Training and Development. See www.publicservice.gov.zw.

training activities, no funds have been released by the Treasury to enable the MoPSLSW implement any training activities. Despite these challenges, the MoPSLSW has conducted stakeholders' information sharing sessions throughout the country on labour laws and the rights of workers.

Stakeholder engagement. The MoPSLSW has formal links with other JLOS stakeholders, particularly the MoJLPA, MoHCC and the Attorney-General's Office. It interacts with these institutions through correspondence, meetings and workshops. According to the MoPSLSW, however, there are a number of factors which hinder effective collaboration. These include lack of information, reluctance of other institutions to share information and duplication of responsibilities. In its view, the sharing of strategic plans and joint planning would help minimize these challenges. The MoPSLSW also believes that cooperation within the JLOS could be enhanced by providing funds for meetings and workshops, establishing sub-committees, harmonization of responsibilities to avoid duplication and provision of adequate communication mechanisms.

Accountability. Complaints regarding service delivery may be lodged with the Permanent Secretary of MoPSLSW who then appoints officers to investigate them. There is no direct way of providing feedback to the public. This is usually done through press statements. An analysis of complaints is undertaken as part of implementing the Ministry's strategic plan and to safeguard the image of the Ministry.

3.11 ZIMBABWE HUMAN RIGHTS COMMISSION

3.11.1 Mandate and Functions

The ZHRC is established under section 242(1) of the Constitution.⁹⁸ Its functions are set out in section 243 of the Constitution and include promoting awareness of and respect for human rights and freedoms at all levels of society; promoting the protection, development and attainment of human rights and freedoms; monitoring, assessing and ensuring observance of human rights and freedoms; receiving and considering complaints from the public and taking such action in regard to the complaints as it considers appropriate; protecting the public against abuse of power and maladministration by State and public institutions and officers; investigating the conduct of any authority or person, where it is alleged that any of the human rights and freedoms set out in the Declaration of Rights has been infringed by that authority or person; securing appropriate redress, including recommending the prosecution of offenders, where human rights or freedoms have been violated; directing the Commissioner-General of Police to investigate cases of suspected criminal violations of human rights or freedoms and to report to the Commission on the outcome of any such investigation; recommending to Parliament effective measures to promote human rights and freedoms; conducting research into issues

⁹⁸ The Commission was one of the constitutional bodies envisaged under the Global Political Agreement and was set up under s. 100R of the previous Constitution.

relating to human rights and freedoms and social justice; and visiting and inspecting prisons, places of detention and related facilities, and places of detention of mentally disordered persons, in order to ascertain the conditions of detention and making recommendations regarding those conditions to the responsible Minister.⁹⁹

Along with the other independent commissions supporting democracy, the ZHRC is guaranteed independence from all other actors; is bound to observance of the prescriptions of the Constitution; is required to exercise its functions without fear, favour or prejudice; and is accountable to Parliament for its work.¹⁰⁰

3.11.2 Structure

In terms of section 242, the ZHRC consists of a chairperson appointed by the President after consultation with the JSC and the Committee on Standing Rules and Orders of Parliament; and eight other members appointed by the President from a list of not less than 12 nominees submitted by the Committee on Standing Rules and Orders. Members of the ZHRC must be selected for their “integrity and their knowledge and understanding of, and experience in, the promotion of human rights.”¹⁰¹

Although the commissioners were sworn in on 31 March 2010, the ZHRC remained dormant until this year.¹⁰² The ZHRC has the right to employ staff and to regulate their conditions of service.¹⁰³ The Executive Secretary has been appointed and the Secretariat is now operational.

In terms of section 322 of the Constitution, Parliament is obliged to ensure that sufficient funds are appropriated to the ZHRC to enable it to exercise its functions effectively. It is unclear how much funding is allocated to the Commission or what constraints it faces in this regard.

3.11.3 Sector Issues

The Consultants were unable to assess the institutional capacity of the ZHRC because it was not available for interview and did not respond to the questions sent to it by the Consultants. It is, however, worth mentioning that the ZHRC is a new institution and “it has no precedent upon

⁹⁹ The Commission subsumes the functions previously undertaken by the Ombudsman. See Constitution, Sixth Schedule, s. 16(2).

¹⁰⁰ Constitution, s. 235(1).

¹⁰¹ Constitution, s. 242(4).

¹⁰² It is notable that one of the expected outputs under the Government of Zimbabwe and UNDP project, “Support for the strengthening of the promotion and protection of Human Rights and Rule of Law through enhanced capacity of institutions in the Ministry of Justice and Legal Affairs,” is enhanced capacity of the ZHRC and Secretariat to implement their mandates and in this regard to fill all vacant positions. The programme period is January 2011 to December 2013. See Government of Zimbabwe and UNDP, Project Document: Support for the strengthening of the promotion and protection of Human Rights and Rule of Law through enhanced capacity of institutions in the Ministry of Justice and Legal Affairs, p. 1.

¹⁰³ Constitution, s. 234.

which to base its programmes and priorities.”¹⁰⁴

3.12 ZIMBABWE ANTI-CORRUPTION COMMISSION

3.12.1 Mandate and Functions

Established in terms of section 254 of the Constitution, the ZACC has a mandate to combat corruption, economic crimes, abuse of power and other improprieties through public education, prevention and prosecution. Its functions are to investigate and expose cases of corruption in the public and private sectors; to combat corruption, theft, misappropriation, abuse of power and other improper conduct in the public and private sectors; and to promote honesty, financial discipline and transparency in the public and private sectors.¹⁰⁵ Other functions include receiving and considering complaints from the public and acting on such complaints as it considers appropriate; directing the Commissioner-General of Police to investigate cases of suspected corruption and to report to the Commission on the results of any such investigation; referring matters to the NPA for prosecution; and making recommendations to the Government and other persons on measures to strengthen integrity and accountability and prevent improper conduct in the public and private sector.¹⁰⁶

The ZACC has adopted a Strategic Plan to guide the implementation of its mandate over the period 2012 to 2015. However, it has not been able to implement the Plan due to insufficient financial and human resources (see below).

3.12.2 Structure

The ZACC consists of a Chairperson appointed by the President after consultation with the Parliamentary Committee on Standing Rules and Orders; and eight other members appointed by the President from a list submitted by the Committee.¹⁰⁷ The commission reports to Parliament annually. It is supported by a Secretariat consisting of three operational departments, namely, Corruption Prevention and Corporate Governance; Investigation and Prosecution; and Publicity and Education. The ZACC has offices in Harare but it is not decentralized to the provinces and border posts.

¹⁰⁴ See Government of Zimbabwe and UNDP, Project Document: Support for the strengthening of the promotion and protection of Human Rights and Rule of Law through enhanced capacity of institutions in the Ministry of Justice and Legal Affairs, p. 2.

¹⁰⁵ Constitution, s. 255(1)(a) – (c).

¹⁰⁶ Constitution, s. 255(1)(d) – (h).

¹⁰⁷ Constitution, s. 254(1)(a) and (b).

3.12.3 Sector Issues

Legal and policy framework. The enabling statutory framework for ZACC consists of a number of statutes including the Anti-Corruption Commission Act [Chapter 9:22], Prevention of Corruption Act [Chapter 9:16], Criminal Procedure and Evidence Act [Chapter 9:09], Public Service Act [Chapter 16:04] and Bank Use Prevention and Suppression of Money Laundering Act [Chapter 24:24]. All of these statutes were enacted prior to the adoption of the new Constitution and therefore may need to be aligned to it.

A notable challenge for the ZACC is that the Anti-Corruption Act does not provide for a scheme to protect witnesses. As a result, many potential witnesses are unwilling to assist the ZACC in its investigations or the prosecution of cases.

Human resources. The ZACC is seriously understaffed. It has slightly more than a third (57) of its total staff establishment of 204. According to the management, the low staffing levels are attributable to the perceived dangers of working for the institution which dissuade many from seeking employment within it. Women, in particular, are affected this perception with the consequence that there are very few women on the staff. The general freeze on recruitment to the Public Service has also affected the ability of the ZACC to address its staffing problems.

Other weaknesses relating to human resources include lack of a staff performance appraisal and management system, poor conditions of service (the ZACC currently uses the Civil Service Conditions of Service as the proposed staff conditions of service for staff reflecting the functions of the institution are yet to be approved)¹⁰⁸ and a staff development system which is yet to be implemented. The absence of a staff performance appraisal system has meant that members of staff do not have performance targets.

Among the key human resource capacity needs the ZACC has identified are training on forensic investigation techniques, modern corruption fighting methods and legal drafting.

Physical and technological resources. The ZACC has two main challenges relating to informational and communication technology. First, while it has computers, it has no intranet. This makes intra-institutional communication cumbersome. Second, it does not have a computerized case management system which would make it easier to track the status of investigations and disposal of cases. However, it is in discussions with the UN Office for Drugs and Crime to support the establishment of a computerized case management system.

Financial resources. The lack of sufficient financial resources has meant that the ZACC has not been able to carry out a number of key activities that would enhance its work, including implementing its Strategic Plan, enhancing its capacity to monitor and evaluate its activities and establishing information communication technologies. Together with insufficient personnel,

¹⁰⁸ The ZACC expects that the Government will approve these within six months.

financial constraints have limited the ability of the ZACC to investigate cases outside Harare.

HRBA and gender mainstreaming. ZACC does not yet have policies and strategies for mainstreaming gender and human rights in its work. Moreover, members of staff have not been trained in HRBA and gender mainstreaming.

Stakeholder engagement. The ZACC works in close cooperation with the ZRP and the NPA. In this connection, it has worked with the police to raise public awareness of the adverse effects of corruption through distribution of brochures and participating in radio talk shows.

The ZACC is reaching out to CSOs in an effort to combat corruption. It also interacts with the general public by posting information such as annual reports on its website.

Accountability. The ZACC encourages members of the public to use its toll-free lines as well as the website to lodge complaints. Due to the shortage of staff, however, no analysis of trends in the complaints is undertaken.

Other issues. The ZACC has no baseline information on the nature, scope and magnitude of corruption in the country. Such a baseline would assist it in designing programmes and setting priorities. Another key issue is the lack of specialized courts to deal with corruption cases.

4 The Role of Non-State Actors

4.1 OVERVIEW

There are several non-State institutions involved in the administration of justice and promotion and protection of human rights JLOS in Zimbabwe. These include professional organizations such as the LSZ and NGOs.

4.2 LAW SOCIETY OF ZIMBABWE

4.2.1 Mandate

Established under section 51 of the Legal Practitioners Act [Chapter 27:07] to replace the previous bar association, the LSZ is the overall regulatory and representative body for the legal profession in Zimbabwe. Its main functions promoting the study of law; contributing, undertaking or making recommendations on legal training; controlling the admission of new members to the profession; maintaining a register of members; regulating the profession in respect of continuing legal training, discipline and the administration of trust accounts; representing the profession and articulating its views on various issues; promoting justice, defending human rights, the rule of law and the independence of the judiciary; and generally controlling and managing the legal profession.¹⁰⁹ The LSZ also considers and approves applications for practising licences by all lawyers seeking to practice in the country and inspects books of accounts kept by lawyers.

In terms of Statutory Instrument 139 of 1999, the LSZ has been mandated by the Council for Legal Education to conduct Compulsory Continuing Legal Education (CCLE) for those undergoing pupillage.

4.2.2 Structure

The LSZ is a membership based organization. Its structure consists of the general meeting of members which elects the office bearers; the Council, which is made of 11 members (nine of whom are elected by the constituencies for three year terms, one appointed by the Minister of Justice, Legal and Parliamentary Affairs from the university and the other a Government representative) and has primary responsibility for the management and control of all Society

¹⁰⁹ Law Society of Zimbabwe, *Strategic Plan 2011-2015* (August 2010). Its vision is to "be a vibrant, financially sound and independent Law Society committed to justice and rule of law". Its mission is defined as follows: "We are dedicated to effectively and efficiently represent the interests of and to regulate the legal profession by ensuring that: Members comply with the ethics, rules and regulations of the profession; the rule of law, independence of the judiciary and the legal profession are maintained and (it is) the preferred employers in the legal services sector."

affairs; Committees of Council, which serve various needs of the Council (including the Advocacy Liaison and Publicity Committee; Disciplinary and Ethics Committee; Finance, Planning, Tariffs and Administration Committee; Human Rights, Gender and Legislative Committee; and Legal Education and Continuing Legal Education Committee). The Secretariat is responsible for day to day operations and is headed by the Secretary who is appointed by the Council.

The Legal Practitioners' Disciplinary Tribunal initiates disciplinary proceedings against legal practitioners, on a range of complaints involving professional misconduct, unethical behaviour and embezzlement of client's funds.

4.2.3 Sector Issues

Financial resources. The core functions of the LSZ are funded through contributions from members. This is designed to enhance the independence of the LSZ and efficiency in the delivery of services. However, the LSZ has identified its "weak financial" base as a major constraint to its activities.¹¹⁰ For example, the lack of financial resources has undermined its capacity to engage in human rights advocacy and influence policy on human rights, other aspects of public legal education and public interest litigation. To address this challenge, the LSZ has adopted a five-year Strategic Plan outlining its ambition to become a financially sound and independent law society and to achieve 100 per cent core cost funding capacity over the period of the plan.

Physical and technological resources. Although the LSZ had intended to establish a computerized case management system to help increase transparency and efficiency in the processing of complaints against practitioners by the Legal Practitioners Disciplinary Tribunal, it has only managed to create a computer-based record of its cases.¹¹¹ This is a huge challenge sine the LSZ continues to receive an increasing number of cases.

Stakeholder engagement. The LSZ cooperates with a broad range of institutions including the MoJLPA and the JSC. In collaboration with the JSC, it has conducted training for magistrates. As at the end of 2012, a total of 180 magistrates had been trained under a programme which covered areas such as sentencing, bail applications, judgment writing, ex parte applications, trial management, distribution of property under customary law and dealing with special circumstances and others.¹¹²

¹¹⁰ Law Society of Zimbabwe, *Annual Report 2012*, p. 3.

¹¹¹ *Ibid*, p. 2.

¹¹² *Ibid*, p. 3.

4.3 NON-GOVERNMENTAL ORGANIZATIONS

There are a number of NGOs working on human rights and justice issues. These include Childline, Musasa Project, ZWLA and JCT. These organizations engage in human rights advocacy for specific groups and have conducted training for some JLOS institutions such as the ZPCS. Nevertheless, they face a number of challenges in attempting to implement their mandates effectively. Notable among these is their primary reliance on donors for funding. This has the effect of limiting their freedom to set their own priorities.

Other obstacles to effective justice delivery identified by NGOs include the lack of effective implementation and monitoring of international human rights commitments; inadequate assessment of gender concerns in the development of certain public policies; exclusion of marginalized groups; politicization of NGO interventions reflected, for example, in the requirement for District Administrators to give permission for NGOs to operate in certain areas; inadequate involvement of organizations based outside the main urban centres in Government processes; and lack of coordination among organizations, with the attendant inability to leverage knowledge on cross-cutting issues.

4.4 THE PRIVATE SECTOR

With the exception of legal practitioners, there appears to be no private sector involvement in the Sector. However, there are instances where the private sector has provided support to prisons and the police as part of their corporate social responsibility initiatives. No information in this regard was available to the Consultants.

5 Access to Justice: Cross-Cutting Issues

Gender and human rights are cross-cutting issues in any assessment of access to justice. The concept of gender refers to socially constructed roles and responsibilities of men and women. These roles are formed in families, societies and cultures, and are often the source of differential treatment between men and women. Human rights are inalienable rights to which every individual is entitled simply because he or she is a human being. The United Nations has defined human rights as “those rights which are inherent in our nature and without which we cannot live as human beings.”¹¹³ The concepts of gender and human rights ensure that equal, fair and dignified treatment is upheld towards both men and women in the administration of justice. They are therefore important elements of an enabling environment for the efficient and effective delivery of justice. This section discusses the extent to which these issues are taken into consideration by the JLOS institutions in fulfilling their mandates.

5.1 GENDER

Zimbabwe is a party to a number of international and regional instruments that provide for gender equality. These include the CEDAW; the ICESCR; the International Covenant on Civil and Political Rights (ICCPR), the African Charter on Human and Peoples’ Rights; the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa; and the SADC Protocol on Gender and Development.

At the national level, the Constitution reflects a firm commitment to gender equality and equity. It has several provisions on gender equality and equity which have broad implications for Government policy making and programming. Chapter 2 on ‘National Objectives’ spells out gender balance as one of the objectives to guide the State, all institutions and agencies of Government.¹¹⁴ The Declaration of Rights in Chapter 4 recognizes that men and women have the right to equal treatment, including equal protection of the law.¹¹⁵

The Constitution establishes a Gender Commission consisting of a Chairperson appointed by the President after consultation with the Parliamentary Committee on Standing Rules and Orders, and eight other members.¹¹⁶ According to section 246 of the Constitution, the functions of the Commission are:

- (a) To monitor issues concerning gender equality to ensure gender equality;
- (b) To investigate possible violations of rights relating to gender;

¹¹³ United Nations, *Human Rights: Questions and Answers* (New York and Geneva, 1987).

¹¹⁴ Constitution, s. 17.

¹¹⁵ Constitution, ss. 56 and 80.

¹¹⁶ Constitution, s. 245(1)(a) and (b).

- (c) To receive and consider complaints from the public and taking such action in regard to the complaints as it considers appropriate;
- (d) To conduct research into issues relating to gender and social justice, and to recommend changes to laws and practices which lead to discrimination based on gender;
- (e) To advise public and private institutions on measures to ensure gender equality;
- (f) To recommend affirmative action programmes to achieve gender equality;
- (g) To recommend prosecution for criminal violations of rights relating to gender;
- (h) To secure appropriate redress in circumstances where rights relating to gender have been violated; and
- (i) To do everything necessary to promote gender equality.¹¹⁷

On 25 July 2014, the Government gazetted the Zimbabwe Gender Commission Bill. If passed into law, the bill will become the enabling statutory framework for the Commission. However, the Commission is not yet in existence.

There are also several laws designed to advance gender equality. These include the Matrimonial Causes Act [Chapter 5:13]; Administration of Estates Act [Chapter 6:01]; Maintenance Act [Chapter 5:09]; Sexual Offences Act [Chapter 9:21]; Education Act [Chapter 25:04]; Labour Act [Chapter 28:01]; Criminal Procedure and Evidence Act [Chapter 9:07]; Criminal Law (Codification and Reform) Act [Chapter 9:23]; and Domestic Violence Act [Chapter 5:16].

In addition to the international and national legal frameworks mentioned above, the Government has adopted policies and strategies on gender. These include the *National Gender Policy (2013-2017)* and the *National Gender Based Violence Strategy (2012-2015)*. The National Gender Policy envisions a “gender just society in which men and women, boys and girls, enjoy equity, contribute and benefit ad equal partners in the development of the country” and its key objective is “[t]o eradicate gender discrimination and inequalities in all spheres of life.”¹¹⁸ The Policy aims to implement the provisions of the international and regional instruments to which Zimbabwe is a party, as well as those of the Constitution and to address other emerging priorities.¹¹⁹ Among the priority thematic areas it identifies are gender, constitutional and legal rights. This policy objective is designed to ensure that the constitutional and legal provisions on gender justice are implemented and gender equality targets established by international and regional instruments to which Zimbabwe is a party are achieved.

The *National Gender Based Violence Strategy* seeks to improve the efforts of the Government,

¹¹⁷ Constitution, s. 246(a) – (i).

¹¹⁸ The Policy was adopted following a broad-based review of the 2004 National Gender Policy which it replaces.

¹¹⁹ National Gender Policy, p. iii.

civil society and the country's development partners to address GBV through a multi-sectoral, effective and coordinated response.¹²⁰ The goal of the Strategy is to reduce all forms of GBV in the country by 20 per cent by 2015.¹²¹ The Strategy was adopted after extensive consultations with key stakeholders.¹²²

Another policy that merits mention is the *Protocol on the Multi-Sectoral Management of Sexual Abuse and Violence in Zimbabwe* which was adopted in 2012. In 1997, an amendment to section 319 of the Criminal Procedure and Evidence Act resulted in the establishment of the Victim Friendly System, a set of measures designed to ensure the protection and active participation of survivors of sexual violence in the criminal justice system.¹²³ A Protocol on the Multi-Sectoral Management of Child Sexual Abuse was also adopted to provide guidance on the roles and responsibilities of sector agencies. Following a review in 2011/2012, the title of the Protocol changed to "Protocol on the Multi-Sectoral Management of Sexual Abuse and Violence in Zimbabwe" and its scope was expanded to include girls, women, boys and men. The Protocol promotes an age, disability and gender-sensitive approach. The Chief Magistrate's Office, as Chair of the Victim Friendly Committee, is responsible for overall coordination of policy reform and overseeing the implementation of the Protocol.¹²⁴

Despite the existence of this legal and policy framework, gender inequality remains a concern¹²⁵ and women and girls continue to be victims in 99 per cent of GBV cases. According to the *Zimbabwe Demographic and Health Survey 2010-2011*, some 42 per cent of women in Zimbabwe have either experienced physical, emotional or sexual violence (or both) at some point in their lives.¹²⁶ Gender inequality and gender based violence remain a concern and a key barrier women's active participation in development¹²⁷

With some exceptions, gender considerations generally do not appear to inform the manner in which the JLOS institutions implement their mandates. Most of the JLOS institutions assessed for this report do not have any specific policy or strategy on gender, nor do they have any budget for gender mainstreaming. As stated above, the MoWAGCD oversees the implementation of the National Gender Policy. To this end it has established Gender Focal Persons in each ministry. The MoWAGCD also has a budget for training Gender Focal Persons in all institutions of Government. It is, however, unclear what impact, if any, these Gender Focal Points have had on gender mainstreaming within the respective ministries.

¹²⁰ *Zimbabwe National Gender Based Violence Strategy 2012-2015*, p. iii.

¹²¹ *Ibid*, p. 11.

¹²² These include the Ministry of Justice and Legal Affairs; JSC; Ministry of Health and Child Welfare; Ministry of Labour and Social Services; Zimbabwe Republic Police Victim Friendly Unit; Anti-Domestic Violence Council; Ministry of Education, Sports, Arts and Culture; Ministry of Higher and Tertiary Education; CSOs; UN agencies; and development partners.

¹²³ *Protocol on the Multi-Sectoral Management of Sexual Abuse and Violence in Zimbabwe 2012*, p. 33.

¹²⁴ *Ibid*, p. 46.

¹²⁵ National Gender Policy, p. 13.

¹²⁶ According to the *Preliminary Report on the National Baseline Survey on the Life Experiences of Adolescents* (2011), 62.7% of females aged between 18-24 years have experienced sexual violence. See *Protocol on the Multi-Sectoral Management of Sexual Abuse and Violence in Zimbabwe* (2012), p. 17.

¹²⁷ *Zimbabwe National Gender Based Violence Strategy 2012-2015*, p. 2.

5.2 HUMAN RIGHTS

Zimbabwe is a party to several core international and regional human rights treaties.¹²⁸ However, implementation of these commitments remains a challenge. In particular, domestication of the ratified instruments remains a challenge.¹²⁹ Compliance with international human rights obligations on State Party reporting and cooperation with the human rights mechanisms are also a challenge, largely due to the lack of capacity and resources for the IMC.¹³⁰

In an attempt to implement its international human rights obligations, the Government has adopted a National Plan of Action for the Implementation of the Universal Periodic Review (UPR) Recommendations. Specific actions/activities identified in relation to the implementation of the UPR recommendations include domestication of international human rights treaties; continuous training of law enforcement and prison officers on the rule of law and human rights; enhancing the capacity of law enforcement agencies to enforce the Domestic Violence Act; and enhancing the capacity of the independent commissions established under the Constitution through provision of adequate human, material and financial resources as well as strengthening their technical capacity.¹³¹

The Constitution contains a broad range of civil, political, social, economic and cultural rights which the State and every person, including juristic persons, and every institution and agency of the Government at every level are obliged to respect, protect, promote and fulfil.¹³²

However, the discussions that the Consultants had with the various institutional stakeholders revealed that there is little appreciation of human rights-based approaches to programming and planning. To ensure the sustainability of programmatic interventions in the justice sector, it is critical that they are underpinned by a rights-based approach. This requires that relevant staff of the key stakeholder institutions be trained in human rights and be familiar with rights-based approaches.

¹²⁸ These include the ICCPR; ICESCR; CEDAW; Convention on the Elimination of All Forms of Racial Discrimination; Convention on the Rights of the Child; Convention on the Rights of Persons with Disabilities; ACHPR; Protocol to the ACHPR on the Rights of Women in Africa; and African Charter on the Rights and Welfare of the Child.

¹²⁹ See Government of Zimbabwe and UNDP, "Enhancing Justice Delivery and Human Rights for All," Project Document, p. 11.

¹³⁰ Ibid, pp. 11-12.

¹³¹ Ministry of Justice and Legal Affairs, *National Plan of Action for the Implementation of the Universal Periodic Review (UPR) Recommendations*.

¹³² Constitution, ss. 44, 45, 48-84.

6 Best Practices: Lessons from the Uganda JLOS¹³³

The Terms of Reference required the Consultants to share international best practice in relation to the sector-wide approach to the administration of justice. Within the African continent, only a few countries have adopted a sector-wide approach to the administration of justice, maintenance of law and order and promotion and protection of human rights. Among these are Burundi,¹³⁴ Ethiopia,¹³⁵ Kenya,¹³⁶ Malawi,¹³⁷ Sierra Leone,¹³⁸ Uganda and Tanzania.¹³⁹ The Uganda JLOS is the first and longest running on the African continent. Consequently, the discussion in this section focuses on the Uganda JLOS.

6.1 BRIEF OVERVIEW OF THE UGANDA JLOS

The Uganda JLOS is a long-running sector development programme based on a sector-wide approach adopted by the Government of Uganda and which brings together institutions with closely linked mandates relating to the administration of justice and maintenance of law and order, as well as promotion and protection of human rights.¹⁴⁰ It focuses on a holistic approach to enhancing access to and administration of justice through a sector-wide approach to

¹³³ In June 2013, the JLOS Steering Committee held a meeting to share experiences and lessons learnt between the Zimbabwe JLOS and Uganda JLOS. See Government of Zimbabwe and UNDP, "Enhancing Justice Delivery and Human Rights for All," Quarterly Progress Report (1 April – 30 June 2013), p. 2. The Consultants were not provided with a report on this meeting.

¹³⁴ The Justice and Rule of Law Sector (GSJED) was established in 2009 and consists of the Ministry of Justice, Supreme Court, General Prosecutor, Prisons Directorate and Justice Training Centre. The sector priorities are to increase awareness of the law and judicial procedures; strengthen management systems and court performance; enhance the independence of the judiciary and capacity building; improve prison conditions; and enhance access to justice and restore confidence in the justice system.

¹³⁵ The Justice Sector Reform Programme (JSRP) was established in 2004 and comprises the following institutions: the Legislative Body; judiciary, police, Ministry of Justice, Prosecution, Prisons, Anti-Corruption Commission, Human Rights Commission, the Ombudsman, the justice system and the Legal Research Institute.

¹³⁶ The Kenya Governance, Justice, Law and Order Sector Reform Programme is a basket-funded sector-wide programme that has been supporting reforms in 34 government ministries, departments and agencies, including the judiciary and the Director of Public Prosecutions. Implementation of the programme started in 2004 under a Short-Term Priorities Programme. See Patricia Kameri Mbote and Migai Akech, *Kenya: Justice Sector and the Rule of Law, A Review by AfriMAP and the Open Society Initiative for Eastern Africa*, March 2011, available at <http://www.ielrc.org/content/a1104.pdf>.

¹³⁷ The Democratic Governance Sector: Justice Sub-Sector comprises the judiciary, the National Assembly; ministries, agencies and government departments; the Human Rights Commission; the Electoral Commission; the Anti-Corruption Bureau; Office of the Ombudsman; the Law Commission; Police; and Prisons.

¹³⁸ The Sierra Leone Justice Sector Development Programme aims to contribute to the establishment of safety, security and access to justice for the people of Sierra Leone, especially the poor, vulnerable and marginalized and is closely aligned to the country's poverty reduction strategy, security sector reform and other government reform programmes. Its overall purpose is to support the development of an effective and accountable justice sector that is capable of meeting the needs and interests of poor, vulnerable and marginalized groups. Participating institutions include the Ministry of Justice; Ministry of Internal Affairs; Ministry of Social welfare, Gender and Children's Affairs; Ministry of Local Government; Police, Prison Service, Law Reform Commission; and non-State institutions (Sierra Leone Bar Association and Chiefdom Police). See Justice Sector Development Programme, "Inception Report," June 2005.

¹³⁹ The Legal Sector Reform Programme (LSRP) consists of ministries, agencies and government departments; the judiciary; police; prisons; law faculty; and Human Rights Commission, among others.

¹⁴⁰ For an historical overview of the Uganda JLOS, see Evelyn B. Edroma, "Sector Wide Approach to Justice, Law and Order: The Uganda Experience," paper presented to the ALRAESA Annual Conference on 'Fusion of Legal Systems and Concepts in Africa,' organized by the Uganda Law Reform Commission, 4-7 September 2005, Uganda. The seventeen sector institutions are the Ministry of Justice and Constitutional Affairs (Lead Institution); Ministry of Internal Affairs; the Ministry of Local Government (Local Council Courts); Ministry of Gender, Labour and Social Development (Probation and Juvenile Service); Uganda Police Force; Uganda Prison Service; Directorate of Public Prosecutions; Judicial Service Commission; Uganda Law Reform Commission; Uganda Human Rights Commission; Directorate of Public Prosecutions; Directorate of Citizenship and Immigration Control; Law Development Centre; Uganda Law Society; Tax Appeals Tribunal; Centre for Arbitration and Dispute Resolution; and Uganda Registration Services Bureau.

planning, budgeting, programme implementation, monitoring and evaluation.¹⁴¹ The overall goal of the JLOS is to improve the safety of the person, security of property, observance of human rights and access to justice which are prerequisites for accelerating growth, employment and prosperity.¹⁴² Its policy objectives are to foster a human rights culture across the JLOS institutions; promote the rule of law; secure access to justice for all, especially the poor and other marginalized groups; amend laws that are discriminatory; ensure significant reduction in incidence of crime, especially serious crimes; promote principles of crime prevention, as well as enforcement; encourage grassroots voices and community participation across the JLOS institutions; and strengthen structures for justice.¹⁴³

The JLOS was established in 2001 against the backdrop of almost two decades (1966-1986) of political, civil and economic stagnation with a breakdown of the functions of State including the maintenance of law and order.¹⁴⁴ The period was characterized by chronic systemic constraints that delayed and hindered access to justice and service delivery, effective planning and budgeting; outdated methods and tools of investigation and prosecution; high cost of justice due to corruption and limited physical access to justice delivery institutions by the public; huge case backlogs and high prison populations; inefficiencies and absence of effective procedural guidelines and performance standards in justice delivery institutions; and significant gender-based discrimination. The sector-wide approach was adopted partly in response to the findings of numerous studies on the functioning of the justice sector and public perceptions of it which underscored the above.¹⁴⁵

The JLOS was also aligned to the Ugandan Government's Poverty Eradication Action Plan (PEAP) which provided "an incentive for the creation and strengthening of 'sectors' to better channel and align development aid," since such an approach facilitated coordinated planning in support of national poverty eradication goals.¹⁴⁶ By organizing themselves into a sector, JLOS institutions were able to define common objectives in line with those of PEAP and enhance the prospects of increased financial resources as the Ministry of Finance, Planning and Economic Development was required to allocate resources in line with the PEAP framework.¹⁴⁷

6.2 MANAGEMENT AND COORDINATION

The JLOS is organized into several committees and working groups for implementation of its mandate. The committees include the Leadership Committee, which consists of all heads of institutions who are accountable for the delivery of JLOS services in the country and is

¹⁴¹ See Edroma, "Sector Wide Approach to Justice, Law and Order: The Uganda Experience."

¹⁴² See <http://jlos.go.ug/index.php/2012-09-25-13-11-16/mission-objectives...> (accessed 13 October 2013).

<http://jlos.go.ug/index.php/2012-09-25-13-11-16/our-history?tmpl=>

¹⁴³ Edroma, "Sector Wide Approach to Justice, Law and Order: The Uganda Experience."

¹⁴⁴ For the history of the Uganda JLOS, see <http://jlos.go.ug/index.php/2012-09-25-13-11-16/our-history?tmpl=>. See also Catherine Flew and Simon Rynn, "Monitoring and evaluation arrangements for the Justice, Law and Order Sector in Uganda: a case study," Saferworld Research Report, January 2009, p. 2.

¹⁴⁵ Flew and Rynn, "Monitoring and evaluation arrangements for the Justice, Law and Order Sector in Uganda: a case study," p. 3.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid, p. 3.

responsible for political leadership and guidance to the Sector;¹⁴⁸ the Steering Committee, which is responsible for policy formulation, coordination, fundraising, external accountability and quality assurance of JLOS results to the people of Uganda;¹⁴⁹ and the Technical Committee, which comprises technical personnel from the JLOS institutions at Director-level or heads of departments and is responsible for the planning, technical direction, support and management of the JLOS programme.

The Technical Committee largely operates through working groups that offer in-depth consideration of Sector issues. These include the Access to Justice (Civil) Working Group (which is divided into three sub-committees, namely, Civil, Land and Family); Access to Justice (Criminal) Working Group; Human Rights and Accountability Working Group; Transitional Justice Working Group; and Budget Working Group.¹⁵⁰ The chairpersons of the working groups are selected by the Technical Committee from its membership while the members of the working groups are selected as follows:

- To the extent possible, each JLOS institution nominates at least two suitable representatives to each working group. One representative is a senior technical person with expertise in the thematic area while the other is an alternate.
- CSOs and private sector institutions nominate representatives to the relevant working group or groups.

In addition to the management structure, the JLOS has a semi-autonomous Secretariat established in August 2000, which is institutionally located in the Ministry of Justice and Constitutional Affairs and reports to the Solicitor-General. Nonetheless, the Secretariat retains a degree of independence by reporting to all Sector institutions at the Technical and Steering Committees. It comprises three advisors and its functions include planning for the programme, managing programme funds, servicing and promoting linkages within JLOS structures, providing advisory services, building consensus within the JLOS and fostering relationships between the government and development partners.

¹⁴⁸ Chaired by the Chief Justice and comprising 16 other members including the Principal Judge, the Minister of Justice and Constitutional Affairs; the Attorney-General; Minister of Internal Affairs; Minister of Finance, Planning and Economic Development; Minister of Gender, Labour and Social Development; Minister of Local Government; Minister of State for Internal Affairs; Minister of State for Justice/Deputy Attorney-General; Director of Public Prosecutions; Chairperson of the Uganda Law Reform Commission; Chairperson of the Uganda Human Rights Commission; Chairperson of the Judicial Service Commission; Chairperson of the JLOS Steering Committee (ex-officio); Chairperson of the JLOS Technical Committee (ex-officio); and Senior Technical Advisor – JLOS Secretariat (ex-officio). The Leadership Committee may co-opt any institution/s, individuals, development partners or non-State actors as necessary to its meetings. It meets at least twice each a year. See Republic of Uganda, *The Third JLOS Strategic Investment Plan (SIP III) 2012/13-2016/17*, pp. 36-37.

¹⁴⁹ Chaired by the Solicitor-General and consisting of 20 other members including the Chief Registrar (alternate Chair); Deputy Director of Public Prosecutions (Management Support Services); Permanent Secretary, Ministry of Internal Affairs; Permanent Secretary, Ministry of Local Government; Permanent Secretary, Ministry of Gender, Labour and Social Development; Permanent Secretary, Ministry of Finance, Planning and Economic Development; Secretary to the Judiciary; Secretary, Uganda Law Reform Commission; Secretary, Uganda Human Rights Commission; Secretary, Judicial Service Commission; President, Uganda Law Society; Inspector-General of Police; Commissioner-General of Prisons; Chairperson, CADER Governing Council; Chairperson, Tax Appeals Tribunal; Chairperson, URSB; Chairperson, Citizenship and Immigration; Chair of the Board, Amnesty Commission; Chairperson, JLOS Technical Committee (ex-officio); and Senior Technical Advisor – JLOS Secretariat (ex-officio). The Committee, which meets at least four times a year, may co-opt any institution/s, individuals, development partners or non-State actors as necessary to its meetings. See *The Third JLOS Strategic Investment Plan (SIP III) 2012/13-2016/17*, pp. 37-38.

¹⁵⁰ See *The Third JLOS Strategic Investment Plan (SIP III) 2012/13-2016/17*, p. 39.

Each of the JLOS institutions has an Institutional Management Committee which is supported by an Institutional Policy and Planning Unit. The key responsibilities of the Policy and Planning Units include policy analysis; liaising with institutional representatives to collect and analyse data; monitoring progress towards achievement of indicators at institutional level; providing monitoring information to the JLOS working groups; and representation of institutions in the working groups.¹⁵¹

The JLOS also has task and thematic-based task forces to accelerate progress on specific areas of interest. Among these are the Gender Task Force (responsible for promoting gender mainstreaming across the sector) and the Justice for Children Task Force (responsible for developing a common strategy for improving services for children in the JLOS).¹⁵² The task forces are supported by the JLOS Secretariat.

Other structures worthy of mention are the National JLOS Forum and the Joint Government of Uganda-Development Partner Review. The National Forum brings together JLOS members and key stakeholders to reflect on the performance of the Sector for the preceding year as well as identify priorities for the year ahead.¹⁵³ The Joint Government of Uganda-Development Partner Review is held annually in September to assess progress against planned activities.¹⁵⁴

6.3 FUNDING

The JLOS is funded through Sector Budget Support, with some project support. The country's development partners¹⁵⁵ provide approximately 12 per cent of the total sector budget. Development partners also provide support to NGOs involved in the JLOS.

Financial reporting follows the established Government of Uganda processes and standards while an annual audit of the Sector's financial statements is undertaken by the Office of the Auditor-General.¹⁵⁶ The sector-wide audit is additional to the internal audits undertaken for each JLOS institution.

6.4 PROGRAMME IMPLEMENTATION

The JLOS has attempted to address the issues hampering access to justice in the country and implemented its objectives through periodic strategic investment plans developed by its Secretariat which articulate common goals for the sector: Strategic Investment Plan (SIP I 2001/01 – 2005/06); Second Sector Strategic Investment Plan (SIP II 2006/07 – 2010/11); and Third Strategic Investment Plan (SIP III 2012/13 – 2016/17). In SIP III, the Sector primarily aims

¹⁵¹ *Third JLOS Strategic Investment Plan (SIP III) 2012/13-2016/17*, p. 42.

¹⁵² *Ibid.*, p. 40.

¹⁵³ *Ibid.*, p. 49.

¹⁵⁴ *Ibid.*

¹⁵⁵ These include Austria, Denmark, Germany, Ireland, the Netherlands, Norway, Sweden, the US, United Kingdom, EU, UNDP, UNICEF and UN Women.

¹⁵⁶ *Third JLOS Strategic Investment Plan (SIP III) 2012/13-2016/17*, pp. 52-53.

at promoting the rule of law as well as endeavouring to ensure that 70 per cent of the people in Uganda are satisfied with JLOS services and that public confidence in the justice system is increased from 34 per cent in 2008 to 50 per cent in 2017.

6.5 ACHIEVEMENTS AND CHALLENGES¹⁵⁷

The Uganda JLOS has recorded impressive progress since its establishment. A report on the Uganda JLOS for the year 2011/2012 notes a number of achievements, including enactment of 76 per cent of the priority laws identified under SIP II, implementation of 90 per cent of the enacted laws, revision of 95 per cent of principal laws through amendment, repeal of obsolete provisions and ensuring that the law was clear and accessible.

A notable achievement for the Sector has been improved access to justice. Measures designed to enhance access to justice have included development of infrastructure to de-centralize JLOS services. For example, regional offices of the Director of Public Prosecutions and Ministry of Justice and Constitutional Affairs have been constructed while prisons, remand centres and police stations have been revamped. In addition, vehicles and equipment have been procured and houses constructed, particularly for the police and prisons, to enable them operate more effectively. Furthermore, the JLOS has taken measures to enhance the recruitment of police officers, prison warders, magistrates, judges and State attorneys.

During 2011-2012, JLOS registered a 56 per cent increase in access to legal aid. This was attributable to the Sector's strategic partnerships with non-State actors.

As regards human rights, there was a "noticeable" reduction in violations by JLOS institutions. Key improvements were made in the prison system, with 87.6 per cent of prisons establishing functional human rights committees. The Sector continued to build its capacity to combat corruption, resulting in an increase in conviction rates in corruption cases to 64 per cent.

The sector-wide approach has also led to improved coordination, communication and cooperation among JLOS institutions. Importantly, it has fostered coherent and efficient development of the JLOS programme with better coordinated planning and budgeting. The relationship between the JLOS and development partners has also been strengthened through a sector-wide approach.

Despite these achievements, the Sector faced a number of challenges including enforcement of laws, institutional barriers to access to JLOS services (including technical, cost and related barriers); low service delivery and institutional productivity; public perceptions of JLOS institutions as very corrupt; low levels of public confidence in the justice system; poor conditions

¹⁵⁷ See *Third JLOS Strategic Investment Plan (SIP III) 2012/13-2016/17*, pp. 2-14.

for staff, especially in the police and prisons; and limited budgets for capital investments.¹⁵⁸ Other challenges include the high number of priorities within the Sector and the lack of (qualified and motivated) personnel for Sector workload.

In an effort to ensure gender mainstreaming in the JLOS objectives, programme and activities as well as in staffing and human resources, the JLOS has prepared a draft Gender Strategy. The challenge, however, is for the JLOS “to learn how to adopt a pragmatic and systematic approach to gender mainstreaming.”¹⁵⁹ The JLOS views the SIP III as “an opportunity” to address this challenge.

6.6 MONITORING AND EVALUATION

Monitoring and evaluation represent an important element of any project or programme. They allow for assessment of the overall performance of a project or programme; that is, whether the project or programme is achieving set targets, and they are useful for providing guidelines for the planning of future projects and improving project design. Additionally, a monitoring and evaluation framework is relevant to development partners who need to assess whether the project or programme partner is reliable. By reviewing the milestones and final outcomes of projects, development partners are able to decide on the accountability of an organization upon which further collaboration could be established.

In recognition of this, the JLOS has designed a framework for monitoring progress across the Sector and to assess achievements and challenges. The JLOS Secretariat manages the sector-wide monitoring and evaluation function. This function includes completing bi-annually Sector progress reports as well as organizing and coordinating the Joint Government-Donor Reviews.

Monitoring and evaluation has played an important role in advancing the Uganda JLOS programme. A mid-term review of the JLOS identified the need for evidence-based planning, reporting and decision-making which were critical for ensuring a rational case for resource allocation, assessment of impact, motivation of JLOS staff and sufficient flow of information to development partners to encourage them to continue supporting the sector.

6.7 LESSONS FOR THE ZIMBABWE JLOS

The achievements and challenges of the Uganda JLOS offer several important lessons for the Zimbabwe JLOS. First, the pursuit of strategic objectives through a sector-wide approach is a complex task involving a shift of focus from institutional interests to sector-wide interests. It also entails a shift in resources. The sector-wide approach therefore requires a participatory process to define sectoral priorities, as well as planning of institutional contributions to realize those

¹⁵⁸ See <http://jlos.go.ug/index.php/2012-09-25-13-11-16/achievements-of-the-sector> (accessed 13 October 2013).

¹⁵⁹ *Third JLOS Strategic Investment Plan (SIP III) 2012/13-2016/17*, p. 10.

priorities.

Second, a sector-wide approach provides a coherent structure for participation of all stakeholders. It allows the sector institutions to set common goals, coordinate their planning and develop coordinated budget proposals reflecting sector priorities, thereby increasing the prospects of more financial resources being available for the pursuit of common objectives and enhancing impact. It also provides a framework for development partners to better coordinate and channel their support.

Third, a sector-wide approach and the involvement of development partners through sector budget support requires the development of robust monitoring and evaluation arrangements including routine monitoring, periodic reviews and indicators to assess the impact of the sector's constituent institutions as well as of the sector as a whole.¹⁶⁰

Finally, to be successful and sustainable, a sector-wide approach to the administration of justice, maintenance of law and order and promotion and protection of human rights should reflect the realities of the particular country and should ensure the active participation of those it is ultimately designed to benefit: the poor, vulnerable and other marginalized groups.

¹⁶⁰ Edroma, "Sector Wide Approach to Justice, Law and Order: The Uganda Experience."

7 Conclusions and Recommendations

7.1 SUMMARY

The findings of the capacity assessment of the Zimbabwe JLOS presented in this report revealed a number of capacity issues affecting the effective and efficient delivery of justice in the country. These challenges include insufficient skilled personnel; high levels of vacancies and staff turnover; ineffective performance management; poor/lack of infrastructure; inadequate financial resources; inadequate knowledge and/or application of HRBA and gender mainstreaming; and absence of effective partnerships and collaboration across the JLOS. These challenges need to be addressed if the goal of a functional JLOS is to be attained.

7.2 RECOMMENDATIONS

Based on the challenges facing the Zimbabwe JLOS institutions identified in this report and the lessons from the Uganda JLOS, the Consultants recommend that:

- The JLOS institutions should provide detailed statistical information concerning the sector capacity challenges which they are facing, including staff establishment, professional capacity (including knowledge of the cross-cutting issues of gender and human rights) and financial and physical resource requirements, to inform the costing of the capacity development strategy proposed in this report.
- The JLOS institutions should undertake a comprehensive review of their legal and policy frameworks in order to identify areas that require amendment to ensure consistency between the frameworks and the new Constitution.
- To ensure coherence in the processes of alignment of laws with the new Constitution currently being undertaken by the different Government ministries, the JLOS should consider establishing a mechanism to coordinate their efforts.
- To address human resources challenges, four key areas should be covered under an integrated human resources strategy: staff recruitment; skills, competencies and training; motivating staff; and human resources management systems. This would help reduce staff turnover, deliver a higher number of skilled and suitably qualified personnel, facilitate retention of skilled personnel and assure the availability of motivated staff who can work efficiently and effectively.

- The JLOS should consider re-organizing its management structure by, inter alia, establishing a high-level leadership committee and thematic working groups. This could be done by adopting the structure of the Uganda JLOS modified as appropriate to reflect the local circumstances in Zimbabwe. This would address the issue of inadequate policy support and relieve the workload of the Steering Committee and the Secretariat.
- The JLOS should consider developing and implementing a sector-wide human rights action plan to inform its policies, programmes and activities.
- The JLOS should prioritize gender mainstreaming across the Sector. This entails undertaking a sector-wide audit to identify the needs and gaps in relation to gender mainstreaming and developing a Gender Strategy to ensure gender mainstreaming in the Sector's objectives, programmes and activities as well as in staffing and human resources. It also requires enhancing understanding of gender concerns among personnel in the JLOS institutions through training.
- The JLOS should explore ways to interact with CSOs, including faith-based organisations and NGOs. A key aspect of this is the establishment of effective participation structures for CSOs, division of labour and clarification of roles.
- The JLOS should develop and implement a sector-wide communications strategy to improve communication and coordination across the Sector and with development partners and other stakeholders.
- The JLOS should establish a more effective mechanism for development partner coordination, including the development of an information and communication strategy which includes an updated database of development partner-supported activities.
- Given that the challenges facing the JLOS are unlikely to abate in the short-term, development partners should adopt a pragmatic approach and target their support to the priority areas identified by the JLOS.
- The JLOS should, in consultation with all stakeholders, including development partners, devise a plan for implementation of the Capacity Development Strategy proposed in this report.
- The JLOS should establish a strategic partnership with development partners which provides a jointly funded and managed "umbrella" programme for the delivery of support to the JLOS and which systematically addresses all Sector priorities within a single programme framework. This will enable better planning, implementation, monitoring and evaluation of development partner-supported interventions within the JLOS.

7.3 PROPOSED CAPACITY DEVELOPMENT STRATEGY

7.3.1 Purpose

The Capacity Development Strategy proposed in this report aims to address the capacity challenges identified in this report with the ultimate objective of attaining a functional JLOS which is capable of effectively and efficiently delivering justice, maintaining law and order and promoting and protecting human rights in Zimbabwe.

7.3.2 Strategic Objectives

The key strategic objectives proposed to address the sector challenges discussed in this report include:

- Supporting the development of an enabling environment.
- Enhancing organizational capacity.
- Developing and empowering personnel.
- Establishing an environment that facilitates and sustains mutually beneficial stakeholder relationships.

The Capacity Development Strategy therefore adopts a multifaceted approach to address the environmental, organizational, individual and stakeholder dimensions of capacity development. Environmental capacity refers to the broad environment or system within which organizations and individuals function. It includes the economic and political climate, as well as the general legal and policy frameworks. Organizational capacity covers all factors that have a bearing on the internal environment, including organizational design, leadership, resources, infrastructure, processes and procedures, management systems and technology. Individual capacity is reflected in the knowledge, skills, competence, behaviour, commitment, experience and values demonstrated by staff. It is enhanced through education and training, performance agreements, recognition and reward and skills programmes. Stakeholder capacity refers to the ability of stakeholders to contribute to and support the implementation of the strategy.

The matrix for the proposed Capacity Development Strategy is set out in Annexure F to this report. The Strategy identifies the key capacity needs, strategic objectives,¹⁶¹ short- and long-term activities which state clearly what needs to be done to achieve the objectives, capacity development tools, time for implementation, expected outputs and the responsible agency. The

¹⁶¹ The strategic objectives are informed by the capacity needs, define the intended results and are critical to the achievement of the vision.

budget for implementation of the activities is not included. As recommended in this report, it is critical that the JLOS institutions evaluated in this report provide, where appropriate, statistical information on key capacity challenges such as staffing and resource requirements. Such information is critical for the costing of the proposed capacity development intervention.

7.3.3 Guiding Principles

The effectiveness of the proposed Capacity Development Strategy depends on a shared understanding of the following principles:

- *Practical.* The Strategy has clearly defined activities and actions that are measurable, achievable and time-bound.
- *Flexible.* It is adaptive and responsive to environmental changes.
- *Participatory.* It recognises the value of stakeholder engagement.
- *Sustainable.* It has a long-term perspective. To ensure sustainability of the Strategy, sector institutions should raise awareness, mobilize resources, build relationships with stakeholders, engage partners and secure the necessary institutional and human resources capacity.
- *Responsive.* It addresses the priorities identified by the JLOS institutions.
- *Integration.* The Strategy aims to address challenges at all levels of capacity development: environment, organization, individual and stakeholder.

7.3.4 Monitoring and Evaluation

The Capacity Development Strategy is designed to achieve broad change within the JLOS. Thus, it is critical to have a monitoring and evaluation framework in place to measure the performance and impact of implementation. Monitoring measures the strategy's implementation progress and evaluation measures its impact, effectiveness and benefits. In short, monitoring and evaluation can help determine what works and what does not work.

To ensure that progress on actions, key activities and the achievement of the strategic objectives are continuously assessed, monitoring and evaluation should be applied at both the operational and strategic level. Finally, the monitoring and evaluation results will form an integral part of progress reports and will contribute to the review of the Strategy. The Strategy should be reviewed annually and its scope adapted in response to the changing environment.

7.3.5 Coordination

The proposed Strategy focuses on developing the capacity of JLOS institutions to deliver justice effectively and efficiently. As indicated earlier in this report, the JLOS consists of a broad range of actors. It is therefore important to ensure coordination across the sector to encourage synergies and to identify existing gaps in coverage.

7.3.6 Implementation Plan

In accordance with the Terms of Reference for the assignment, the implementation plan for this Strategy will be developed as a separate document. It should be noted that the Strategy proposed in this report to build the necessary capacity will require a substantial programme of financial and technical support.

Annexure A

TERMS OF REFERENCE



Zimbabwe



Empowered lives.
Resilient nations.

TERMS OF REFERENCE FOR A COMPREHENSIVE CAPACITY ASSESSMENT OF THE JUSTICE LAW AND ORDER SECTOR (JLOS)

1.0 BACKGROUND

The Ministry of Justice and Legal Affairs, with the support of the United Nations Development Programme (UNDP) designed a four year support programme on “Enhancing Justice Delivery and Human Rights for All” with the aim to strengthen the Justice, Law and Order Sector (JLOS) capacities and improve access to justice for the vulnerable and marginalized populations.

The JLOS covers institutions in the Executive arm of Government among them, Government Ministries such as the Ministry of Justice and Legal Affairs, the Ministry of Constitutional and Parliamentary Affairs and the Ministry of Home Affairs. Government Agencies and Departments include the Zimbabwe Prison Service, Zimbabwe Republic Police, Attorney General's Office, Law Development Commission and the Legal Aid Directorate. The Judiciary on the other hand includes the Judicial Service Commission, courts at all levels, from ordinary to specialized courts. The JLOS, by its very nature embraces Law-based Civil Society Organisations, which represent individuals at the various levels of the Sector.

The JLOS is composed of a broad range of actors, yet there is inadequate coordination between these institutions. The socio- economic and political challenges in Zimbabwe over the past decade has also impacted on this sector though it is now moving towards recovery and development with an increasing stability. The current demand of this recovery process is a more harmonised and coordinated approach when dealing with strengthening justice delivery and human rights.

The JLOS is therefore working on identifying and supporting strong and sustainable partnerships for mutual cooperation and a common understanding of the collective responsibility towards the achievement of development results. Consequently, the establishment of more formalized coordination processes, mechanisms and structures in the JLOS to ensure a more harmonized and coordinated approach is imperative.

In this regard, the Ministry of Justice and Legal Affairs, with financial assistance from UNDP would like to recruit two consultants to conduct a comprehensive capacity assessment for the JLOS. One consultant will be engaged locally, while the second will be sourced from other countries to provide additional information such best practices.

1.1 Rationale of the Assignment

The Project support for “Enhancing Justice Delivery and Human Rights for All” recognizes that the Justice, Law and Order Sector is critical to building and strengthening the human rights

architecture, deepening democracy and enhancing people participation in governance affairs. The sector is crucial in strengthening accountable democratic institutions that are responsive to the populace justice demands and the promotion, protection and fulfilment of human rights.

However, capacity gaps have the potential to impact negatively on implementation of the programme and achievement of expected results. The Project Document notes capacity gaps as a key risk to the success of this project. Therefore it is important to develop a robust support framework to address key capacity gaps within the JLOS based on empirical information. The consultants are expected to carry out a comprehensive capacity needs assessment of the Justice Law and Order Sector's institutions to clearly identify key capacity gaps and make recommendations for a capacity development strategy to be designed for all JLOS institutions.

1.2 Assignment Objective

The overall objective of this assignment is to carry out a comprehensive capacity needs assessment of the entire Justice Law and Order Sector to identify capacity building gaps and needs for the JLOS institutions, systems and processes.

1.3 Specific objectives

- Identify performance challenges that hinder effective performance of the entire JLOS institutions;
- Identify skills and competencies required for effective performance of the JLOS institutions;
- Highlight issues related to the relevant institutional structures, systems and processes required for effective performance of the JLOS;
- Identify capacity gaps at different levels in the JLOS;
- Identify capacity gaps in the JLOS sector that could hinder the implementation of the “Enhancing Justice Delivery and Human Rights for All” Programme;
- Identify priority areas for capacity development and enhancement;
- Take stock of what skills are available in the JLOS institutions and compare with what the organization has to achieve;
- Identify defective systems in the management of each institution;
- Identify and recommend best practices from other jurisdictions;
- Produce a Capacity Needs Assessment Report and a Framework for a capacity development strategy for all JLOS institutions.

2.0 DUTIES AND RESPONSIBILITIES

2.1 Scope of the Assignment

- The scope of this assignment is limited to the Justice Law and Order Sector Institutions, including the Ministry of Justice and Legal Affairs, the Ministry of Constitutional and Parliamentary Affairs, the Ministry of Home Affairs, the Judicial Service Commission, the Attorney General's Office, the Zimbabwe Republic Police (ZRP), the Zimbabwe Prison Service, the Law Development Commission, the Legal Aid Directorate and the Law based NGO actors;
- The assignment shall be comprehensive and consultative;
- The consultation shall involve both internal and external stakeholders;
- The assignment shall look at all critical areas and functions of the JLOS institutions and identify gaps.

2.2. Methodology

The methodology should be wide ranging, consultative and participatory, entailing a combination of comprehensive desk reviews, analysis and interviews. While interviews are a key instrument, all analysis must be based on observed facts to ensure that the assessment is sound and objective. On the basis of the foregoing, the consultants will further elaborate on the method and

approach in a manner commensurate with the assignment. The key inputs to the assessment should be as follows:

- An inception report outlining the consultants' understanding of the task and the proposed methodology to undertake it;
- Desk review of relevant documents (policy documents, projects, official correspondence and reports)
- Interviews with key informants (implementing partners, communities, stakeholders)
- Field visits

Participatory techniques and other approaches for gathering and analysing data should be paramount in the assessment. The Methodology of the assignment must show that the assessment is a set of activities and not a solution. In addition it must define desired capacities through assessing capacity assets and strengths, needs and gaps that will be used to design a framework for capacity development strategy.

3.0 DELIVERABLES AND REPORTING ARRANGEMENTS

3.1 Deliverables

An inception report submitted within a week of signing the contract (detailing the work-plan, literature reviewed, stakeholders to be met, checklists and questionnaires, reports to be produced and an indication of how the Consultant (s) intends to carry out the assignment.)

Three (3) copies of a Draft Capacity Needs Assessment Report and Capacity Development Strategy within one (1) month;

Three (3) copies of a Final Capacity Needs Assessment Report and Capacity Development Strategy within 45 days hard and soft copies;

Workshop report (if required);

3.2 Duration of Assignment

This assignment will be conducted over 45 working days.

3.3 Reporting arrangements

The consultants will be reporting to the Permanent Secretary Ministry of Justice and Legal Affairs and UNDP Assistant Resident Representative through the Programme Focal Persons both at Ministry of Justice and Legal Affairs and UNDP.

4.0. COMPETENCIES AND QUALIFICATIONS

4.1. Education and Training

Masters degree in Development Studies, Political Science, International Relations, Law, Social Sciences, Public Policy or related field. A higher post graduate qualification will be a distinct advantage.

4.2. Experience and Knowledge

- A minimum of 10 years experience in JLOS;
- Demonstrable experience in research and analysis;
- Demonstrable knowledge of Sector Wide Approaches (SWAPs) in general;
- Demonstrates practical knowledge in capacity development approaches
- Displays knowledge of JLOS processes, procedures and international best standards
- Experience working in a multi-cultural and/or international work environment;

- Experience in capacity building initiatives;
- Demonstrable experience in monitoring and evaluation

4.3. Competencies

- Organisational awareness
- Working in Teams
- Communicating Information and Ideas
- Self-management and Emotional Intelligence
- Conflict Management / Negotiating and Resolving Disagreements
- Knowledge Sharing / Continuous Learning
- Appropriate and Transparent Decision Making

Annexure B

DOCUMENTS REVIEWED

Draft Standard Operating Procedures for Legal Aid Services in Zimbabwe, with a specific focus on survivors of Gender Based Violence.

Judicial Service Commission (Zimbabwe). *Strategic Plan 2012-2016*.

Law Society of Zimbabwe. *Strategic Plan 2011-2015, August 2010*.

_____. *Annual Report 2012*.

Uganda, Republic of. *The Third JLOS Strategic Investment Plan (SIP III) 2012/13-2016/17*.

UNDP. *Zimbabwe Human Rights Commission Annual Work Plan 2013*.

UNDP. *Zimbabwe: 2013 Annual Work Plan*.

Zimbabwe National Statistics Agency (ZIMSTAT) and ICF International. *Zimbabwe Demographic and Health Survey 2010-11*. Calverton, Maryland: ZIMSTAT and ICF International Inc, 2012.

Zimbabwe, Government of, Ministry of Justice and Legal Affairs. *Standard Operating Procedures for Legal Aid Services in Zimbabwe: with a special focus on Survivors of Gender-Based Violence*.

Zimbabwe, Government of, and UNDP. "Enhancing Justice Delivery and Human Rights for All", Quarterly Progress Report, 1 April – 30 June 2013.

_____. "Enhancing Justice Delivery and Human Rights for All", Annual Progress Report, 1 January – 31 December 2012.

_____. "Enhancing Justice Delivery and Human Rights for All", Project Document.

_____. "Enhancing Justice Delivery and Human Rights for All", Quarterly Work Plan: October to December 2012.

_____. "Enhancing Justice Delivery and Human Rights for All", Quarterly Work Plan: July to September 2012.

_____. "Enhancing Justice Delivery and Human Rights for All", Quarterly Work Plan: January to March 2012.

_____. "Enhancing Justice Delivery and Human Rights for All", Quarterly Work Plan: January to March 2013.

_____. "Enhancing Justice Delivery and Human Rights for All", Quarterly Work Plan: April to June 2013.

_____. "Enhancing Justice Delivery and Human Rights for All", Quarterly Work Plan: July to September 2013.

_____. "Enhancing Justice Delivery and Human Rights for All", Annual Work Plan: January to December 2012.

_____. "Enhancing Justice Delivery and Human Rights for All", Quarterly Work Plan: July to September 2013.

_____. "Enhancing Justice Delivery and Human Rights for All", Quarterly Work Plan: April to June 2012.

- _____. “Enhancing Justice Delivery and Human Rights for All,” Quarterly Work Plan: February to March 2012.
- _____. “Enhancing Justice Delivery and Human Rights for All,” Quarterly Work Plan: July to September 2012.
- _____. “Enhancing Justice Delivery and Human Rights for All,” Annual Work Plan: January-December 2012.
- _____. Country Programme Action Plan for the period 1 January 2012 to 31 December 2015.
- _____. Project Document: Support for the strengthening of the promotion and protection of Human Rights and Rule of Law through enhanced capacity of institutions in the Ministry of Justice and Legal Affairs
- _____. Project Document: The Zimbabwe Human Rights Commission and the United Nations Development Programme - “Support for the strengthening of the promotion and protection of Human Rights and Rule of Law through enhanced capacity of institutions in the Ministry of Justice and Legal Affairs,”
- Zimbabwe, Government of, and United Nations, *Zimbabwe United Nations Development Assistance Framework 2012-2015*, April 2011.
- Zimbabwe, Government of, Ministry of Justice and Legal Affairs. National Plan of Action for the Implementation of the Universal Periodic Review Recommendations.
- Zimbabwe, Government of, Ministry of Women Affairs, Gender and Community Development. *National Gender Policy (2013-2017)*.
- _____. *Zimbabwe National Gender-Based Violence Strategy 2012-2015*.
- Zimbabwe, Government of. Ministry of Justice, Legal and Parliamentary Affairs: Service Charter
- _____. *Protocol on the Multi-Sectoral Management of Sexual Abuse and Violence in Zimbabwe 2012*.
- _____. Results-Based Management System, Ministry of Justice, Legal and Parliamentary Affairs Integrated Performance Agreement for the Year 2014.
- _____. *Strategic Plan for the Ministry of Justice and Legal Affairs*.
- _____. *Strategic Plan for the Ministry of Justice, Legal and Parliamentary Affairs*.
- _____. Zimbabwe Prison Service Charter.

Annexure C

PERSONS CONSULTED

<u>Name</u>	<u>Designation</u>	<u>Organization</u>
Bartels, Franke	-	GIZ
Bugge, Jakob	-	Danish Embassy
Changunduma, B.	Chief Superintendent, Projects & Production	ZPCS
Chidavaenzi, MV	Law Officer	MoJLPA
Chimbaru, Fortune	Chief Law Officer	Civil Division, MoJLPA
Chisango, Christopher	General Manager: Finance, Administration & Human Resources	ZACC
Deme, Samuel	Chief Law Officer	Attorney-General's Office: Legislative Drafting
Dias, N.	Deputy Attorney-General: Legal Drafting	MoJLPA
Gudo, Michelle		UN Women
Kadzima, ST	Principal Labour Officer	MoPSLSW
Kahondo	Chief Prison Officer, Public Relations	ZPCS
Kasima, TSO	Chief Law Officer	Department of Policy and Legal Research, MoJLPA
Kudya, (Justice)	Acting Secretary	JSC
Machera, MJ	Assistant Commissioner	ZPCS
Machona	Chief Superintendent: Human Resources	ZPCS
Madara, Edward	Executive Secretary	LSZ
Madziviridze, Prisca	A/Legal Advisor	MoHA
Magadure, Happy	Law Officer	Department of Constitutional and Parliamentary Affairs, MoJLPA
Magaya, Kingston	Acting State Counsel II	Department of Constitutional and Parliamentary Affairs, MoJLPA
Makanza, Totenda	-	NANGO
Makarati, Jill N S	State Counsel II	LDC
Makaya, Freedom	Law Officer	LDC
Makubaza, S	Assistant Commissioner: Legal Services/Head: Legal Services & Research Section	ZPCS

Mandizha, Natasha	Law Officer	Attorney-General's Office: Legislative Drafting
Marumura	Human Resources	JSC
Mataure, Ratidzai	Desk Officer	President's Office
Matizha, Caroline	Director: Gender	MoWAGCD
Mbanga, Priscilla	Chief Law Officer	MoJLPA
Moffat, Sharon	Senior Law Officer	LAD
Moyo, Nobuhle		Musasa Project
Mubataripi, Edwin	General Manager: Prevention & Advocacy	ZACC
Mudyahoto, Elliott	Principal Community Service Officer	MoJLPA
Mudzongo, G	Programme Coordinator, JLOS	UNDP
Muegiwa, Sandra	-	Justice for Children Trust
Mukaratirwa	Director, Legal Drafting	MoJLPA
Munjanya, B	Law Officer	Attorney-General's Office: Legal Advice, MoJLPA
Mutsonziwa, Nelson	Director of Public Prosecutions	NPA
Muvingi, Tafadzwa		UNDP
Mwanza, DR	Human Resources Officer	-
Ncube, L	Principal Law Officer	MoFA
Nhau, Sandra	General Manager: Legal Services	ZACC
Nolan, Antony		UNICEF
Nyangombe, John	Deputy Director	LAD
Nzombe, T	Assistant Commissioner & Deputy Director (Civil Process)	ZRP
Paradzai	Chief Prison Officer – Legal	ZPCS
Pedzisayi, S	Chief Law Officer	Attorney-General's Office: Civil Division, MoJLPA
Rajaonson, Fidy		French Embassy
Shana, Rex	Director	JSC
Shawa, B	Law Officer	MoJLPA
Sibiya, Precious	Legal Advisor	MoPSLSW
Simou, Chiedza	-	ZWLA
Taguta, Benevolence	Law Officer	MoJLPA
Tigere, Rancing	-	IOM
Tinarwo, Vongai	-	Musasa Project
Tongogara, Sukai	General Manager: Investigations	ZACC

Tswana, EP	Law Officer	MoJLPA
Utete-Masango, Silvia	Permanent Secretary	MoWAGCD
Utsiwembanje, T	Law Office	MoHA
Vazquez-Horyaans, P	-	European Union
Ziko, Lynett	Principal Community Service Officer	Department of Community Service, MoJLPA
Zowa	Deputy Chairperson	LDC
Zvekare, T R	Chief Law Officer	NPA

Annexure D

CAPACITY ASSESSMENT QUESTIONNAIRE – JUSTICE LAW AND ORDER SECTOR (JLOS)

Name/s of informant/s :

Position :

Organization :

E-mail :

Date :

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ENTRY POINT: ENABLING ENVIRONMENT / INSTITUTIONAL LEVEL (SECTOR-WIDE APPROACH)			
CORE ISSUES	FUNCTIONAL CAPACITIES	QUESTIONS	ANSWERS
<u>Institutional arrangements:</u> 1. Mandates, policies and Procedures	<ul style="list-style-type: none"> Formulate policies & strategies Monitor & evaluate Analyse a situation & create a vision Plan, budget & implement 	(a) Is the entity's mission/vision/ mandate clearly articulated? (b) Does the entity have a long-term strategic plan? (c) Does the strategic plan incorporate gender equality and other relevant human rights commitments from international human rights instruments/standards? (d) Is there a strategy and budget line for gender mainstreaming/human rights based approaches? (a) Does the entity have the capacity to monitor and evaluate the development and implementation of policies and regulatory frameworks and mechanisms? (i.e. to measure results and collect feedback to adjust policies and procedures)	Yes/No: Yes/No: Yes/No: Yes/No: Yes/No:

2. Management structure		<p>(a) Does the entity have a clear governance and oversight structure?</p> <p>(b) Is there a clear organisation chart available which describes the entity's key areas of authority and responsibility as well as well-defined reporting/delegation lines?</p>	<p>Yes/No:</p> <p>Yes/No:</p>
3. Human Resources		<p>(a) Is there a permanent, transparent and effective staff performance appraisal system?</p> <p>(b) Is there a policy on pay and compensation that is legal, equitable and transparent? Policy on non-monetary benefits that is transparent and performance-based?</p> <p>(c) Are there written human resources policies and practices ensuring that competent personnel is recruited, developed, promoted and retained?</p> <p>(d) Does the entity have an organised system of staff development that focuses on training, mentoring or job rotation? If no, then which factors hamper this process?</p>	<p>Yes/No:</p> <p>Yes/No:</p> <p>Yes/No:</p> <p>Yes/No:</p>
4. Financial resources	<ul style="list-style-type: none"> Budget, plan & implement 	<p>(a) How does the budget allocated to the entity impact on its capacity to implement its mandate?</p>	
5. Physical resources	<ul style="list-style-type: none"> Analyse & create a vision 	<p>(a) What equipment (offices, vehicles, computers and others) and tools does the entity have that is considered necessary for its work?</p> <p>(b) What information communication technologies does the</p>	<p>Yes/No:</p> <p>Yes/No:</p>
6. Intra-sectoral	<ul style="list-style-type: none"> Engage 		<p>Yes/No:</p>

coordination	stakeholders	entity have?	
		(a) Does the entity have the capacity to coordinate with other entities/agencies/donors?	
		(b) Does the entity have formal relationships with others in the sector?	
<u>Leadership</u>			
7. Setting objectives	<ul style="list-style-type: none"> Formulate policies & create a vision 	(a) Who participates in defining and setting objectives?	
8. Managing relationships	<ul style="list-style-type: none"> Engage stakeholders 	(a) Does the entity have the capacity to identify, motivate and mobilize key external stakeholders?	Yes/No:
9. Civil society involvement		(a) Is there a mechanism for engaging with civil society?	Yes/No:
<u>Knowledge</u>			
10. Professional training & education	<ul style="list-style-type: none"> Formulate policies & strategies 	(a) Does staff of the entity possess the necessary expertise (including on human rights and gender equality)?	Yes/No:
		(b) Is there knowledge of human rights-based approaches?	Yes/No:
		(c) Does the entity have any policies/programmes on-going staff training?	Yes/No:
		(d) Would the entity's staff be willing to attend training on human rights / gender mainstreaming if offered?	Yes/No:
<u>Mutual accountability mechanisms:</u>			
11. Prevention and	<ul style="list-style-type: none"> Analyse a situation and 	<ul style="list-style-type: none"> Does the entity have the capacity to ensure 	Yes/No:

enforcement	create a vision	accountability through prevention and enforcement?	
	<ul style="list-style-type: none"> Formulate policies and strategies 	<ul style="list-style-type: none"> Are there peer/partner review mechanisms? Is there an oversight or complaints resolution mechanism (what is the number of complaints received, processed and resolved)? 	<p>Yes/No:</p> <p>Yes/No:</p>
12. Communication	<ul style="list-style-type: none"> Engage in multi-stakeholder dialogue 	<p>(a) Does the entity have a communication strategy in respect of citizen's rights?</p> <p>(b) Does the entity have the capacity to ensure transparency by publishing annual reports to keep the society informed, posting information on the Internet or conduct public awareness campaigns?</p>	<p>Yes/No:</p> <p>Yes/No:</p>
13. Public engagement	<ul style="list-style-type: none"> Stakeholder engagement 	<p>(a) Does the entity have the capacity to enable equitable and meaningful stakeholder participation through the decision-making processes?</p>	<p>Yes/No:</p>