



The Tanganyika Law Society (TLS)

**ANNUAL REPORT
LEGAL AID PROGRAMME (LAP) FOR
CHILDREN IN CONFLICT WITH THE LAW**

DECEMBER 2014-2015





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ACRONYM

ACRWC	African Charter on the Rights and Welfare of the Child
CC	City Council
CICL	Children in Conflict with the Law
DC	District Council
GCD	Gender and Children Desk
JC	Juvenile Court
LAP	Legal Aid Programme
LCA	Law of the Child Act, 2009
MDC	Mbeya District Court
MOCLA	Ministry of Constitution and Legal Affairs
MRH	Mbeya Retention Home
PCA	Programme Cooperation Agreement
RITA	Registration Insolvency and Trusteeship Agency
RM	Resident Magistrates' Court (RM)
TLS	Tanganyika Law Society
UNICEF	United Nations Children's Fund
UNCRC	United Nations Convention on the Rights of the Child

GLOSSARY OF TERMS

Juvenile: A young person who has committed a crime or is accused of committing a crime.

Child: Section 4 (1) of the Law of the Child Act (No. 21 of 2009) defines a child as *any person below the age of eighteen (18) years*

Children in contact with the law – refers to any person under the age of 18 who comes into contact with the justice system whether as victim, witness or alleged offender.

Children in conflict with the law: refers to any person under the age of 18 who comes into contact with the justice system as a result of being suspected or accused of committing a crime.

Child Supporters – Adult volunteers who have received basic training on children’s rights and support un-accompanied children in police stations.

Juvenile Justice System: This may be defined as procedural and substantive law, judicial and extra-judicial measures, institutions erected to deal with children in conflict with the law. Or a set or range of institutional and legal protective or correctional measures and treatments adopted to a child in conflict with the law.

Criminal Case: A court proceeding in which a person who is charged with having committed or omitted an act against the Republic.

Community Rehabilitation Programme: It is a community based rehabilitation programme which provides an alternative measure to corporal punishment and detention of children in conflict with the law both pre and post-trial, and children at risk of offending. The programme focuses on changing children’s behavior in a holistic manner and ensures that whenever possible children are able to continue to live with the family during the rehabilitation process.

TLS VISION, MISSION, VALUES & SPECIFIC OBJECTIVE

The Tanganyika Law Society (TLS) is the Bar association of Tanzania Mainland, founded in 1954 by an Act of Parliament – the Tanganyika Law Society Ordinance 1954. The Tanganyika Law Society is currently governed by the Tanganyika Law Society Act, Cap 307 R.E. 2002, which repealed the earlier legislation.

TLS was established with several statutory objectives, including: -

- To maintain and improve the standards of conduct and learning of the legal profession in Tanzania;
- To facilitate the acquisition of legal knowledge by members of the legal profession and others;
- To assist the Government and the Courts in all matters affecting legislation and administration and practice of the law in Tanzania;
- To represent, protect and assist members of the legal profession in Tanzania as regards to conditions of practice and otherwise;
- To protect and assist the public in Tanzania in all matters touching, ancillary or incidental to the law.

TLS IS GUIDED BY FOUR CORE VALUES;

Professionalism: The entire business of TLS shall be guided by the highest standards of international best practices and ethics, with its staff and members ensuring impartiality and a fair balance of competing interests, upholding ethical approaches to their business in public and private.

Transparency -TLS will be open and accountable with the professional provisions, and in relating with other partners and stakeholders.

Voluntarism -Members and staff will volunteer in serving the indigent of our society in the true spirit of Pro Bono.

Equity - while members and staff shall strive to seek justice for all equally, it is without prejudice that members shall serve all without discriminating in terms of race, colour, gender, age, nationality, cultural bias and religion. TLS members and staff shall respect diversity and appreciate the good in diversity.

Professional Solidarity- All members of TLS and Staff shall exercise solidarity with each other on all official matters of the profession. Members shall constantly pursue a shared professional understanding of issues in society, voluntarily provide peer support to each other and ethically stand up for each other on matters affecting the profession

EXECUTIVE SUMMARY

In October 2014 Tanganyika Law Society and UNICEF entered into a Programme Cooperation agreement to provide legal assistance to children in conflict with the law. The programme covers Mbeya Municipal and District Councils.

The programme designed to achieve the following specific objectives: -

- To increase accessibility and improve the quality of legal services to CICL by building the capacity of legal providers to deliver the model effectively;
- To ensure that children's rights and the due processes are guaranteed and respected through the criminal justice process;
- To ensure that children are deprived of their liberty as a matter of last resort and for the shortest appropriate period of time;
- To expedite children's cases including reducing the time between charge and sentencing, increase the number of dismissal and acquittals, and reduce the use and length of pre-and post-trial detention.

The objectives of the programme have been designed to respond towards objective 7 of the five year strategy for Progressive Child Justice Reform 2013 – 2017, which focuses on improving access to quality legal help and ensure that legal advice and representation is available to children at all stages of the criminal cases. It also supports the enforceability of the national laws in particular the Law of the Child Act, 2009 to align with the programme and strategy's objectives. Tanganyika Law Society used the following approach to implement the LAP:

- Provision of monthly legal information session for all children in detention facilities where children were taught on their rights, responsibilities and the Tanzania Criminal Procedures;
- Provision of one on one advice for specific cases and prepared them to represent themselves in primary courts where advocates do not have locus to provide legal representation.
- Legal representation at the District Court, Resident Magistrate's Court and High Court.
- Explore non- custodial options for children with Court cases and linking them with Civil Society Organization

- Provision of technical support on effective operation of Child Supporters Programme in four selected Police Stations (Mbalizi, Ilomba, Mwanjelwa and Central).
- Provision of legal Aid and Legal Information to children attending community rehabilitation programme

This annual report covers key activities implemented by TLS from December 2014 to December 2015. The report reflects on the achievements as per each project objectives as stipulated in Programme Cooperation Agreement. In this reporting period TLS came up with the following notable achievements:

1. **The program provided legal representation to all 52 children in conflict with the law who had cases before the district and resident magistrate courts.** Out of 52 cases 44 involved boys and 8 involved girls. Among 52 cases 37 were completed in various ways as follows; 9 children were acquitted, 16 cases were dismissed, 9 children were found guilty and given probation sentences. One “child” whose age was in question was later confirmed to be an adult. He was found guilty and was sentenced to 30 years imprisonment for raping. One child was sentenced to corporal punishment and 1 child was given conditional discharge. In all matters 32 children were granted bail.

Other results apart from the court representation include;

- Two (2) cases from Mbeya Retention home were referred to the Community Rehabilitation services at Kihumbe
 - Transfer of 17 Cases from Ruanda Prison (a detention facility for adults) to Mbeya Retention Home
 - Transfer of one case from Chunya District Court to Mbeya Resident Magistrate Court, and 8 cases from Primary Court to Mbeya District Court.
2. **The programme coached and empowered 111 children from Mbeya Retention Home.** This was conducted in a form of monthly classes where all children in the Retention Home attended. The training focused on how to appear and respond to questions before the Courts, children’s rights, their responsibilities and the Tanzanian criminal procedures. Children participated in selecting the topics which they wanted to be trained on in each month. The Courts that these children appeared include Mbeya District, Resident Magistrate and Primary Courts. Also the programme

empowered 13 children who represented themselves at the Primary Courts and District Courts which are not within the programme coverage. These were two children in primary courts of **Chunya and Viwawa**; and two others in **Rungwe District Court**. Twelve cases out of 13 that were filed at the foregoing courts against the children were dismissed. The feat was achieved through effective legal opinions presented by children themselves.

3. As part of providing legal information, the TLS also developed and printed 1215 leaflets with information on the criminal procedures and what to expect from the courts. The leaflets were developed in collaboration with children who provided inputs on the information provided and the layout. TLS disseminated the copies to children, legal service providers, court officers working at Primary, District and RMs Courts in Mbeya.

4. **Successfully established a child supporter's programme.**

The programme operates in four police stations: Mwanjelwa, Ilomba, Mbalizi and Central. This included identifying 24 child supporters (17 males and seven females) and enhancing their skills to effectively support children in the mentioned police stations / posts. The work of child supporters facilitated the following key results:

- One hundred and ninety-one (91) cases in police stations were resolved amicably;
- Thirty-three (33) referrals made from the police to the Community Rehabilitation Programme (KIHUMBE);
- Increased networking with like-minded stakeholders i.e. Police officers, SWO, and Child Protection Teams
- Separated families were re-united.
- Decreased number of children detained in Police Stations
- Children were timely supported at Police Stations.

5. **Enhanced the capacity of legal aid providers and law enforcers on children's rights.**

The training was conducted to 40 law enforcers (Male 25, 15 female) from the following agencies / offices:

- Judiciary 16 Magistrates
- Director of Public Prosecution's office 16 State Attorneys
- TLS Mbeya Chapter 07 officers
- KIHUMBE01 CRP Manager

6. Conducted a capacity building training on Juvenile courts and detention procedures.

The training involved 40 participants including prosecutors, magistrates from Primary, District and Residents Court, Kihumbe staff and TLS staff. The training resulted to the following key achievements:

- Increased knowledge of court officers in handling cases of children in conflict with the law more effectively and expeditiously. Four cases were completed within six months as per Rule 34 of the Juvenile Court Rules, 2016.
- Court Officers are adhering to and follow court procedures as stipulated under the Law of the Child Act, 2009 and the Juvenile Court Rules, 2016. For instance, court attires are no longer worn when children cases are being heard. As a result there has been less intimidation to children and the intention of the law is being served.
- There is substantial decrease in the number of children's cases filed before the primary courts.
- Change of attitude of court officers, towards children in conflict with the law. Previously the Court officers viewed children in conflict with the law as stubborn and of bad character, which conversely, inclined them towards harsh punishment against such children. Such attitude towards this group of children is gradually declining among court officers.
- Increased knowledge of police officers on the rights of children. The knowledge has in turn helped in the provision of effective and timely support to children brought in police stations.
- Public awareness raising was conducted through Radio. The radio programmes conducted led to increased awareness on children's rights. Through such radio programmes, it has been possible for the community to be sensitized on children's rights, the Law of the Child Act, 2009 and on the work of TLS in Mbeya District.

Despite of accomplishing the foregoing milestones in 2015, the programme has faced various challenges that includes, among others, procedural irregularities, age determination; absence of friendly court environment; absence of child friendly space for provision of legal aid/advise in prison, delays in finalization of cases, project coverage, inadequate social welfare officers and low level of

understanding of the LCA and its regulations by law enforcers and social welfare officers.

The TLS wishes to recommend the following:

- Ministry of Health, Community Development, Gender, Elderly and children should recruit more social welfare officers and strive to allocate adequate resources for the support of their key functions.
- The Ministry of Constitution and Legal Affairs in collaboration with the Judiciary of Tanzania should strengthen the judicial system and ensure that all criminal cases involving children are heard and determined by Juvenile Courts. It is also recommended that the Chief Justice establish / designate additional Juvenile Courts as per sections 97 and 98 of the Law of a Child Act, 2009.
- The Department of Public Prosecutors should ensure good preparation of charges for accused juveniles and serve defence counsellors well and timely. Such judicious conduct would help them in preparing well their defence statements. It is also important to ensure that the age of the accused is well determined prior to preparation of the charges.
- The Ministry of Home Affairs should continue to strengthen prisons and police posts by creating child friendly environments, particularly at police gender and children desks while in prisons, efforts should be made to ensure that children in detentions are not mixed up with adults as articulated in the LCA and that child friendly space for provision of legal aid services is provided.
- The legal aid service providers should involve government departments that deal with juvenile issues at both stages of planning and implementation. This approach will enhance government ownership and effective sustainability of the programme.
- Community leaders should help in spearheading awareness on the importance of parental responsibilities on members of the community in their respective areas. Such an approach would help in reducing, quite considerably, the number of children engaged in criminal acts. This should be done through village assemblies, school meetings and religious events or forum. Children should be well guided by their parents, particularly on how to behave in the society. Parents should also provide care and support to their children.

Generally, the securing of court representation helped in ensuring expeditious proceedings, fair trial and justice for children. The result was that the programme helped in bringing about enhancement of multi-sectoral co-ordination which in turn helped in the fruition of comprehensive mechanism for child justice.

As we continue to implement this programme in 2016, we need to address challenges by engaging more with the community, government and other stakeholders. We also need to develop feedback mechanism which will help to inform our work. The programme should continue to ensure that all children's rights are embraced by members of the community, law enforcers, key decision makers and legal service providers.

1 PART ONE

BACKGROUND OF THE PROJECT

Provision of Legal Assistance to children in conflict with the law was one of the major recommendations made in two comprehensive studies on the assessment of the access to justice system for fewer than 18s; and analysis of the situation of children in conflict with the law in Tanzania¹.

The studies found that children in conflict with the law have extremely limited access to legal assistance to the extent that researchers did not find one case in which a child defendant was offered or had received legal representation at any stage of his or her criminal proceedings even when charged with capital offences.

Most children in conflict with the law who are detained are street children or domestic workers who do not have parents and guardians that can hire lawyers for them or enable children to be released on bail. Even where children have parents/guardians, they cannot afford the high costs of legal fees which are beyond the reach of most middle-class families. In addition, most legal aid providers are not mobile.

The establishment of a Legal Aid Programme for Children in Conflict with the Law by legal aid providers is one of the priority actions that was recommended by the Child Justice Forum on the steps to be taken by state and non-state actors to address the gaps in the justice system for children in a Five-Year Strategy for Progressive Child Justice Reform. Objective 7 of the strategy is dedicated to increasing the availability and quality legal aid to children in conflict with the law.

Therefore, Tanganyika Law society in collaboration with UNICEF implemented a two-year pilot Legal Assistance Programme for Children in conflict with the Law for from January 2015 to October 2016. The programme was initiated to respond to objective 7 of the Five-Years Strategy mentioned above. It focuses on improving access to quality legal help and ensuring that legal advice and

¹ Conducted by the Ministry of Constitution and Legal Affairs in 2012.

representation is available to children at all stages of criminal cases.

The provision of legal assistance for children intends to bring the juvenile justice system into line with international standards and support the enforceability of the National laws in particular, the Law of the Child Act, 2009 and its related regulations.

The Legal Assistance Programme provides legal services within Mbeya District Court and Mbeya City Council; it particularly provides support in Mbeya Retention Home and Ruanda prison (children in detention facilities receive legal information and effective support to their cases). These were prioritized as hot spots for children in the criminal justice system in Mbeya. Further assistance is provided by child supporters in Police stations (at Mwanjelwa, Ilomba, Mbalizi and the Central Police station) and to the children attending the Kihumbe Community Rehabilitation Programme.

Mbeya was selected for the pilot scheme because of having the highest prevalence of young offending children. It also happens to be the only region in the country that has an approved school and a retention home. The child justice structures are available to strengthen access to justice for children which includes: The Police Gender and Children Desks, the Child Protection Teams and Most Vulnerable Children's Committee, the establishment of the Juvenile Court and capacity building of officers who deal with children cases at the Police stations and in Courts.

Overall Goals and Objective of the Programme.

The overall objective of the programme is to promote respect for children's rights and ensure due processes are guaranteed and respected throughout the criminal justice process and ensure that diversion and non-custodial measures are utilized wherever possible.

The programme is being implemented with four specific objectives;

- To increase accessibility and improve quality of legal aid to children in conflict with the law (CICL) by building the capacity of legal aid providers to deliver the model effectively;
- To ensure that children's rights and due processes are guaranteed and respected throughout the criminal justice process;
- To ensure that children are deprived of their liberty as a matter of last resort and for the shortest appropriate period of time

- To expedite children's cases including reducing the time between charge and sentencing, increase the number of dismissals and acquittals, and reduce the use and length of pre-and post-trial detention.

1.2 EXPECTED OUTPUTS AND RESULTS

The expected outputs and results for the programme are well defined in the PCA and include;

Output 1: Children in conflict with the law appearing before the Juvenile Court (JC), District court (DC) and Resident Magistrates Court (RM's) have legal representation leading to better outcomes for children.

Expected Result: The rights and due process guarantees of children appearing before the Juvenile Court, the District Court and Resident Magistrate's court are better protected

Output 2: Children detained in Mbeya Retention Home and Ruanda Prison get legal information, legal advice and support in their cases.

Expected Result: Increased knowledge and awareness on children's rights and the Tanzania Criminal Procedures amongst Children detained in Ruanda Prison and Mbeya Retention Home

Output 3: Children detained in police stations receive timely and appropriate support

Expected Result: Timely and appropriate support provided to children detained in police stations

Output 4: Legal aid providers and law enforcers trained demonstrate adequate knowledge by providing effective legal support to children in conflict with the law.

Expected Results:

- Enhanced knowledge of Court Officers to effectively and expeditiously handle cases of children in conflict with the law(CICL)
- Increased knowledge of Legal Aid Providers and law enforcers to provide effective legal support to children in conflict with the law Increased access to and direct and indirect provision of legal services for CICL

1.3 PURPOSE OF THE REPORT

This report is intending to:

- ❖ Share skills, knowledge and experience with legal aid providers on provision of legal assistance to children in conflict with the law
- ❖ Share the key programme achievements, lesson learned and challenges encountered during implementation.
- ❖ The report also seeks to provide valuable information on the status of legal support for children in conflict with the law.
- ❖ It further provides justification for action by the government to take effective measures to ensure there is a coordinated and comprehensive legal framework that guarantee legal aid for all children in conflict with the law in all stages of the criminal justice system.
- ❖ Influence the commitment by the government, development partners and all legal aid providers to facilitate the provision of free legal representation or assistance to all children in conflict with the law.

The specific objectives of this report are to:

- i. Show how the criminal justice system works for children in conflict with the Law in Tanzania.
- ii. Share information with the TLS's stakeholders on key achievements and results in the implementation of the first-year legal aid programme in Mbeya
- iii. Share with stakeholders the steps required to be taken by Government departments, Legal Aid Providers and other actors in improving the situation of children in conflict with the Law in Tanzania.



PART TWO

2.0. PROGRESS MADE IN 2015

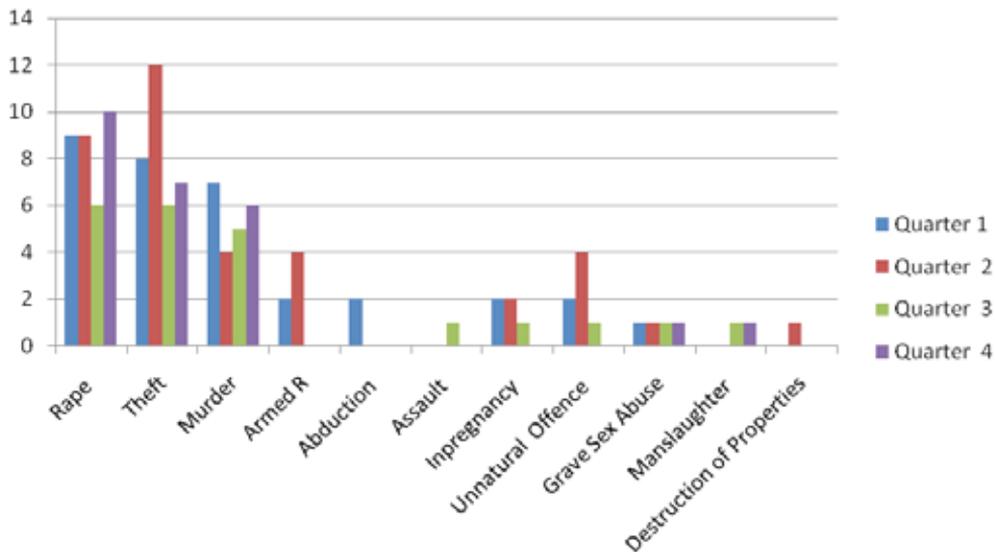
This part presents the key activities and achievements attained as per each programme output and objectives in 2015. It also indicates other challenges encountered during the implementation of the programme.

The TLS in collaboration with UNICEF and the government conducted several activities through different strategies to reach targeted beneficiaries and community at large. In a well, coordinated manner, the TLS conducted the following activities;

2.1 PROVISION OF LEGAL REPRESENTATION AT MBEYA DISTRICT, RESIDENT MAGISTRATE AND HIGH COURT OF MBEYA

The program provided legal representation to all 52 children in conflict with the law who had cases at the district and resident magistrate courts. This is 100% representation of children's cases. Out of 52 cases 44 involved boys and 8 involved girls. Among 52 cases 37 were completed in various ways as follows; 9 children were acquitted, 16 cases were dismissed, 9 children were found guilty and given probations sentence. One "child" whose age was in question was later confirmed to be an adult and was sentenced to 30 years in prison for raping. One child was sentenced to corporal punishment and 1 child was given conditional discharge. Out of 52 cases mentioned, 32 were released from detention facilities on bail.

Prior to the commencement of this programme, these children were not receiving any kind of legal support. Children from two detention facilities in Mbeya City Council (Mbeya Retention Home and Ruanda Prison) also received legal assistance on their cases. The TLS appointed two advocates to undertake the assignment of providing legal representation to children who were charged with different offences as indicated in the chart below;

Table 1: Nature and trend of offences committed by children

Source of Information: TLS quarterly reports (Qtr. 1, 2, 3, 4)

The aim of the TLS in this project is to ensure that 75% of children in conflict with the law appearing before the Juvenile Court in Mbeya District Court and Resident Magistrate Court have legal representation while 40% of cases are dismissed for want of prosecutions.

In carrying out the programme's activities, it was also expected to reduce time spent between charges and sentencing for children in the juvenile court. The programme further aimed to ensure that 30% of eligible children are released on bail.

To achieve that, the TLS implemented the following activities to ensure timely and appropriate legal representation was provided:

- Reviewed all case files, and provided regular information session for all children in conflict with the law at Mbeya Municipal and District Courts²
- Visited, interviewed and assessed their needs in order to provide appropriate legal support;
- Provided one on one advice and prepared them to represent themselves in primary courts where advocates do not have locus to provide legal representation;

² Note that: during the implementation of the programme, the Juvenile Court of Mbeya was yet to be established

- Prepared children for court sessions in specific detention facilities where children to be represented were kept;
- Legal representation in courts and preparing children for trials;
- Convened meeting with Magistrates, Public Prosecutors, Social Welfare Officers and Civil Society Organizations based in the community to discuss and explore non-custodial sentence options; and
- Attended court sessions at the District, Resident Magistrates and High Courts to represent all children in conflict with the law. The tables below indicate the number of cases that received legal representation at both Mbeya District and Mbeya Resident Magistrate Court

Table 2: Data on Legal Representation at RM Court in the year 2015

Detention Facility	Children Represented at RMS	Acquittal	Dismissal	Granted Bail	Nole prosecute	CRP	Probation	Convicted	Pending	Total
Mbeya Retention	16	04	04	15	02	01	02	01	02	16
Ruanda Prison	02	0	0	0	0	0	1	1	0	02

Table 3: Data on Legal Representation at the District Magistrate Court in 2015

Detention Facility	Children Represented at District Court	Acquittal	Dismissal	Granted Bail	Nole prosecute	CRP	Probation	Convicted	Pending	Total
Mbeya Retention	23	05	04	17	03	01	04	01	05	23
Ruanda Prison	03	0	0	0	0	0	0	0	03	03

Source of Information: TLS quarterly Reports

KEY ACHIEVEMENTS

- ❖ **From January to December 2015, 100% of children who had cases in Mbeya District and Resident Magistrate and High courts were represented.** The TLS through its advocates represented all 52 children, 44 boys and 08 girls at Mbeya District and Resident Magistrate Courts.
- ❖ The legal representation of 52 cases resulted in **the dismissal of 10 cases**, after the prosecution failed to prove the cases, acquittal of 9 cases, 6 cases were closed on Nolle Prosequi, 7 children were given probation orders, 2 were referred to the community rehabilitated programme, one child was discharged. There were also 2 children who were convicted: one was given corporal punishment and the second one was imprisoned however, TLS was not satisfied with the decision, hence appealed.
- ❖ **Increased number of accused children who were granted bail.** In this reporting period, the TLS advocated for and facilitated the grant of bail to 32 children out of 52 who had cases in Mbeya District and Resident Magistrate Courts which is 71% of all the cases. This exceeded the initial percentage target of 30%. The success was due to regular contacts with parents, relatives and support provided to fulfill bail conditions
- ❖ **The legal representation enabled 37 cases to be closed. However, 15 cases are still pending in court. The TLS reached its planned target of 100% which exceeded initial planned target of 75%. There was an improvement in the use of non-custodian sentence by the court.** Ten children were given non-custodial sentences which are: probation, community rehabilitation, corporal punishment and conditional

For instance, in Juvenile Case No, 1 of 2015 in which the accused child was charged with theft on five counts he was found guilty in two counts. He was therefore discharged on condition not to commit any criminal offence within six months. In the other remaining three counts, he was discharged under section 91(1) of the Criminal Procedure Act after the prosecution entered a Nolle Prosequi. "The role of Advocates was instrumental in that they were able to move the court to sentence the accused child conditionally despite the previous conviction"

- **Reduction of time spent between charges and sentences.**

Time spent between charge and sentencing for children appearing before the DC and RMS court was an average of seven months for minor offences, while for capital offences was for one and half year. For instance, interventions on all 32 cases were determined within one year. Court Proceedings were more efficient and in line with the Law of the Child Act and the Juveniles Court Rules. The process of interviewing witnesses was shorter as there were now far less irrelevant questions and repetition; children were more relaxed and less anxious knowing they had an advocate representing them.

2.1.2 Coaching and Preparing Children for Trials

The TLS organized coaching and training sessions to children with cases at the District Court, Resident Magistrate Court and the Primary Courts. Through these sessions 23 children were coached and trained in the first quarter, 39 in the second quarter, 22 in the third quarter and 27 in the fourth quarter. The objective of conducting such sessions was to prepare children on how to appear before the courts and present their cases successfully. In particular, children were coached and trained on how to appear and respond to the questions asked by the court, prosecution and their advocates. Children witnesses were also prepared, coached and trained on how to do the same in giving their evidences in court. The process and right to appeal for aggrieved parties were also explained to them.

The training was facilitated by advocates who had prior training on how to engage with children. In the discussions, it was learnt that majority of children were not aware of their rights and responsibilities while they are in courts. They also claimed that their rights were violated while in the precinct of police stations. Children recommended the continuation of capacity building coaching and training session. It was discussed and agreed that coaching and training should be done on regular basis; that the programme should also embrace the police with efforts being made to discuss with them the rights of children while they are in police custody.

KEY ACHIEVEMENTS

- Children were empowered to understand their rights and became more confident to advocate for their rights and able to ask questions to Magistrates and Prosecutors on the delay of their cases, inquiring about the jurisdiction

of the Primary Courts in handling their cases, their right to bail etc. This facilitated expeditious prosecution of children's cases.

- Increased knowledge of children on the importance of reporting violation of their rights.
- Increased harmonious relationship between children and legal service providers such as the police, judicial officials and social welfare officers.

Case Study:

Because of coaching, children with cases in other courts apart from Mbeya Municipal Council, were given legal advice on an individual basis and were empowered to represent themselves before the court including: what to say or ask in court, cross examination and how to present their cases.

For example, in one case, the Republic versus Kepha (anonymous) criminal case no.16/2015, the accused child aged 16 who was charged with a rape case in Chunya District Court, and appeared in person, was acquitted after successfully defending his case upon acquiring good preparation from TLS.

2.2 PROVISION OF LEGAL ASSISTANCE IN DETENTION FACILITIES

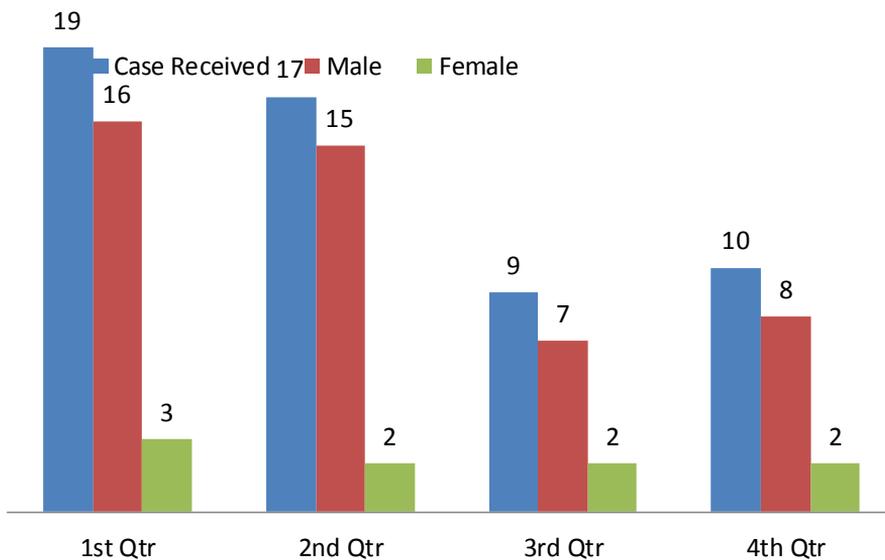
The programme aimed at ensuring that 90% of children detained received legal aid through drop in legal services, and children are released from detention facilities. It was also expected that 80% of detainees received legal information, advice and support on their cases. To achieve the foregoing targets, the following services were provided:

- Provided legal drop in service at detention centres to provide legal advice to children on their cases on a weekly basis
- Followed-up children cases in courts
- Conducted monthly information sessions to educate children on their rights and the Tanzania Criminal Procedures
- Developed, printed and distributed posters on children's rights to be posted in the two detention facilities
- Developed information leaflets for children about what to expect in the JC, DC and RM's Court.
- Printed and disseminated simplified version of the Law of the Child Act, 2009

2.2.1 Provision of Drop in Legal Aid Services at Detention Centers

Legal officers and advocates visited children in Mbeya Retention Home. They provided legal advice to 39 children who were detained at Mbeya Retention Home. Children were given orders to go to the Retention Home by the Resident Magistrate Court, District Court and other district courts outside Mbeya District e.g. Chunya, Tukuyu, Mbozi, Kyela and Momba.

Table 4: Number of children detained at Mbeya Retention Home



Source: TLS Quarterly Reports

In Ruanda Prison, 24 children, 19 boys and 05 girls were visited, interviewed and provided with appropriate legal support. The information obtained from children enabled the legal officers to identify cases for prioritization in the provision of legal aid. The information also provided avenue for programme officers to plan other intervention measures, including rehabilitation services and transfer of juveniles into other detention facilities.

The TLS in collaboration with child supporters visited, regularly, **police stations** and provided legal advice to children. They also discussed the way forward for their cases.

Through the provision of legal information, the TLS managed to reach **327** children (261 boys and 66 girls) who were in Detention Facilities. The table below indicates, in detail, the number of children who received legal advice and the key result after intervention.

Table 5: Number of children who received legal aid services

Detention facility	Children visited	Children provided with legal assistance and information	Number of children released from detention	Transferred	Pending
Mbeya Retention	39	39	32	N/A	07
Ruanda Prison	24	24	24	05	0
Police	211	211	211	0	0
Rehabilitation Centre	53	53	N/A	N/A	N/A

KEY ACHIEVEMENTS

Through drop in legal services, children were transferred from Ruanda Prison to Mbeya Retention Home; and others were released from these two detention facilities, Mbeya Retention Home and Ruanda Prison. It was noted that some children were taken to Ruanda prison simply because their age could not be determined.

One of the children from Chunya was in Ruanda prison because the police officers recorded his age as 19 years while he has only seventeen years. TLS made an intervention in the Court and successfully proved that the boy is only seventeen years. So, the child was transferred from Ruanda prison to retention home.

There were also two co-accused children charged in Mbeya Resident Magistrate Court for murder. The two were advised and through the TLS' efforts, they were transferred to Mbeya Retention Home.

2.2.2 Follow up of children's cases in other courts

The Tanganyika Law Society through its legal officers based in the field followed up on some cases in Primary courts in Uyole, Mwanjelwa Urban and Mbalizi Primary courts, all situated in Mbeya District. The follow up was done because some juvenile cases had been instituted at the said Primary Courts contrary to the Law of the Child Act which require all Juvenile cases to be tried in Juvenile Courts.

The TLS noted that most of the cases in these primary courts involved youth who were accused of committing minor offences, including running away from their respective homes, fighting and stealing of minor things. Through discussions, it transpired that 22 cases instituted at such primary courts had been done so wrongly.

The legal officers met with the magistrates in the specific courts and advised that the cases either be moved into district or resident magistrate courts or release the children on bail, if their respective cases wereailable or expedite prosecution of the cases. The advocates met further with parents and relatives of juveniles and provided them with advice on how they could support their children. The parents/guardians were also advised on how requisite legal documents could be prepared.

The table below shows the number of children with cases in primary courts and the ones which TLS facilitated their transfer to Mbeya District Courts

Table 6: Children's cases instituted at the Primary Courts

Name of the courts	Number of the cases	Number of cases transferred to Mbeya District Court
Uyole	05	04
Mwanjelwa Urban Primary Courts	04	01
Mbalizi	13	03
Total	22	08

Source of Information: The TLS Quarterly Report

KEY ACHIEVEMENTS

- The Legal officers met with the magistrates in each court and discussed the importance and possibility of transferring cases from one level of the court to another. After the discussions, eight (8) out of 22 cases were transferred from primary courts to Mbeya District court.
- Due to the TLS intervention and regular visits, Primary Courts' Magistrates were empowered and became more aware of the Law of the Child Act 2009. Before that, most magistrates were not aware about this law and some of them were even using the repealed law, the Children and Young Persons Act. The TLS issued copies of the Law of the Child Act, to the primary court magistrates.

The programme documented cases in which Primary Courts had tried and/or decided juvenile cases contrary to the Law of the Child Act, 2009.

- Increased good cooperation between Primary Magistrates courts and the TLS in the implementation of the programme. The TLS has since then been contacted by Primary Magistrates to provide legal intervention and advice, particularly on juvenile cases.

The child, who was 16, was charged with offence of stealing C/S 265 of cap 16 of the Laws of Tanzania in December by the Ruanda Primary Court in Mbozi District. The child was then committed to Mbeya Retention Home where the TLS had conducted mediation between her and the complainant. Consequently, the case was dismissed.

2.2.3 Provision of Legal Information

Legal information sessions were conducted quarterly by the TLS advocates to children in detention facilities. In this review, the TLS conducted legal information sessions to 39 children. Some of these children were from Mbeya Retention Home. TLS, through this programme, provided children with the knowledge on protection of their basic rights and their responsibilities while in retention home, in police stations and when they appear before courts. Children were also educated by TLS legal officers on the basics of bail and the procedure for its application. They were also educated on the responsibilities of their parents or guardians as stipulated in the Law of the Child Act of 2009, their rights and responsibilities, and the Tanzania criminal procedures.

The training sessions were conducted in a participatory approach with children being given the opportunity to highlight the problems they faced or what they wanted to learn, which informed the Legal Officers on matters that needed to be covered while training the them. Children were also encouraged to contribute during the session by asking questions, sharing challenges and other experiences they encountered during their appearance in courts. The training was structured to serve them when they stand alone and defend themselves.

Through discussions, it was noted that 80% of children in Retention Home stayed in central police station for an average of two weeks while the remaining 20% stayed for two months or more. During their stay in police posts, the children said they were mistreated and some of them were beaten after entering a plea of not guilty. It was agreed that training on the rights of children in police posts/ stations and retention home should be conducted regularly to the children and the police officers.



*Children attending legal information session at Mbeya Retention Home on 27th 10. 2015;
photo taken by : Epiphania James*

KEY ACHIEVEMENTS

- Reduction of time children spent in detention facilities –TLS followed up closely on cases and advocated for release of children from detention facilities. The intervention ensured speeding up of cases, fair prosecution, and their final discharge, if the circumstance allowed. During the review period, 19 children were released from Ruanda Prison and were sent back to their respective homes.
- Facilitated transferring of children detained in prison –TLS advocated for transferring of five (5) children including two (2) children who had committed murder, from Ruanda Prison to Mbeya Retention Home.
- Promoted the use of non-custodial sentences which reduced strict and stiff punishment to children: 9 Children were given probation sentences; 1 child was sentenced to corporal punishment and pay fine of 2 million and 1 child was given conditional discharge.

One juvenile offender with the name of Chuwa Nestory (anonymous) from Chunya was in Ruanda prison because police officers recorded his age as 19 while he was only seventeen. TLS made intervention in the Court and successfully proved that the boy was only seventeen. The child was therefore transferred from Ruanda Prison to Mbeya Retention Home”

2.2.4. Printing and Dissemination of Leaflets

As part of providing legal information, the TLS also developed leaflets with information on criminal procedures and what to expect in court. The leaflets were developed in collaboration with children who provided inputs on the information provided and the layout. The idea of developing two sets of leaflets also came from the children. In the second quarter, the organizations printed and disseminated **1215 leaflets**.

The leaflets were disseminated as follows:

- A total of 120 leaflets titled ‘Rights and Responsibilities of children’ disseminated to courts, police, the TLS secretariat and prison. 50 leaflets were disseminated to the Courts, 22 leaflets to the police stations, 30 leaflets to Prisons and the TLS secretariat remained with 18 copies.

- Two hundred copies of publication titled “what to expect in court were” disseminated as follows: the police received 18 copies, courts 80 copies, retention home 43 copies, Prisons 41 copies and the TLS secretariat remained with 18 copies.
- One hundred and fourth five (145) copies of a publication titled “what to expect from Juvenile courts” were produced and disseminated. Such dissemination is as follows: The police received 13 copies, courts 50 copies, Retention Homes 29 copies and the TLS secretariat remained with 53 copies.
- Two hundred (200) copies on rights of children during arrest and when at police posts/stations were disseminated as follows: The Police received 60 copies, Retention Homes 23 copies, Prisons 40 copies, Courts 24 copies and the TLS secretariat remained with 53 copies
- TLS printed and distributed training manual to 24 child supporters. A total of 200 child supporters manuals were printed and disseminated to different stakeholders as follows;

Child supporters	24
Ward Executive Officers-	56
Police stations	61
Remained at TLS secretariat office	59

The purpose of distributing this material to the stakeholders was to make them aware of the roles and limitations of child supporters.

Other printed materials were distributed as follows;

1. Manual for Law enforcers on the Law of the Child 50 Copies were produced and supplied to:

State Attorney	20
SWO	04
Magistrate	16
KIHUMBE	01
Chapter Convener	01
Police Officers	08
2. Re-printing leaflets on “Understanding the Justice system and what to expect in Court”.
A total of 1000 copies were produced and shared with the following offices to disseminate to children:

- Right and Responsibilities of children (200 copies) supplied to:

Court	55
Police	32
Retention Home	32
Secretariat	40
Prison	41

- “What to expect in Court?” (200 copies) supplied to:

Police	18
Court	80
Retention Home	43
Secretariat	18
Prison	41

- “What to expect in Juvenile Court?” (175 copies) supplied to:

Police	13
Court	50
Retention Home	29
Secretariat	53
Prison	30

- “Right of Children when arrested and when at Police Stations”
200 Copies
Supplied to;

Police	60
Secretariat	53
Retention Home	23
Prison	40
Court	24

3. “ Manual for Legal Aid Providers and Law Enforcers”

50 copies

Supplied to;

State Attorney	14
Magistrate	20
KIHUMBE	01
Chapter Convener	01
Police Officers	06

	SWO	05
	Prison	03
4.	<i>Posters;</i>	
	Title “Which type of an Advocate”	
	200 Copies disseminated as follows:	
	Prison	100
	KIHUMBE	32
	Retention Home	25
	Police	13
	Secretariat	30

Title “Cases of children must be heard and determined speedily”

200 Copies disseminated as follows:

Judiciary	70
Prison	30
KIHUMBE	32
Retention Home	25
Police	13
Secretariat	30

2.2.5. Provision of Legal aid and Information session to the Community Rehabilitation Centre

The Community Rehabilitation Programme (CRP) is a special programme designed to assist children in conflict with the law and children at high risk of offending. It focuses on addressing the needs of children and tackle the root causes of their offending behavior in a holistic manner. The Community Rehabilitation Programme was established in the community centre, namely, **KIHUMBE** by the Department of Social Welfare with the support of UNICEF. The programme helps in reducing pre-trial detention and custodial sentences for children. Some of the criteria for a child to join in the programme include the following:

- the child should be aged between 10 and 17,
- the child should be living within the District where the programme is being delivered,
- a child must admit his/her offence, and
- The child’s parents/guardians must provide consent for a child to attend the programme.

KIHUMBE offers a range of activities including: counselling, home based care services, clients home visits, drama group, tailoring and mechanics classes, a youth centre which has games such as basketball, football, pool, computer-internet surfing and vocational training. It also has an education centre offering a secondary school crash programme for two years for children who could not complete their ordinary level secondary school education.

The specific role of TLS was to provide legal advice and legal information sessions to children attending the programme. Legal information sessions were provided on monthly basis. TLS visited KIHUMBE and provided legal information to 53 children. The topics delivered during information sessions covered various issues on children's rights and responsibilities.

During the information sessions, the TLS managed to identify 43 children with legal issues (both criminal and civil issues) and provided appropriate support.

KEY ACHIEVEMENTS:

- TLS developed legal information materials which were disseminated during information sessions. Thirty two (32) children received leaflets on court procedures and publications on "which type of advocates".
- TLS also advocated for referrals to be made to the community rehabilitation programme and provided advice to the Judiciary on cases which qualify to be referred to the Community Rehabilitation Programme.
- The Centre received 56 (50 boys and 06 girls) referrals from Courts, Social Welfare Office, and from police stations/posts. Out of those 56 children, 33 children were referred from the police stations/posts through the assistance of child supporters as follows: 20 from Central Police station, 04 from Mwanjelwa police post, 05 from Mbalizi police post, and 4 from Ilomba
- 17 of referrals met required conditions and the juveniles were admitted into the programme whereas three of the referrals did not meet the required criteria. A total of 24 children graduated from the programme.

2.3 PROVISION OF TIMELY AND APPROPRIATE SUPPORT TO CHILDREN DETAINED IN POLICE STATIONS

The target was to ensure that 65% of unaccompanied children detained at police stations are assisted by child supporters and more than 48 visits are made. The TLS in collaboration with its staff based in the field carried out the following set of sub activities to achieve its target:

- Identify 24 Child Supporters to support children in four Police Stations
- Conduct initial training for Child Supporters
- Conduct Quarterly refresher/follow up training
- Develop and disseminate leaflets for children setting out their rights at the police station
- Provide technical support through monthly meetings/visits with the police and the Child Supporters
- Conduct monthly monitoring visits to child supporters in four police stations of Mwanjelwa, Ilomba, Central and Mbalizi

2.3.1. Identify Child Supporters to work at Police Station

TLS in collaboration with UNICEF and local government officers, including social welfare officers and Ward Executive Officers, identified 24 adult volunteers, 17 males and seven females to work as child supporters in four police posts / station, namely, Mwanjelwa, Ilomba and Mbalizi Police Posts, and Central Police Station.

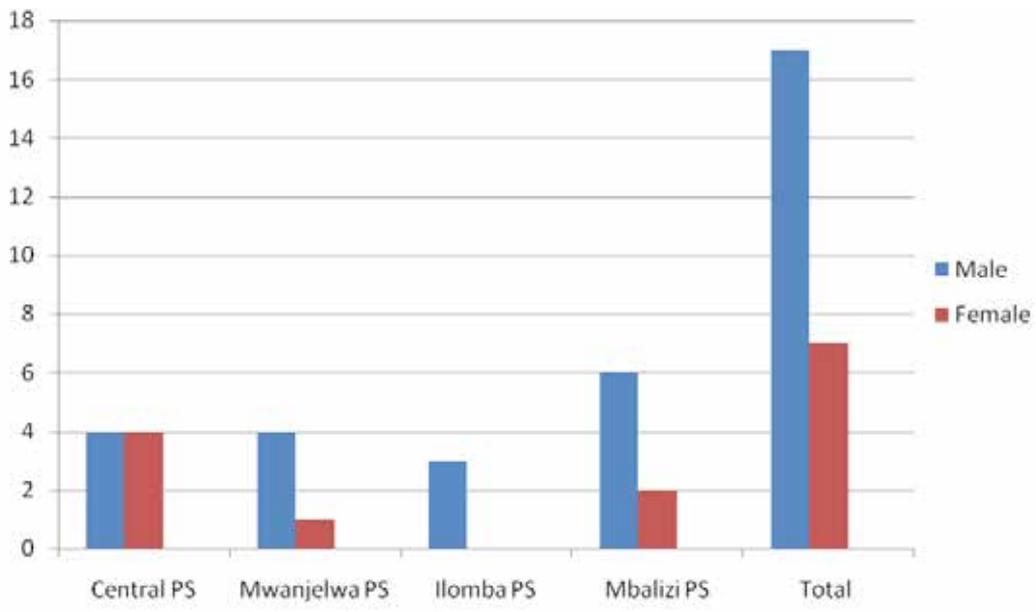
Child supporters were identified basing on the following criteria: interest in helping children in conflict with the law, experience of working with children, some knowledge on children's rights and persons who possess good characters and behaviors.

After the identification process, a code of conduct which stipulated the moral and ethics was developed and signed; child supporters were oriented on it. In each Police station, one Lead Child Supporter was selected to supervise his/her colleagues on the implementation of the developed work plan.

The major role of child supporters is to ensure that arrested children at the Police stations, who do not have lawyers or other people to assist them, are treated in accordance with the law. Child supporters do not give legal advice. Their role is to: meet with the child as soon as possible upon arrest, sit in during interviews,

explain the procedures to the child, check if the parents have been informed, monitor the duration in Police custody and remind police of the options open to the child, including the use of the Community Rehabilitation Programme. Child Supporters also have a role to link the arrested children with legal aid providers for further legal support. The chart below indicates the number of child supports worked per police station;

Table 7: Number of Child Supporters who work in each Police Station



Source: Field Data- Activities Report

2.3.2 Conduct Initial/Primary Training for Child Supporters

The TLS's main task under the programme was to provide technical support to child supporters and empower them to provide effective assistance to children in police posts/stations. The technical support offered included building their skills through training, monthly visits to each police post or station to provide the required assistance and/or making interventions on children's legal issues, and providing legal guidance through telephone conversations.

Before the Child Supporters Programme came into operational, TLS organized a capacity building training for all selected child supporters. The objectives of the training were to:

- Build capacity of Child Supporters on their roles and mandate at the Police posts/stations;

- Orient and share information with child supporters on other programme which link with their work, i.e. the Legal Aid Programme for children in conflict with the Law, the Community Rehabilitation Programme and the Police Gender and Children Desks
- Equip Child Supporters with knowledge on the rights of arrested children, guiding principles in dealing with children issues and the relevant provisions of the Law of the Child Act, 2009 on arrests, custody and bail.
- Build linkages between Child Supporters, Police Officers from the Gender and Children Desks and Social Welfare Officers.

The initial training was conducted in the first quarter to 24 child supporters. The training also involved seven police officers from Mwanjelwa Police post, Mbalizi Police Post, Ilomba Police Post, Mbeya Central police station and two social welfare officers from Mbeya Municipal Council and Mbeya District Council, the Vice Chapter convener, Programme Manager of Community Rehabilitation Programme from KIHUMBE and five TLS staff. Two UNICEF staff attended to provide technical support on delivering the training.

Child supporters were trained and gained skills on the following:

- the definition of a child,
- Rights and responsibilities of a child during and after arrest,
- Bail law and procedures for its application,
- Who is a child supporter and their responsibilities at police posts/stations,
- Modality of working and briefing on the community Rehabilitation



The participants during the Child supporters training

Programme including criteria for admitting a child at the programme. Apart from training, child supporters were also supported with T-shirts and identity cards which eased their identification whenever they were required to visit police posts or stations and other relevant places. Transport and communication allowances provided to child supporters helped them quite considerably to ensure their physical and/or virtual availability to support children whenever they were required.

2.3.3 Refresher/Follow up Training for Child Supporters

Training for child supporters was conducted quarterly and involved 28 participants, 14 males and 14 females. However, of the lot, 20 were child supporters and eight were members of the supporting staff (TLS provided six staff, one staff came from KIHUMBE and the Chapter Convener) attended the training.

The main objective of the training was to remind Child Supporters of their roles, getting feedback from child supporters on the status of programme implementation, identify challenges and come out with recommendations to address the identified challenges. The new entrants in the group included TLS programme advocates and those who manned the Police Gender and Children Desks (GCD). The inclusion of the latter group in the programme aimed at strengthening the collaboration between child supporters and the GCD officers..



Child supporter During the Refresher Training

Participants were exposed to various topics that included, amongst others, arresting procedures, courts with jurisdiction to handle children's cases, briefing on the Community Rehabilitation Programme, reporting system on child rights and when such rights were considered to have been violated.

The TLS used the forum to discuss programme update and agree on strategies for overcoming identified challenges. Child supporters were able to share progress made on supporting children detained at four police stations.

2.3.4 Provision of technical support through monthly meetings/visits with police and child Supporters

TLS project officers conducted monthly visits and meetings with police at Central Police station, Mwanjelwa, Ilomba and Mbalizi Police Posts for technical support. The TLS used the meeting forum to remind Police officers on the rights of children and juvenile procedures.

Police officers were impressed upon to refrain from detaining for a long time a child in police custody, and that every effort should be made to grant a child bail or charge him or her in a Court of competent jurisdiction. The TLS in this annual review period conducted four visits, while 63 visits were conducted by child supporters in each police stations/posts, that is to say the programme exceeded the initial target of 48 visits. TLS further noted that child supporters assisted 62 children detained in police stations which represent 100% of 2014/2015 target.

KEY ACHIEVEMENTS

- Increased use of alternatives to detention measures, including recourse to referrals in community rehabilitation programme and amicable resolution of minor cases without having to go through the criminal justice system. For instance, for 2015 alone, 191 cases were resolved amicably and 66 cases were referred to Community Rehabilitation Centre at KIHUMBE
- Increased networking with like-minded stakeholders i.e. Police officers, SWO, and the Child Protection Teams at the District, Ward and village levels.
- Families which were separated were re- united.
- Decreased number of children detained in Police Station
- Children were timely supported at Police Stations.

Table8: Number of Children supported by Child Supporters at each Police Station

Name of Police Post	Type of Offence	Number of Children	
Mwanjelwa	Rape	02	
	Theft	13	
	Running away from home	06	
	Sodomy	01	
	Drug abuse	01	
	Impregnated school girls	02	
	Causing bodily harm	01	
Total		30	
Gender Composition		F	M
		09	21
Ilomba	Insulting her father	01	
	Burning kid cloth	01	
	Theft	22	
	Grievous bodily harm	01	
	Abandon a child	01	
Total		37	
Gender Composition		F	M
		15	22
Central Police	Rape	06	
	Theft	58	
	Engaging in love affairs	02	
	Burning his young brother	01	
	Being in co with accused	01	
	Grievous bodily harm	04	
	Traffic case	03	
	Loitering	03	
	Possess fake note	01	
	Destroying property	01	
	Running away from home	01	
	Causing disturbances	1	
	Assault	1	
	Escaping with a girl	1	
Total		108	
Gender Composition		F	M
		20	88

2.4. EMPOWERING LEGAL AID PROVIDERS AND LAW ENFORCERS TO PROVIDE LEGAL SUPPORT TO CHILDREN IN CONFLICT WITH THE LAW

2.4.1 Conduct training for law enforcers and legal aid providers

This activity was aimed at enhancing the knowledge of court officers and legal aid providers so that they could provide effective legal support to children in conflict with the law.

In this regard, the TLS conducted training for 33 Law enforcers working at Primary, District and RMs Court in Mbeya. The training was conducted on July 2015 at the Catholic Youth Centre in Mbeya town. It brought together seventeen (17) prosecutors and sixteen (16) magistrates from Primary, District, and Resident Courts. The Programme Manager of the NGO running the Community Rehabilitation Programme (KIHUMBE) and TLS Mbeya Chapter Convener also attended the training.

Law enforcers were enhanced with knowledge on the Law of the Child Act, 2009 and its related regulations (juvenile courts rules and other regulations) and underpinning principles in protecting a child. In one of their resolutions, magistrates agreed to adhere to the Law of the Child Act, 2009 by committing children offenders to rehabilitation programme at KIHUMBE.



The Participants during the Law Enforcers Training

KEY ACHIEVEMENTS

- Timely dispensation of justice to children. For example, out of 37 cases completed within this reporting period 04 cases were completed within six months as required by the Law of the Child Act, 2009 and the Juvenile Court Rules, 2015.
- The District Courts and Resident Magistrates Courts became child rights compliance where court officers are acting more professional and adhering to the procedures provided in the Juvenile Court Rules on handling of children's cases.
- Courts are referring children to Community Rehabilitation Programme as one of the option for non-custodial sentence.
- Police officers provided full cooperation to child supporters, hence providing children in police stations with timely and appropriate assistance.
- The Attorney General's Chambers on the other hand committed cases to courts immediately they received files and complains.
- Social welfare officers attended court sessions as required by the Law of the Child Act.

2.4.2 Awareness raising radio programme on children's rights

This particular radio programme was aired on October 14th 2015 from 8:00am to 9:00Hours through Mbeya Highlands FM-92.7. The radio programme aimed at bringing awareness on the existence of the Tanganyika Law Society (TLS) to the Mbeya region residents, activities conducted through the TLS Mbeya Chapter and to introduce to the general public the Legal Assistance Programme for children in conflict with the law.



TLS secretariat at Mbeya Highlands FM: Gloria, Daniel, Leonard and Epiphania

3 PART THREE

3.0 ANNUAL PROGRAMME REVIEW

3.1 CONDUCT ANNUAL REVIEW MEETING OF THE FIRST YEAR OF THE PROGRAMME

The annual review meeting was conducted on January 29th 2016 at the Catholic Youth Centre in Mbeya and in attendance were 25 participants from different organizations and institutions that included the Social Welfare Office, Ruanda Prison, Judiciary, Community Rehabilitation Programme, Public Prosecution's office, TLS secretariat from headquarters Dar es Salaam and Mbeya Chapter, Mbeya Retention Home, Police and Child supporters.

The main objectives of the meeting was to assess the progress of the programme, share success, lessons learnt, and challenges and identify way forward to address the identified challenges. It was hoped that this forum would come out with recommendations for further improving the delivery of services to children in conflict with the law and ensure their rights are protected at all stages of the criminal justice processes. Some identified successes included:

- Timely dispensation of justice to children. For example, during the period under review, four cases were completed within six months
- Enhanced knowledge of court and Police officers to handle cases of children in conflict with the law more effectively and expeditiously. Unlike in the past where there was lack of well laid down procedure in handling juvenile cases, the advent of the Law of the Child Act of 2009 had a clear cut roadmap for handling such cases.
- Change of attitude of Court officers towards children in conflict with the Law.
- Decreased number of children detained in police posts/stations
- Increased knowledge and awareness on children's rights and the Tanzania criminal procedures among detained children in Ruanda Prison and Mbeya Retention Home. Unlike in the past, growing awareness has enabled children to ask questions about their rights that includes their right to bail.

- Children are now able to inquire information about progress of their cases and some are asking about attending school lessons. For example, one child (detained in Mbeya Retention Home [MRH) is currently attending Ordinary Secondary School studies at the Education Centre near Mbeya Retention Home.
- There is increased networking between the Tanganyika Law Society and other stakeholders such as Ruanda Prison, Mbeya Retention Home, police officers, Social Welfare Officers and Community Rehabilitation Programme



Some participants in the annual review meeting conducted on 29th January 2016 at Catholic Youth Centre Mbeya Town. Photo taken by Epiphania James

3.2 MAJOR CHALLENGES

- **Determination of a Child's age is still a problem** in police posts and stations, prison and Courts. This cause children to be mixed with adults and contributes to delays in prosecution of their cases.

For instance, in one case a child was sentenced to corporal punishment and payment of fine of 2000,000 Tsh, because he was unable to prove to the court that he was a child. TLS appealed to quash the decision. In another case at Mbeya Resident Magistrate Court, a child was sentenced

to corporal punishment (12 strokes) and payment of a fine of 2,000,000 Tsh. TLS intervened by writing a letter to the magistrate on the possibility of releasing the child or reducing the sentence as a result of the letter and follow up by TLS the fine of Tshs. 2,000,000/=was not executed

- **Defense Counsel not served with necessary court documents** - in some cases, defense counsels were not served with charge sheets and other necessary documents, hence making preparation for such cases difficult. The end result of such hiatus was delay in the finalization of cases.
- **Delays in finalization of cases were** caused by a litany of reasons which included, among others, unnecessary request for adjournment by Public Prosecutors, failure by social welfare officers to appear in court due to a variety of reasons such as maternity leave, bed rest and lack of prior information from magistrates over their absence from work. Other reasons included cases starting late, hence causing inconvenience and distraction to Counsels and children.
- **Non-availability of Social Welfare officers during the proceedings of children's cases.** Whilst the Law of the Child Act, 2009³ provides for mandatory court attendance of social welfare officers in any case that a child is involved; there is insufficient number of Social Welfare Officers to follow up and attend all court sessions dealing with child cases. As a result, cases in courts are frequently adjourned for non-appearance of Social Welfare Officers
- **Absence of a child friendly court environment.** Courts are required to hear cases in a child friendly environment. However, in the absence of Juvenile Courts, ordinary buildings and Court rooms were used. Courts are not informal as the Law of the Child Act, 2009 requires. This has frequently led to children's discomforts in court especially about cases that involve very low ages.
- Limited knowledge amongst Primary Court Magistrates on the Laws governing the operation of children's cases thus some of them use repealed laws
- **Frequent transfer of trained Police Gender and Child Desk officers.** Police officers are often being transferred from one station to another and

³ The Provisions of Section 99(1) (d) of the Law of the Child Act, No. 21 of 2009 require the mandatory presence of the Social Welfare Officer during the Proceedings of the juvenile case.

from one region to another. This is affecting the effective implementation of the programme because the new brought officers sometimes do not have sufficient knowledge about the programme and it takes time for them to start learning and collaborating.

- **Poor cooperation from some parents.** In the cause of dealing with cases, some parents were reluctant to show up and give sureties for their children. This forced project management teams to use various techniques in convincing parents to give their children sureties. Tracing of parents/guardians was another challenge. Some parents/guardians were not reachable, hence making it difficult to trace children's homes. Thanks for the presence of child supporters. They played a very important role in following up and tracing homes of children in conflict with law.
- The space allocated for legal advice in Ruanda Prison is not child friendly. This resulted in children's discomfort in answering questions, and it is difficult to observe confidentiality
- The absence of clear procedures for transferring of cases from Ruanda Prison to Mbeya Retention home. The foregoing situation has continued the detention of children in hostile, adult prison environment coupled with countless communications to the prison authorities on the seriousness of the problem notwithstanding.
- **Project Coverage:** This project covers Mbeya District and City Councils only while other children in conflict with the Law are being held and tried in other districts where the project does not cover. For instance, in 2015 there were three cases, one in Tukuyu and two others in Mbozi Districts. However, the programme managed to transfer one case only from Chunya District Court to Mbeya RMs for the purpose of court representation.

3.3 LESSONS LEARNED

- **Legal representation in courts ensures expeditious proceedings,** fair trial and justice for children.
- **Enhancing Multi-sectoral co-ordination is important in setting up comprehensive mechanism for child justice.** This is one of the strategies used during the implementation of the programme. Key dialogue and discussions were held during the meeting of Child protection team which was organised by city council and involved different members from

different organisations. It was at this meeting that it was decided to have one social welfare officer assigned to follow up court cases and appear for children's cases. Advocates were requested to go to other districts to represent children who were in conflict with law.

- Conducting of quarterly review meeting with law enforcers and legal aid providers on how to handle cases of children in conflict with the law was a good mechanism for ensuring access to juvenile justice.
- **A strong relationship between implementers and government actors** in the village, ward and district helps to maintain and sustain the project during implementation and after the phasing out of the project.
- **Legal Training facilitates access to justice.** This is evidenced by the understanding of law enforcers, child supporters and children themselves.
- **Birth certificate is the best and the easiest way of proving the age of the child.** However, in its absence school attendance registry or certificates can be used.

4 PART FOUR

RECOMMENDATION AND CONCLUSION

4.1. RECOMMENDATIONS

It's generally recommended to all Child Justice Actors to observe International, Regional and National Child Rights and Human Rights Principles, including Non-discrimination, the Best Interest of the child, Participation, Survival and Development in the provision of legal and social services.

All actors should take into consideration that in 2009, the government enacted the Law of the Child Act that was followed by its regulations, including the Juvenile Court Procedures. These rules should be transformed into further action by the state and its counterparts.

The section below highlights the recommendations and action for responsible sectors;

4.1.1 Department of Social Welfare Officers

Increase resources to scale up the number of social welfare officers and support their activities. The increase number of social welfare officer will result into the presence of social welfare officers into court to support children including timely submission of Social Inquiry Report.

4.1.2 Ministry of Constitution and Legal Affairs

The Ministry should strengthen the judiciary system and ensure that all criminal cases involving children are heard and determined by Juvenile Courts.

The Ministry should scale up the legal aid programme for children in conflict with the law in the whole country, which will facilitate in ensuring the protection and access to justice for this vulnerable group

It is recommended that the Chief Justice designates additional Juvenile Courts, as per sections 97 and 98 of the Law of the Child Act, 2009. Court rules and

regulations on juvenile proceedings need to be translated and disseminated to key juvenile justice actors, especially to Magistrates who have been assigned to handle children's cases.

4.1.4 The Director of Public Prosecution,

DPP to ensure that statements of facts are prepared well, hence Public Prosecutors should serve Defense Counsels with charge sheets, statements of offences and all necessary documents relating to juvenile cases.

The age of the accused should be determined correctly when preparing a charge sheet for the accused, as wrong age determination had led in the past to cases where children were mixed up with adults in prisons and it delays prosecution of cases.

The DPP should do wider consultation with key friends of the accused to obtain more information regarding the age of the accused.

Since the DPP office in the district has supervisory powers and responsibility in ensuring compliance with the law. It's recommended that the DPP use his powers to transfer criminal cases involving children from Primary Courts to Juvenile Courts as provided for under the law.

4.1.4 The Tanzania Police Force

The Tanzania Police is a potential institution for protecting children. However, the working environment in some police stations are not child friendly and this situation hinders provision of quality services to a child. There is therefore a need for creating child, friendly environment in all police stations in order to ensure the presence of committed and competent staffs that can support children detained at police station.

We also recommend the provision of adequate facilities in Police Gender and Children Desks in order to ensure sufficient space and privacy for such Desks.

Retention of trained officers at the GCDs is also very important to ensure quality services are provided children as per the Police Standard Operating Procedures, 2012.

4.1.5. Detention centers

The Commissioner for Social Welfare and Prison Departments should address challenges identified in the reports on the status of Ruanda Prison. It is recommended that the Commissioner should allocate a special room for the provision of legal advice whereby a child may be interviewed by the legal officer or advocate in the presence of one prison officer only, as per the Prison's Act, the Prison Standing Order and the Child Protection Policy. The same thing has been done in police post/station and proved positively.

4.1.6 Legal Aid Providers

- All stakeholders providing legal aid services and implementing the legal aid programme should involve the government department dealing with juveniles at the stage of planning and implementation. This approach will help in enhancing government ownership, hence sustainability of the programme or project.
- Conduct more analysis of data to help the local government to prepare informed interventions. For example, why several boys engaging in offences is higher than that of girls. The analysis should access on why rape and theft offences are prevalent.
- Collaborate and mobilize more actors at the regional and district level to enable sharing responsibilities for delivery of programmes related to juvenile justice.
- Legal Aid Providers should consider supporting children in conflict with the law in their areas of operation. This will help in increasing this support to majority of children in need and ensure access to justice and fair decisions to the cases of this vulnerable group.

4.1.7 Community leaders

Create awareness among members of the community and parental responsibility. This intervention is likely to reduce the number of children engaged in crimes. This should be done through village assembly, school meetings and religious events or fora. Children should be guided by their parents, especially on how they should behave in the society. Parents should also provide care and support to their children.

4.2 CONCLUSION

Legal Aid Programme has added valuable contribution to children in conflict with the law, and especially so, marginalized Tanzanian children. The programme has succeeded in translating the National Strategy on Juvenile Justice into concrete action.

However, TLS still recommends the scaling up of this programme to reach children from all walks of life in Tanzania. It's the right time for the government to adopt this model for replication in each district in the country if it wants to reap benefits from its up and coming young human resource. This programme initiative should not however, remain a project. It should be integrated in the district child protection structure.

By so doing, it real shows the project sustainability and state's commitment towards implementation of international instruments that require a state party to adopt measures to administer and protect juveniles' rights (article 37d of UNCRC and 17(2) of ACRWC).

The adoption of the **Legal Aid Act** will have significant and positive impact on provision of Legal aid to children in conflict with law. It is our expectation that the law will give guidance and establish the body for monitoring Legal Aid Services in Tanzania

Through the programme, it was also learnt that there was no way the country could put policies in place that guarantee children's rights without allocation of sufficient resources (human resources and budget) to the responsible sectors that includes, among others, social welfare, police, judiciary and prison.

The TLS is therefore encouraging the government to prioritize the issue of children in conflict with the law by getting in place effective plans and adequate resources. Such a move will help in promoting rights of juveniles and minimize children's vulnerability.



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