



The Tanganyika Law Society

The bar Association of Tanzania Mainland

TWO YEAR IMPLEMENTATION REPORT LEGAL ASSISTANCE PROGRAMME FOR CHILDREN IN CONFLICT WITH THE LAW

NOVEMBER 2014 - SEPTEMBER 2016



SUPPORTED BY: UNICEF TANZANIA COUNTRY OFFICE



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ACRONYMS

CC	City Council
CICL	Children in Conflict with the Law
DC	District Council
DPP	Director of Public Prosecution
JC	Juvenile Court
LAPs	Legal Aid Providers
LCA	Law of the Child Act, 2009
LGAs	Local Government Authorities
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's Court	Resident Magistrates' Court (RM)
SWO	Social Welfare Officer
TLS	Tanganyika Law Society
UNICEF	United Nation Children's Fund



AKNOWLEDGEMENT

Every project big or small is successful largely due to the efforts of a number of wonderful people who give their valuable advice or lend a helping hand. The Tanganyika Law Society (TLS) sincerely appreciates the support of all those people who have been instrumental in making the programme of providing legal representation to children in conflict with the Law in Mbeya Region a success.

Tanganyika Law Society (TLS) would like to express sincere appreciation to all individuals, institutions, organizations, the Court and the government for according us significant support in the implementation of the programme.

We value the cooperation shown by Child protection teams. TLS expresses its sincere gratitude to Retention Home, Prisons, Courts, KIHUMBE, Probation office, Police stations, Child supporters, Hospitals, Mbeya TLS Chapter Convener and Social Welfare Department, Attorney General's Office. and the approved school. Furthermore, we appreciate the strengthened working relationship between Tanganyika Law Society and the Government especial the Ministry of Constitutional and Legal Affairs.

TLS acknowledge with much appreciation the crucial support of UNICEF Tanzania for the financial and technical support that has enabled the implementation of the programme for Children in Conflict with the Law.

EXECUTIVE SUMMARY

1. INTRODUCTION

This report documents the interventions of Tanganyika Law Society (TLS) in a two year Programme entitled, '**The Legal Assistance Programme for children in conflict with the law.**' The programme was implemented in Mbeya region, in Mbeya District Council and Mbeya City Council. UNICEF supported TLS to implement this programme as part of supporting the Government on the implementation of Objective 7 of the Five Year Strategy for Progressive Child Justice Reform which amongst other things focuses on bringing the juvenile justice system in line with international standards and support the enforceability of the Law of the Child Act, 2009 (LCA).

The overall objective of the programme was to promote respect for child rights and ensure due process is guaranteed throughout the criminal justice process and that diversion and non-custodial measures are utilized wherever possible. The main Programme Outcome is to ensure Government's justice system better protects the rights of women and children in conflict with the law and is better able to respond to their needs.

2. KEY ACTIVITIES

The key activities in the programme were as follows; 1) Provision of monthly Legal Information sessions in detention facilities (Mbeya Retention Home and Ruanda Prison); and at KIHUMBE Community Rehabilitation Centre, 2) Provision of Legal Advice in Mbeya retention home and Ruanda prison, 3) Conducting Review Meetings, 4) Conducting Training and Refresher Training for Child Supporters, 5) Assisting Children in Police custody, 6) Designing and Printing of legal information Materials, 8) Conducting training for law enforcers and 8) Legal Representation of Children in Conflict with the Law before the High Court, Resident Magistrate's Court and the District Court.

3. KEY ACHIEVEMENTS

Children in detention facilities received legal information and support: There was increased knowledge and awareness among children about their rights and criminal procedures in Tanzania. Leaflets and posters were distributed to the children in Mbeya Rehabilitation Home, Ruanda Prison and KIHUMBE. Other children were taken from police detention facilities to KIHUMBE rehabilitation Centre and hence decreasing the number of children detained in Police Stations and Police posts. Children in 1 police station and 3 police posts were offered legal services in their cases.

Protection of the rights of children in conflict with the law: Child supporters and TLS advocates provided timely and appropriate support to children detained in Police Stations. TLS has also provided legal representation for children in conflict with the law. 515 children (414 Boys and 101 Girls) were supported at four police stations. The Central Police station, 294 children (241 Boys and 53 Girls), Ilomba Police station 60 children (38 Boys and 22 Girls), Mwanjelwa Police station 83 children (63 boys and 20 girls), Mbalizi Police station, 78 children (72 and 6 girls).

Increased knowledge about the rights of children in conflict with the law: The programme increased knowledge of child supporters, Legal Aid Providers and Law enforcers to handle children's cases and effectively support children in conflict with the law. This was done mainly through training sessions offered by TLS for instance, 24 child supporters were trained during the programme.

Increased Public awareness on children rights in Mbeya region: Community members and children rights stakeholders became aware about children rights and the issues of children in conflict with the law. This was done through radio programme, distribution of leaflets and posters.

Compliance of District and Resident Magistrates Courts with children rights legal requirements: District and Magistrates' courts have complied with the provisions of Law of the Child Act, 2009 and hence ensuring children rights are protected. The courts have, in particular, complied with the legal requirement about the presence of Social welfare officer in court cases which involve children. The district and resident magistrates' courts in Mbeya have started using the community rehabilitation programme as one of the non-custodial sentences and amicable resolution for minor cases. In this way children in conflict with the law are not detained but given alternatives such as rehabilitation.

Increased networking between TLS with other children rights stakeholders: The programme has increased collaborations amongst child justice stakeholders such as Police, Judiciary, Legal Aid Providers and TLS.

4. LESSONS LEARNT:

The key lessons learnt include; training advocates representing children in court and other court officers enabled the children in conflict with the law to get their rights on timely basis and in accordance with the acceptable standards laid down in the Law of the Child Act 2009. Equally, a multi-sectoral approach and networking contributes to enhancing justice for children in conflict with the law. A Good working relationship between implementers and government actors at the village, ward and district level is important for the justice system to protect

interest of children. Lastly, a birth certificate is the best and the easiest way of proving the age of the child since citing the wrong age may have negative legal implications on the rights of the child.

5. CHALLENGES

Determination of a Child's age is still a problem in police posts and stations, prison and Courts: In some cases, police officers responsible for preparing police charge sheet overestimate the age of children and the child is considered as an adult. When children in conflict with the law are considered as adults they are put in detention facilities with adults and this exposes them to physical and psychological suffering.

Frequent transfer of trained police officers: Police officers are often transferred to different stations and regions. This has affected the project because some of the transferred officers were trained on how to deal with children's cases. In some instance, the Police staff who replace their colleagues were not involved in training on children's rights and issues of children in conflict with the law.

Poor cooperation from some parents: In the course of dealing with cases, some parents were reluctant to show up and give surety for their children. The project management teams had to use various techniques in convincing parents to give their children surety. Tracing of parents and guardians of children in conflict with the law is also a challenge and it becomes hard to trace the children's homes. Child supporters have played a very important role in following up and tracing homes of some of the children in conflict with law.

Few primary court magistrates still entertain juvenile cases while the law is clear that primary courts do not have jurisdiction to entertain juvenile cases. In the training, it was discussed that legal practitioners still need training so as to be familiar with the Law of the Child Act, 2009.

False information provided by some children in conflict with the law despite efforts to assist them. Some children do not tell TLS advocates the truth, and during court session, the advocates are surprised with the adverse information given by children while in court.

6. RECOMMENDATIONS

The proposed recommendations are based on the two year programme can be considered the Government and legal aid providers to promote protection of the rights of children in conflict with the law. Adoption of these recommendations will assist children in conflict with the law to enjoy their right to legal representation and access to justice. It is recommended that key actors for Juvenile Justice observe International 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. The recommendations of each key actor within the Government and Legal Aid Providers include the following;

The Government

Ministry of Constitution and Legal Affairs (MOCLA)

It is recommended that MOCLA to take up the initiative of promoting the rights of children in conflict with the law to other regions in Tanzania so as to ensure that these children get access to justice.

The Judiciary

The Judiciary can enhance timely access to justice by; Strengthening the judicial system and ensuring that all criminal cases involving children are heard and determined by Juvenile Courts, issuing a circular to all Primary courts to avoid receiving and determining children's cases which are not within their jurisdiction, Conducting Special criminal session for cases involving children in conflict with the law and building capacity of judicial staff handling cases of children in conflict with the law and offer timely communication of absence for Judicial officers for instance through TLS and court notice boards.

The Director of Public Prosecution (DPP)

It is recommended that the office of the Director of Public Prosecution (DPP) can promote access to justice for children in conflict with the law through; ensuring timely drafting and service of documents to defence counsels and seeking orders to transfer criminal cases from Primary to Juvenile court.

The Tanzania Police Force

Given the role of the Police Force, it is recommended that; incorporation of children rights in Police training curriculum, capacity building for Police officers on children's rights especially children in conflict with the law and record of age of accused child in the Police records and charge sheet are crucial aspects for ensuring children in conflict with the law get access to justice.

Department of Social Welfare

The Department of Social Welfare Officer has a role to play in access to justice for children in conflict with the law. It is recommended that the Ministry and the department of social welfare need to; Increase number of Social Welfare Officers at district level so as to ensure that Social welfare officers support Juveniles by being present in Courts during cases and submitting the social inquiry reports. Section 99(1) (d) of the Law of the Child Act, No. 21 of 2009 requires the mandatory presence of the Social Welfare Officer during the proceedings of the juvenile case.

Detention centres (Police Force and Prisons)

It is recommended that the Police Force and Prisons Force need to support access to justice for children in conflict with the law through; Allocating space for legal services in prisons facilities, detention centres and Police stations, Increase the number of child friendly facilities in all police stations and Detention centres and Capacity Building for staff within the detention centres on how to handle children in conflict with the law.

The proposed recommendations for Tanganyika Law Society (TLS) include the following:

Recommendations for TLS and Legal Aid Providers (LAPs)

In order to promote the rights of children in conflict with the law, it is recommended that legal aid providers need to work together to undertake the following;

- TLS and LAPs to collaborate with RITA to promote birth registration since it is a right for children and denial of this right has negative consequences for children in conflict with the law.
- TLS and LAPs can organise joint sensitization campaigns on children rights and behaviour change communications for children as a preventive measure for children not to get into conflict with the law.
- Advocate for operationalisation and enforcement of the Legal Aid Act, including development of policy, rules, regulations and guidelines that will facilitate the enforceability of the Act with a particular interest on preserving the rights of children in conflict with the law.
- To integrate Pro-bono legal aid services for children in conflict with the law in their plans, strategies and budget and provide free legal assistance/representation to children who are in conflict with the law in their areas of operation.

PART ONE:

INTRODUCTION AND BACKGROUND

1.1. OVERVIEW OF REPORT

This report documents the interventions of Tanganyika Law Society (TLS) in the area of Juvenile Justice implemented in partnership with UNICEF. The two year Programme is entitled, *'The Legal Assistance Programme for children in conflict with the law.'* The programme area was Mbeya District Council and Mbeya City Council, but towards the end of the second year of programme implementation, TLS extended the services to Chunya District. The report is divided into five parts which describe the key activities implemented, achievements and results, challenges and lessons learnt, recommendations and conclusion.

The purpose of this two years report is to show the need and importance of providing legal support to this group of children, share the outcome of the programme in Mbeya Region and encourage legal aid providers to consider integrating this support to children in conflict with the law in their programmes.

1.2. ABOUT TANGANYIKA LAW SOCIETY (TLS)

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 the following statutory objectives:

- 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 five core values; 1) Professionalism, 2) Transparency, 3) Voluntarism, 4) Equity and 5) Professional Solidarity.

1.3. THE LEGAL ASSISTANCE PROGRAMME FOR CHILDREN IN CONFLICT WITH THE LAW

Background to the Programme

Legal Aid is an essential element of the criminal justice system and is regarded as the foundation for the enjoyment of other rights, including the right to a fair trial. Although the right to Legal Aid for children in the criminal justice system is guaranteed in national law and in the Regional and International Human Rights Instruments of which Tanzania is a party, realizing this right has remained a huge challenge and majority of children in conflict with the law receive no legal help at any stage of the process, including while they are in detention pre and post-trial.

In 2011 the Ministry for Constitution and Legal Affairs conducted two studies on access to justice and juvenile justice in Tanzania. The studies revealed that children were not receiving legal representation, including children charged with capital offenses. The report came up with a number of recommendations that need to be considered to ensure children in conflict with the law are provided with legal help.

In view of responding to the identified recommendations, Child Justice Forum was established to oversee the implementation of the recommendations made to improve the situation of children in Tanzania. The body developed a five year strategy for progressive child justice reform which provides for strategies to be implemented in order to change the situation of Children in conflict with the law in Tanzania. This strategy was launched by the Vice president on 10th Dec 2013. Provision of legal assistance for children is provided for under objective 7 of the strategy.

UNICEF is supporting the Tanganyika Law Society to implement the Legal Assistance Programme for children in conflict with the law in order to support the implementation of Objective 7 of the Five Year Strategy for Progressive Child Justice Reform which focuses on improving access to quality legal help and ensuring that legal advice and representation is available to children at all stages of criminal cases. The programme also aims at bringing 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 rules and regulations. The Tanganyika Law Society and UNICEF entered a Programme Cooperation Agreement to provide this support to children from October 2014. However, due to logistical challenges the programme becomes operational from January 2015.

Programme Areas (Mbeya DC and Mbeya City Council)

This Programme provides legal services within Mbeya DC and Mbeya City Council; which includes legal representation at the District, Resident Magistrate and High Court, 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 coming into contact with the criminal justice system in Mbeya. Further assistance is provided by child supporters in Police stations and to children attending the KIHUMBE. Community rehabilitation.

Mbeya was selected for the pilot due to the fact that it has the highest prevalence of young offenders, the only region in the country with an approved school and a retention home, child justice structures are being set to strengthen access to justice for children which includes: the renovation of the Police Gender and Children Desks, establishment of 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.

Objectives of the Programme

Overall Objectives of the programme

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

Specific Objectives of the programme

The four Specific Objectives of the programme are as follows;

1. 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;
2. To ensure that child rights and due processes are guaranteed and respected throughout the criminal justice process;
3. To ensure that children are deprived of their liberty as a matter of last resort and for the shortest appropriate period of time; and
4. To expedite children 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.

Programme Outcome: Government's justice system better protects the rights of women and children in contact / conflict with the law and is better able to respond to their needs.

The Programme Outputs include;

Output 1: Children in conflict with the law appearing before the District Court (DC) and Resident Magistrates' Court (RM) have legal representation leading to better outcome for children

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

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

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



PART TWO:

IMPLEMENTATION OF PROGRAMME ACTIVITIES

2.1. OVERVIEW OF PART TWO

Part two of the report shows the key programme activities implemented from January 2015 to December 2016 and indicators of progress. The key activities include; 1)Provision of Legal Information in Mbeya Retention Home,2)Provision of Legal Information at KIHUMBE Community Rehabilitation Programme (CRP), 3)Provision of Legal Advice in Mbeya retention home and Ruanda prison, 4)Conducting Review Meetings, 5)Conducting Training and Refresher Training for Child Supporters, 6)Assisting Children in Police custody, 7)Designing and Printing Materials, 8)Conducting training for law enforcers and 9)Provision of Legal Representation of Children in Conflict with the Law before the High Court.

2.2. IMPLEMENTATION OF KEY ACTIVITIES

2.2.1. Provision of Legal Information in Mbeya Retention Home and Ruanda Prison

84 children (69 boys and 15 girls) received legal information during training sessions conducted in Mbeya Retention Home. The children were provided with knowledge about children rights and responsibilities including their basic rights while in the Retention home and police stations. During the discussion session many children asked questions and received clarification about the rights of a child before and after being arrested by police officers. Topics covered during Legal information sessions were: 1) Who is a child and 2)Rights and responsibilities of a child.The topics were selected based on the needs of the children and it was relevant to the programme since the children were already in conflict with the law and some of them had cases pending. TLS staff and advocates delivered the training through presentation, questions and answers which were delivered in a participatory method with the children.

Figure 1: Nature of offence committed by 84 children

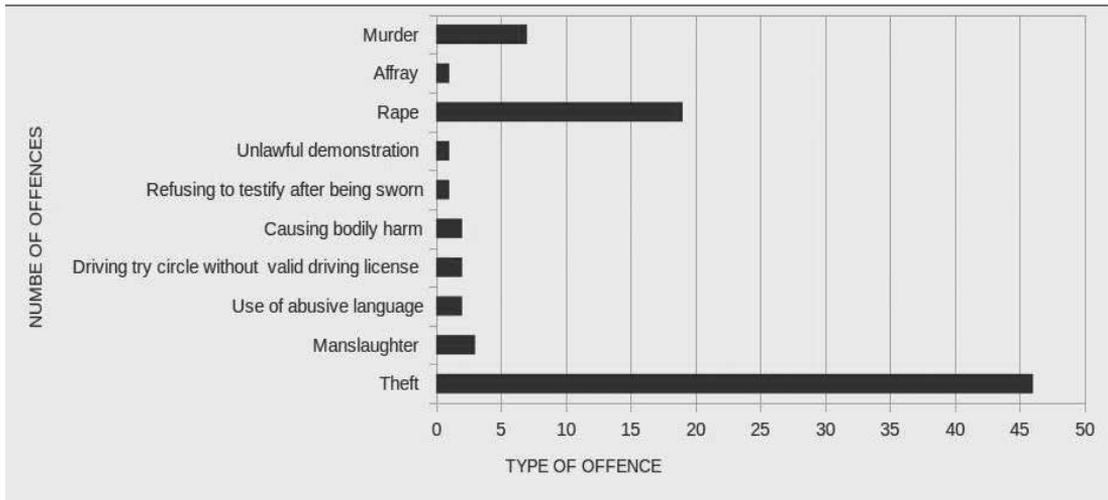
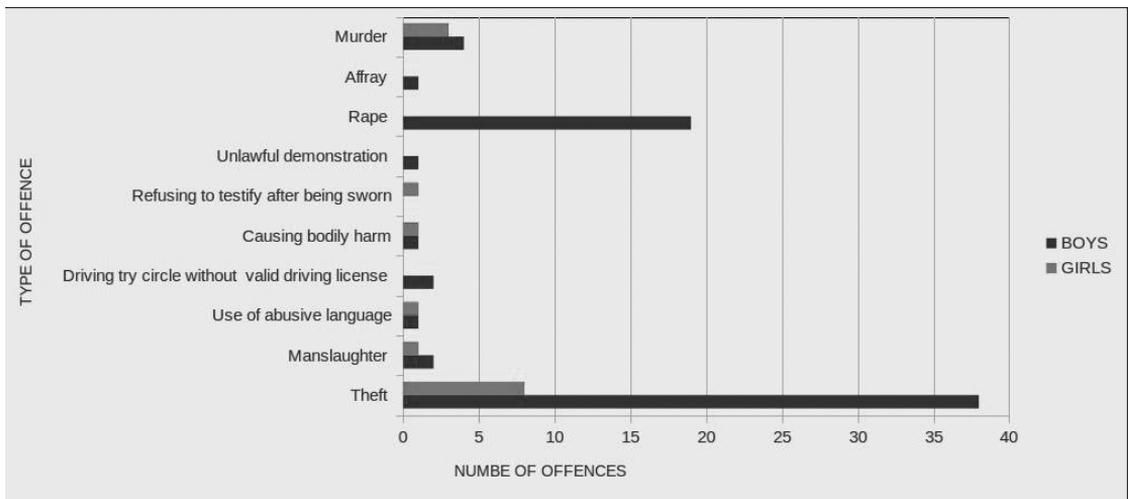


Figure 2: Gender analysis of offences committed 84 children boys and girls



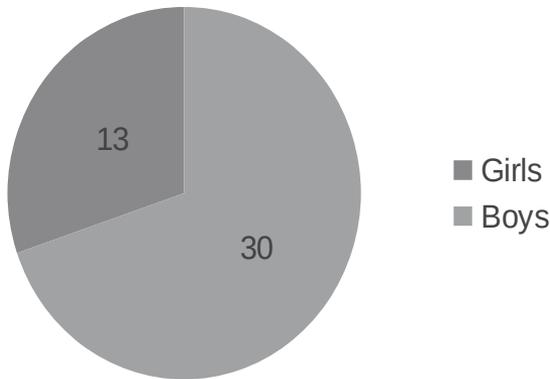
2.2.2. Provision of Legal Information at KIHUMBE Community Rehabilitation Programme (CRP)

114 children (100 boys and 14 girls) received legal information session at CRP. Out of 114 children, 73 children (69 boys and 4 girls) were referred from police stations through the assistance of child supporters and 13 children (3 girls and 10 boys) were referrals from courts. The referral bodies include; Courts (RMs and District Court), Police, SWOs in Mbeya Municipal and Mbeya DC and Probation officers.

2.2.3. Provision of Legal Advice in Mbeya retention home and Ruanda prison

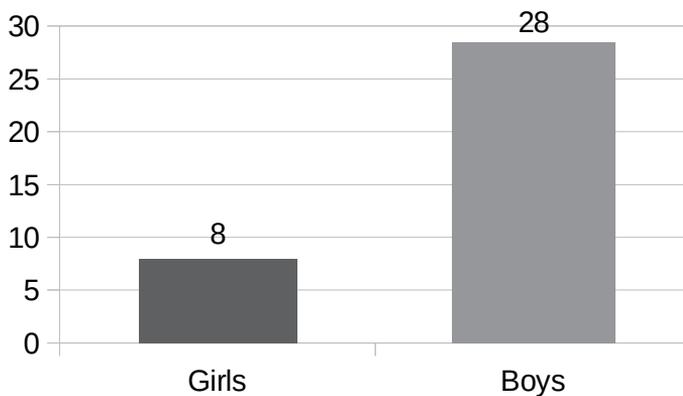
Mbeya Retention Home: 43 children (13 girl and 30 boys) received legal advice pertaining to their cases.

Figure 3: Legal Advice for children in Mbeya retention home



Ruanda Prison: 36 children (8 girls and 28 boys) received legal advice.

Figure 4: Legal Advice for children in Ruanda prison



2.2.4. Review Meeting

TLS held four Review Meetings with strategic stakeholders such as State Attorneys, Social Welfare Officers (SWO), Probation officers, Magistrates (District Court), CRP (KIHUMBE) and Police officers. A multi-sectoral approach was used to bring together all children rights stakeholders and during these review meetings the legal issues of children in conflict with the law were discussed and addressed. As a result of these meetings, each stakeholder played their role to ensure that children in conflict with the law get access to justice for instance the Magistrate six months and referred children for rehabilitation.

2.2.5. Conducting Training and Refresher Training for Child Supporters

Training: One training session was conducted for 30 child supporters (13 female and 17 male). **Refresher trainings:** 7 refresher trainings were conducted for 203 participants (79 female and 124 male). TLS, UNICEF, KIHUMBE, Social Welfare Officer of Mbeya City and the Probation Officer of Mbeya District provided technical support during the training sessions. The participants were Child supporters, Social welfare officers, Advocates and TLS Staff. The methodologies used include the following: Power point presentations, Group discussions, Role play, Questions and answers and Clarification from facilitator.

The topics covered during the trainings were as follows: 1) Who is a child, 2) Rights and responsibilities of a child during and after arrest, 3) Bail in police stations, 4) Who is the child supporter, 5) Roles and responsibilities of child supporter in police stations, 7) Code of conduct of child supporters, 8) Diversion to Rehabilitation Center, 9) Law of the Child and 10) Code of conduct of child supporters.

In refresher trainings some of the topics covered included the following; 1) Bail, 2) Procedures to be followed at police stations and the phone use, 3) Rehabilitation programme for children in conflict with the law, 4) How to support children at police station, 5) Experience sharing from different police posts, 6) Challenges and 6) Way forward i.e. Conduct quarterly review meeting with law enforcers and legal aid providers on how to handle cases of children in conflict with the law.

During Quarterly refresher training for Child supporters The topics covered were: 1) International Conventions on the Protection and Welfare of the Child, 2) Probation as an Alternative Sentence; meaning and functions of probation officers, 3) Support to the Parents of a Convicted Child, 4) 5. Violence against a Child; meaning, causes, forms and effects and 5) Psychological and Social Support; meaning, categories of psychological needs,

The intervention of TLS legal officers and advocates through training for child supporters enabled some of the children in conflict with law at police stations to obtain bail. The legal officers, advocates and child supporters assisted the children in police stations to be taken to Court on timely while witnessing increased good cooperation from Police.

2.2.6. Assisting Children in Police custody (1 Police station and 3 Police Posts)

515 (414 boys and 101 girls) were assisted in the Central police station and 3 police posts at Mbalizi, Mwanjelwa and Ilomba.

Figure 5: Number of boys and girls assisted in Police station / posts

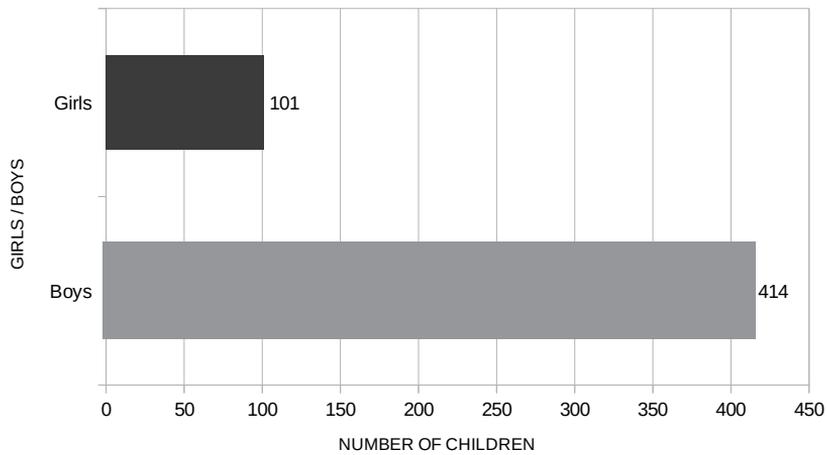


Figure 6: Number of children assisted in Central Police station and 3 Police Posts

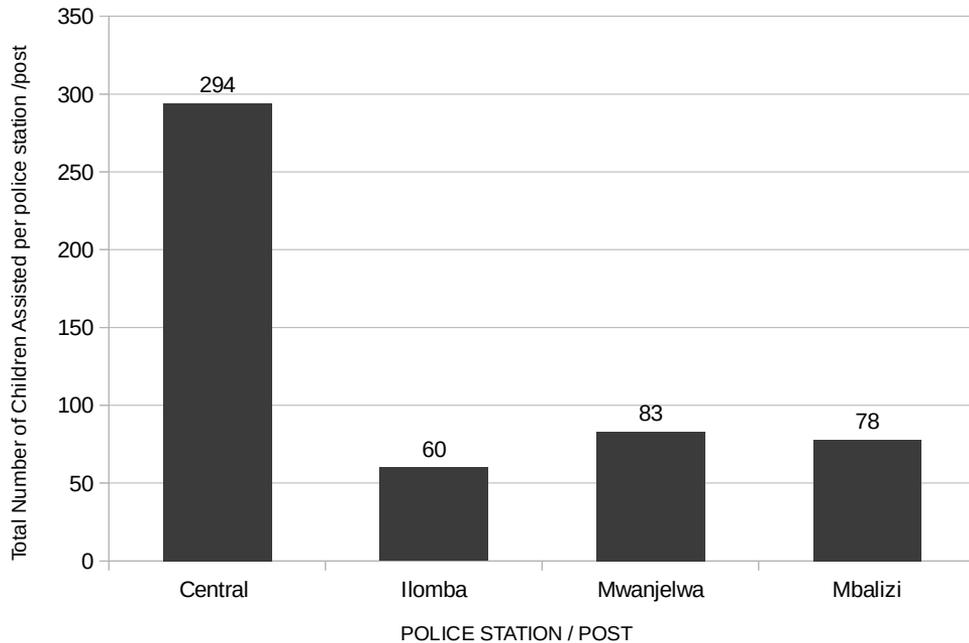
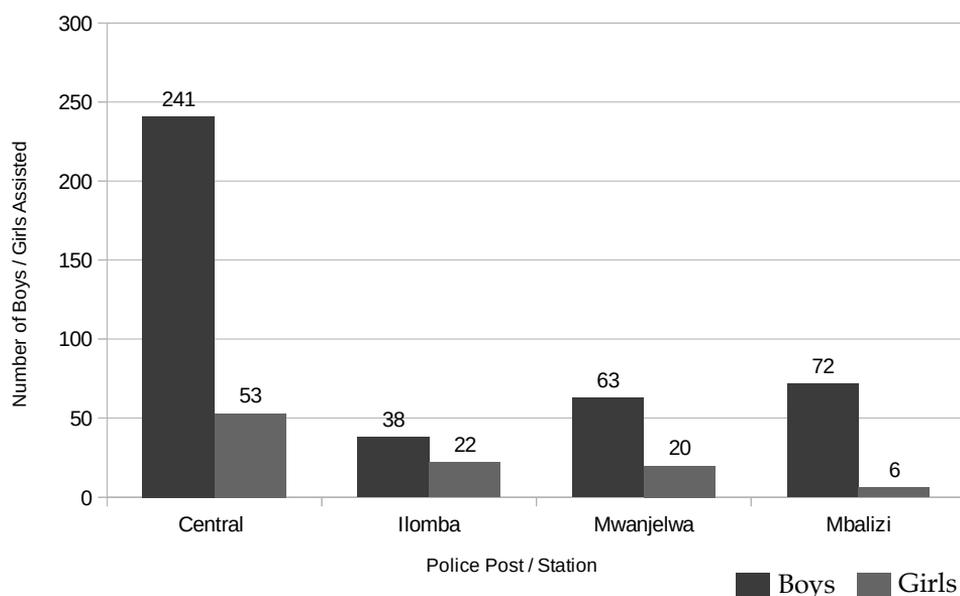


Figure 7: Number of Boys and Girls assisted in Police station and Police Post



2.2.7. Designing and Printing Materials

Legal materials were prepared, designed, printed, reprinted and distributed to various stakeholders including children in conflict with the law. Legal materials were distributed to Children in detention centres and Police stations such as Central police station. These materials include; 1) Manual for Law enforcers (50 copies), 2) Leaflets on ‘Understanding the Justice system and what to expect in Court’ (1000 copies), 3) Manual for legal aid providers (LAPs), 4) Training Manual for Child Supporters (200 copies) and 5) posters. The leaflets covered topics such as; *Right and Responsibilities of children* (200 copies), what to expect in Court (200 copies), Right of Children when arrested and when they are at Police Stations, What to expect in Juvenile Court (175 copies). The manual, leaflets and posters were distributed to stakeholders as seen below.

50 copies of Manual for Law enforcers were distributed to 25 participants		
1.	State Attorneys	20
2.	SWOs	4
3.	Magistrates	16
4.	KIHUMBE	1
5.	TLS Chapter Convener	1
6.	Police Officers	8

Right and Responsibilities of children (200 copies)

1.	Court	70
2.	Police	49
3.	Retention Home	40
4.	Prison	41
5.	TLS Chapter Convener	1

What to expect in Court (200 copies)

1.	Police	26
2.	Court	90
3.	Retention Home	43
4.	Prison	41

What to expect in Juvenile Court (175 copies)

1.	Police	23
2.	Court	83
3.	Retention Home	39
4.	Prison	30

Right of Children when arrested and when they are at Police Stations (200 copies)

1.	Police	80
2.	Retention Home	30
3.	Prison	40
4.	Court	50

Printed Training Manual for Child Supporters (200 copies)

1.	Child Supporters	24
2.	Ward/Village Executive Officers	80
3.	Secretariat	25
4.	Police Stations	71

Manual for Legal Aid Providers, Guide and Law Enforcers, 50 copies		
1.	State Attorneys	14
2.	Magistrates	20
3.	KIHUMBE	1
4.	TLS Chapter Convener	1
5.	Police Officers	6
6.	SWO	5
7.	Prisons Officers	3

Posters

Title <i>“Which type of an Advocate” (200 copies)</i>		
1.	Prison	100
2.	KIHUMBE	42
3.	Retention Home	45
4.	Police	13

<i>“Cases of children must be heard and determined specially”</i> 200		
1.	Police	100
2.	KIHUMBE	42
3.	Retention Home	45
4.	Police	13

2.2.8. Training for Law Enforcers

Two Trainings sessions were conducted for 86 law enforcers. The law enforcers who participated in the training included; Magistrates, State Attorneys, Community Rehabilitation Programme Officers, Social Welfare Officers, Prison officers, Police officers and Child supporters.

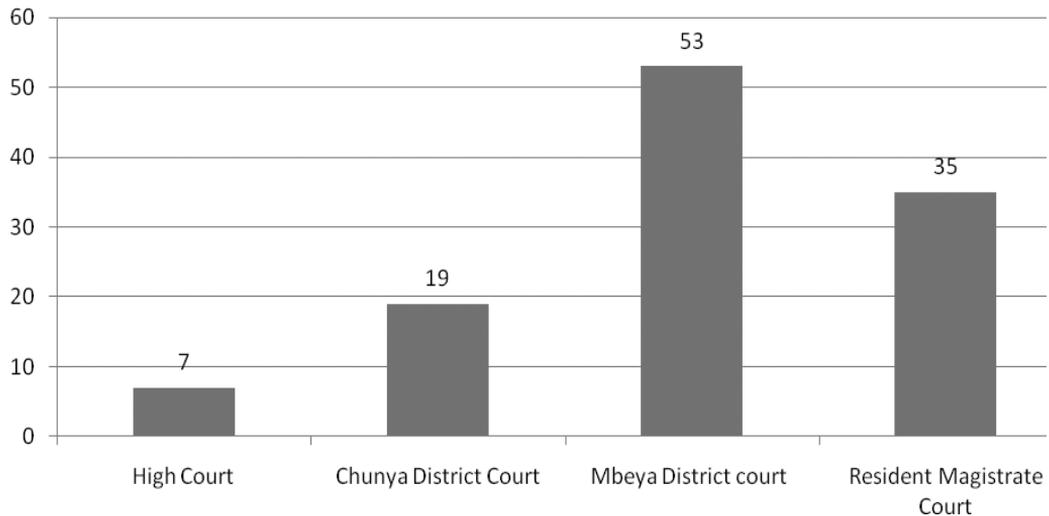
The law enforcers trained have been instrumental in facilitating access to justice for children in conflict with the law. Police, social welfare, probation officers and magistrates who participated in the training assisted children in conflict with the law. This can be seen in the number of children (414 boys and 101 girls) assisted in the Central police station and 3 police posts at Mbalizi, Mwanjelwa and Ilomba. The judicial officers also contributed to access to justice for children in conflict with the law. Out of 90 cases successfully completed through TLS intervention, 28 were completed within six months. Such a success is directly attributed to the increased knowledge by the actors mentioned and commitment made during the law enforcers training.

The topic covered during the training were: 1) The Law of the Child Act of 2009, 2) Underpinning principles in protection of the child, 3) Rules and regulations, 4) Children in conflict with the law, 5) Juvenile court and its jurisdiction, 6) Procedures on handling children cases, 7) Criminal responsibility of a child, 8) Powers of the magistrates to manage cases involving children in conflict with the law and 9) Age determination

2.2.9. Provision of Legal Representation for Children in Conflict with the Law

TLS Advocates provided Legal representation to 114 Children (98 boys and 16 girls) in conflict with the law appearing before the High Court, District and RM’S Court at Mbeya Municipal Council, Mbeya district Council and Chunya District Council. Out of 114 cases, 90 cases were successful completed and 28 of these successful cases were completed with six months.

Figure 8: Legal Representation of Children in courts

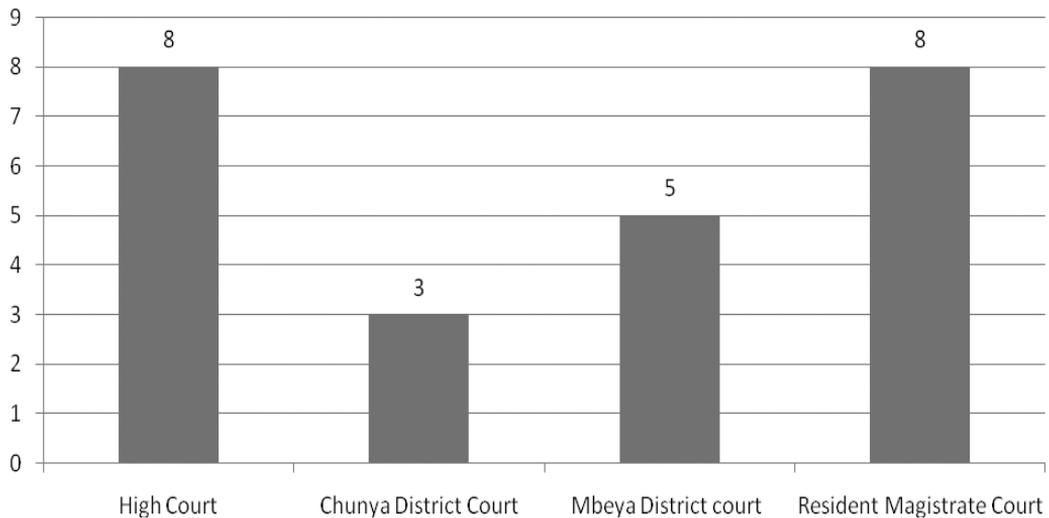


Out of the 114 cases against the children in conflict with the law, 7 children were represented at the High Court, 19 children were represented at Chunya District Court, 53 children were represented at Mbeya District court and 35 children were represented at the Resident Magistrate Court.

Out of 90 completed cases, 18 children were sentenced to probation, 29 cases were dismissed for failure of the Prosecution to bring its witnesses on time, 8 cases were withdrawn, 4 children were given conditional discharge, 13 children were acquitted, 3 children were discharged upon the Prosecution entering Nolleprosequi, 1 child was convicted to 30 years imprisonment (his documents with regard to date of birth were questionable and of doubt to proof the appeal so we decided not to appeal), 1 child was sentenced to corporal punishment

with fine, 1 child got absolute discharge, 8 children were convicted thus sent to KIHUMBE for rehabilitation (community rehabilitation), 2 children were sentenced to community rehabilitation (KIHUMBE) together with corporal punishment, 1 child was sentenced to probation together with corporal punishment and 1 child was sentenced to probation together with compensation. Between 5th January 2015 to 31st December 2016, 64 children were released on bail.

Figure 9: Status of Cases pending in Courts in Mbeya region



There were 24 cases in total pending in Mbeya District Council, Mbeya Municipal Council and Chunya District Council. Out of the 24 cases, 8 cases were pending before the High Court, 3 cases were pending in the District court of Chunya, 5 cases in Mbeya District Court and 8 cases in Mbeya Resident Magistrates’ Court.

Preparation of children for trial/ full hearing of case

Preparation of children in conflict with the law for court sessions was conducted by the advocates in specific detention facilities. Children who were out on bail were advised to either visit TLS office Mbeya Chapter or come at Court prior to the court session. 114 Children were prepared for court sessions. Children witnesses were also prepared and guided on how to respond to questions and how to give evidence before the court.

Children with cases in other courts apart from Mbeya Municipal Council and Chunya District court were given legal advice on an individual basis. The children were empowered to represent themselves before the court, in particular what to say or ask during cross examination.

2.3. INDICATORS AND PROGRESS

TLS had programme indicators to keep track of progress made towards achieving results after implementation of activities. The progress made with regard to the indicators is summarized below;

1. 100% of children in conflict with the law with cases instituted against them were represented by advocates in the High Court, District court and RM's Court. This makes a total of 114 Children in conflict with the law and who received legal representation when they appeared before the High Court, District Court of Chunya, Mbeya District Court and RMS Court.
2. On the issue of the time spent between charges and sentencing for children appearing before DC and RMs court, only 28 cases out of 90 completed cases were completed within six months.
3. 64 children were released on bail by the District and RMs Courts. Out of the 64 children, Six (6) children from Ruanda Prison and 27 children from Mbeya Retention home.



PART THREE:

KEY ACHIEVEMENTS AND RESULTS

3.1. OVERVIEW OF RESULTS

All the activities implemented in the programme aimed at achieving results by fulfilling the overall programme outcome and objective. The overall programme objective was, 'to promote respect for child rights and ensure due process is guaranteed throughout the criminal justice process and ensure that diversion and non-custodial measures are utilized wherever possible.' The key outcome of the programme was: 'Government's justice system better protects the rights of women and children in contact / conflict with the law and is better able to respond to their needs.'

3.2. KEY ACHIEVEMENTS AND RESULTS

Some of the key achievements and results related to protecting the rights of children include;

Timely dispensation of justice to children: Out of the 114 court cases, 37 were completed within six months as required by the Law of the Child Act, 2009 and the Juvenile Court Rules. Children were also offered support on timely basis at Police Stations by TLS advocates, child supporters and Police. Police officers provide full cooperation to child supporters, hence providing children in police stations with timely and appropriate assistance.

Attorney General Chambers undertakes timely committal of children's cases in Court: The Attorney General's Chambers committed cases to courts in less than one month after receiving files and complaints. The average time frame for successful completion of cases of children in conflict with the law was mainly 6 months.

District Courts and Resident Magistrates Courts in Mbeya are child rights compliant: As a result of the programme interventions, the District Courts and Resident Magistrates Courts have become child rights compliant. Court officers have become more competent in adhering to the procedures for handling children's cases as provided in the Juvenile Court Rules. Training sessions enhanced knowledge of court and Police officers to handle cases of children in conflict with the law more effectively and expeditiously. The training was based on the Law of the Child Act of 2009 which set out a clear cut roadmap for handling such cases.

Increased use of alternatives to detention measures: Courts have referred children in conflict with the law to the community rehabilitation programme as an alternative to sentencing and as one of the options for non-custodial sentence. Equally, there was increased amicable resolution of minor cases without going through the criminal justice system. For instance, in 2015, 191 cases were resolved amicably and 66 cases were referred to Community Rehabilitation Centre at KIHUMBE.

Reunion of children and families: Families which were separated from their children were re-united when the children were granted bail and cases concluded.

Compliance to legal requirement about the presence of a Social welfare officer in court sessions involving children: Social welfare officers under the The Law of the Child Act No.21 of 2009 which provides for the protection and realization of the Rights of the Child. The law mandates and empowers the Minister responsible for Social Welfare, the Commissioner for Social Welfare and Social Welfare Officers to carry out activities for the protection and realization of children in conflict with the law. The law also provides for the mandatory existence of Social welfare officers during the proceedings of children cases, The law provides that 'social welfare officer shall be present in all proceedings of children case for the purpose of assisting the child and the Court to attain justice.

Increased awareness on children's rights amongst children in conflict with the law: There is increased knowledge and awareness on children's rights and the Tanzania criminal procedures among detained children in Ruanda Prison and Mbeya Retention Home. The training sessions on legal issues has enabled children to ask questions about their rights for instance the right to bail. Children are now able to inquire and request for information about the progress of their cases and some children have asked about attending school. One of the children detained in Mbeya Retention Home (MRH) is currently attending Ordinary Secondary School studies at the Education Centre near Mbeya Retention Home as a result of the inquiries he was making during court proceedings.

Increased networking and collaboration amongst child rights stakeholders and likeminded stakeholders: There is increased networking between the Tanganyika Law Society and other stakeholders such as Ruanda Prison, Mbeya Retention Home, police officers, Social Welfare Officers, Community Rehabilitation Programme and Child Protection Teams at the District, Ward and village levels. This collaboration and networking relationship has contributed to the effective implementation of the programme.



PART FOUR:

LESSONS LEARNT AND CHALLENGES

4.1. OVERVIEW OF PART THREE

Part three documents the key lessons learnt and challenges encountered in the course of implementing the programme. Despite the challenges, TLS mitigated impact by collaborating with child rights stakeholders such as law enforcers and social welfare through building partnerships and working together in addressing the challenges so as to ensure that the programme outcomes and objectives were fulfilled.

4.2. LESSONS LEARNT

The key lessons learnt revolve around the importance of training and legal representation for timely justice for children. Multi-sectoral approach and networking has also contributed to enhancing justice for children in conflict with the law. The lessons learnt are categorised for the law enforcers, child supporters and children in conflict with the law.

4.2.1. Lesson learnt by Law enforcers and child supporters

Legal Training enhanced understanding of law enforcers, child supporters and children on legal issues of children in conflict with the law.

Legal representation in courts by TLS advocates has ensured expeditious proceedings, fair trial and justice for children. The presence of social welfare officers in court and role of child supporters has also enabled children in conflict with the law to get their right to legal representation.

Multi-sectoral co-ordination is an important comprehensive mechanism for child justice. This was 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 members from different organisations. It was at this meeting that it was decided to have one social welfare officer assigned to follow up on children's court cases and support them during court sessions and stipulated in the Law of the Child Act and the Juvenile Court Rules. 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 effective and timely delivery of justice for children.

Good working relationship between implementers and the Government actors from the village ward and district level was very important for the successful implementation of the programme and to get Government's support which will facilitate sustainability of the programme.

Importance of birth certificate as proof of the age of the child: 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.

4.2.2. Lesson learnt by Children in Conflict with the Law

Children in conflict with the law learnt about their rights and legal issues related to their cases. This was as result of participating in legal information sessions, receiving legal materials and posters and child supporters visits in the police stations and retention homes. The children were able to ask about their cases and their rights.

4.3. CHALLENGES ENCOUNTERED

The main challenges encountered are highlighted herein below;

Delay in completion of cases from remote districts: The programme does not cover remote Districts such as Ileje, Rungwe, Mbarali, Mbozi, Momba and Kyela hence there are some delays in completion of cases. TLS made efforts to transfer these cases to Mbeya District and Resident Magistrate's Courts. However, it takes time to transfer Police and Court files, for instance it took TLS eight months to transfer the *Criminal case no. 4/2015* from Chunya District Court to Mbeya Resident Magistrate's Court. In that case, the child aged 16 years old was charged with the offence of rape in the Chunya District Court before its transfer to Mbeya Resident Magistrate's Court where it was disposed off in favour of the accused child. The programme covers Mbeya District Council and Mbeya City Council only while there are other children in conflict with the law who are being tried in other Districts courts which the programme does not cover. For example in Chunya, there were two children, three in Mbozi and two in Tukuyu. All these children are in Mbeya Retention home since April 2015. However they have not been taken to Court to appear for their cases. 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. In another

Delays in Committal Proceedings: There are delays in completion of committal proceedings in murder cases in District and RM's courts and it takes more than three years for such cases to be heard before the High Court. This is reflected in the Murder case of no.14/2003 in which the accused child spent five years in Mbeya Retention home. The committal Proceedings were completed in August 2015 but the Child was not summoned in the High Court to proceed with his case until September 2016 but the case is not yet finalised to date.

Inadequate number of Social Welfare officers to attend the proceedings of the Juvenile cases: Section 99(1) (d) of the Law of the Child Act, No. 21 of 2009 requires the mandatory presence of the Social Welfare Officer during the Proceedings of the juvenile case. However, due to inadequate number of social welfare officers the extent of compliance to the law is limited. During stakeholders review meetings a specific social welfare officer was assigned to attend to the cases of children in conflict with the law as a means of mitigation.

The courts environment is not yet child friendly: The ideal situation would be for Courts to hear cases in a child friendly environment. However, in the absence of child friendly Juvenile Courts, ordinary buildings and Court rooms are used as is the case at Mbeya. The Court facilities are not informal as the Law of the Child Act, 2009 requires. This has frequently led to discomfort for young children during the proceedings of the case.

Age determination in police stations, prison and Courts: In some instances the ages of children have been wrongly recorded in police stations/posts. When children are recorded as adults at police stations/posts they are put in custody in adult facilities like Ruanda Prison. This is contrary to the Law of the Child Act which strictly prohibits putting children in custody with the adults. In such a scenario assisting such children is difficult since determining their age is a bureaucratic process. It has been noticed that sometimes children either deliberately or under intimidation, mention older ages than what they have. This causes inquiries to be made into the child's age thus delaying disposal of the case. In addition, little cooperation is received from the doctors in obtaining medical reports.

Primary Courts hearing cases out of their jurisdiction: Some Primary Courts still entertain hearing and determining cases involving children contrary to the requirement of the Law of the child Act, 2009. The law is clear that primary courts do not have jurisdiction to entertain cases of children in conflict with the law. In the Criminal Case No. 21/2015, a 16 year old child was charged with an offence of stealing C/s 265 of Cap 16 of the Laws of Tanzania in December 2015 by the Ruanda Primary Court in Mbozi District. The child was committed to Mbeya Retention Home where TLS conducted mediation between her and the complainant, consequently the case was dismissed. This challenge was

addressed to some extent by some primary courts which informed TLS about such cases and asked TLS to transfer the cases to Mbeya District Court.

Children not providing correct information: Some children are reluctant to say everything about themselves for fear that what they say may be used against them. Due to this, they provide wrong names and false addresses of their residences hence it is difficult to trace their relatives to come and bail them out. Sometimes they also provide different information on their cases to defense advocates and different stories in courts.

Failure to access right to bail for children in conflict with the laws who do not have families in Mbeya: It was noted that Police officers were stranded as to how they could assist detained children in conflict with the law who do not have parents and guardians to stand for their bail. These children do not enjoy their right to bail not because of the seriousness of their crime but because of lack of an alternative as to who will stand in for them to offer surety especially when the child supporters cannot trace their parents or guardians in Mbeya.

Duration in Police custody: Approximately 80% of children stayed in Central police for two weeks and others two months before they were taken to the Retention home. During their stay within police posts they were mistreated and some of them beaten after entering a plea of not guilty. Based on this, there is a need for more training on the rights of children to police officers and retention home personnel.

State Attorneys delayed to serving defense counsels with requisite documents: Defense counsels in majority of the cases handled were not served with charge sheets and other necessary documents by the prosecutors hence making preparation for the cases of children in conflict with the law difficult.

Lack of clarity on procedure for transferring cases from prison to retention home: The absence of clear procedures for transferring of cases from Ruanda Prison to Mbeya Retention home contributes to children being held in adult Prisons.

Inadequate prior information about absence of judicial officers (magistrates): Lack of prior information from magistrates in case they are absent for different reasons cause cases to start quite late causing inconvenience and distraction to defense Counsels and the children.

Unreasonable requests for adjournments by State Attorneys: State attorneys have requested for adjournment without any vivid reasons causing more suffering to the children.

Children in conflict with the law are sent directly to court without the information of the Police Gender and Children Desks: Auxiliary police send children directly to the court without going through the Police Gender and Children Desks where children could benefit with the support of child supporters and referral to the Community Rehabilitation Programme. This is a challenge as sometimes children are not treated in accordance with the Law of the Child Act, 2009.

Inadequate funds for costs incurred by witnesses: Lack of sufficient funds to pay witnesses results in delays in procuring the attendance of witnesses and this in turn results in the prolonging of cases.

Poor cooperation from some parents: Some parents were reluctant to show up and give sureties to their children who are in conflict with the law. The programme management teams had to use various techniques to convince 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.

Inadequate funds for social inquiry report: Lack of funds for follow ups and preparation of social inquiry reports/ investigation for matters/cases arising from Chunya District on the ground that funds sent by UNICEF to Social Welfare Department in Mbeya cover only Mbeya Municipal Council, Mbeya District Council and Rungwe District Council.

Inadequate transport cost for Chunya district court cases: Transport facilities/ costs from Mbeya to Chunya-Mbeya have been a hindrance to the programme implementers due to long distance with the same budget. It was noted that Chunya was not a target of the Budget as per PCA; hence no budget was allocated for Chunya District Court although children have cases in the court.

PART FIVE:

CONCLUSION AND RECOMMENDATIONS

5.1. CONCLUSION

The Legal Assistance Programme for Children in Conflict with the Law has made impact on the lives of children who are in conflict with the law. Without the collaboration between UNICEF and TLS, children in Mbeya region programme would not have received legal representation and their rights would have been compromised. Through this programme TLS has been able to accomplish programme results at outcome and output level as evidenced by the status of cases and legal support received by the children. The good working relationship between TLS and government justice system (law enforcers), district council staff such as social welfare officers, KIHUMBE, Child supporters has enhanced protection of children rights and met their legal needs. 114 children received legal representation, 64 children received bail and other children were transferred from Police custody to Mbeya detention home. Justice delayed is justice denied hence without the legal representation of TLS advocates, children in conflict with the law would not have received timely quality legal services.

5.2. RECOMMENDATIONS

The recommendations provided below are based on the issues noted during the two year time frame of the programme (January 2015 - December 2016) and addressed to government, legal aid providers and other children rights stakeholders.

5.2.1. Proposed Recommendations for Government

5.2.1. a. The Judiciary of Tanzania

Special criminal session for cases of children: Children remanded in retention homes for capital offences such as murder cases need special criminal sessions so as to fast track their cases hence ensuring timely access to justice. The High court should facilitate this process for the best interest of the child.

Judiciary to enhance timely access to justice: The Judiciary should ensure that cases involving children should be completed within six months as provided in the Juvenile Court Rules. Justice should not to be delayed without reasonable grounds.

Limited jurisdiction of primary courts in juvenile issues: Primary courts should avoid receiving and determining children cases because they are not within their jurisdiction.

Strengthen judicial system: The Ministry of Constitution and Legal Affairs should strengthen the judiciary system and ensure that all criminal cases involving children are heard and determined by Juvenile Courts.

Capacity building: The Judiciary should build the capacity of all Court Officers handling of children's cases in accordance with the Law of the Child Act and the Juvenile Court Rules.

5.2.1.b. The Director of Public Prosecution (DPP)

Drafting and service of documents: DPP to ensure that statements of facts are prepared well, hence state attorneys should serve Defence Counsel with charge sheets, statements of offences and all necessary documents relating to cases of children.

Record of age of accused: The procedure stipulated in the Police Standard Operating Procedures on handling cases of children in conflict of the law is followed on issues of age determination, which will help in avoiding delays on prosecution once a case is filled in court.

Transfer criminal cases from Primary to Juvenile court: Since the DPP office in the district has supervisory powers and responsibility in ensuring compliance with the law, it is recommended that the DPP use his powers to transfer criminal cases involving children in Primary Courts to Juvenile Courts as provided for under the law.

5.2.1. c Department of Social Welfare and Local Government Authorities

Social welfare officers have legal mandate to support children with court cases. S. 99(d) of the Law of the Child Act requires a Social Welfare Officer to be present in all court sessions involving children and provide appropriate support. The Department of Social welfare needs to ensure that Social Welfare Officers are available and attend in Courts when hearing cases of children before the Juvenile Courts, District and Resident Magistrate's Courts. Social Welfare Officers should submit the social inquiry reports in time and provide prior information to Court and defence counsel in case of their unavoidable absence.

Increase number of Social Welfare Officers: The Local Government Authorities in collaboration with the department of Social Welfare should consider increasing the number of social welfare officers in their localities. The increased number of social welfare officers will result into their presence in court to support children including timely submission of Social Inquiry Reports.

Local Government Authorities (LGAs) to budget for juvenile justice: LGAs need to have a budget line for sustainable protection of children's rights and access to justice for children at conflict with the law.

Awareness rising by Local government and Community leaders: Local government and Community leaders can create awareness among members of the community. This intervention is likely to reduce the number of children involved 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.

5.2.1.d. Tanzania Police Force

Police to record the age of a child: Police should always record the age of the child as stated by the child unless they have sufficient evidence to prove that the age mentioned by the child is incorrect. Procedures on age determination stipulated in the Police SOP on handling cases of juvenile offenders should be followed if there are issues on determining the age of the child.

Increase number of child friendly spaces in Police Stations - Tanzania Police Force to renovate and equip all the Police Gender and Children Desks to align with the standards for stabling the desks as stipulated in the guideline for establishing these desks of 2012.

Enhance the capacity of Police Officers on handling cases of children in conflict with the law as per the LCA and Police SOPs on handling cases of this group of children.

Police force should introduce Youth Risk behaviour Surveillance working with schools and social welfare. There are risk behaviours that are generally known to be highly associated with juvenile delinquency. Such behaviours include school drop-out, absenteeism and homelessness. A better understanding of such risk behaviour may contribute to constructive involvement of all these departments in proactive prevention of juvenile delinquency.

Survey of Crime Victims: Juvenile Delinquency can be prevented early where Police conduct regular survey of the relationship between the victims of crime and the children in conflict with the law. With such information Police shall be able to design more useful intervention strategies and involve other actors in preventing juvenile delinquency.

5.2.1.e. Tanzania Prison Services

Allocate Space for legal services in Prisons

A designated space for provision of legal advice to a child is required in Prisons. This will help in maintaining confidentiality, and also will build the confidence of the child to provide all the information in relation to his/her case. This in the end will facilitate provision of the appropriate assistance to the child.

Incorporate Children rights in Police curriculum: TLS and children rights Stakeholders can advocate for the establishment of courses about children in conflict the law in police training.

5.2.2. Proposed Recommendations for Tanganyika Law Society (TLS)

and LAPs Pro-bono legal aid services: TLS and LAPs can support the sustainability of the programme by engaging advocates on pro-bono basis to provide legal aid services to children in conflict with the law in TLS chapters. To integrate Pro-bono legal aid services for children in conflict with the law in their plans, strategies and budget and provide free legal assistance/ representation to children who are in conflict with the law in their areas of operation.

Enforcement of Legal Aid Act: Advocate for operationalisation and enforcement of the Legal Aid Act, including development of policy, rules, regulations and guidelines that will facilitate the enforceability of the Act.

TLS and LAPs to collaborate with RITA to promote birth registration: Given the importance of birth certificates as a right for children, TLS can advocate that RITA scales up birth registration process. Lack of birth certificates has adverse effects in cases that involve children in conflict with the law hence RITA needs to fast track the process so as to promote children's rights.

Sensitization campaigns and behaviour change communications for children: TLS, LAPs, law enforcers and children rights stakeholders should inform children of legal issues related to children rights, the importance of telling truth and legal implications stating wrong information pertaining to their cases. In addition, regular information sessions and discussions should be done with the children to orient them about TLS, and the reason for supporting and representing them in the Court of Law.

Quarterly review meeting between law enforcers and legal aid providers: Children rights stakeholders such as law enforcers and child supporters can take part in these meetings so as to diligently handle cases of children in conflict with the law.

5.2.3. Recommendations for Juvenile Justice Stakeholders

Observation of international, regional and national commitments by Juvenile Justice Stakeholders: All Juvenile Justice Actors should 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.

Collaboration with government from planning to implementation phase for sustainability: 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. LAPs should also collaborate and mobilize more actors at the regional and district level to enable sharing responsibilities for delivery of programmes related to juvenile justice.

Evidence based Research: LAPs should undertake research in collaboration with LGAs so to make informed interventions in the area of juvenile justice; for example, why more boys engage in offenses than girls. The evidence based research can also analyse why rape and theft offences are prevalent.



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