

RULE OF LAW ROADMAP

2020-2025



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GLOSSARY/ACRONYMS AND ABBREVIATIONS

A

ADR	Alternative Dispute Resolution
ADRS	Alternative Dispute Resolution Secretariat
AG	Attorney General

C

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CJ	Chief Justice
CPS	Community Policing Strategy
CSOs	Civil Society Organizations

D

DLEA	Drug Law Enforcement Agency
DPP	Director of Public Prosecutions

E

ECOWAS	Economic Community of West African States
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F

FGM/C	Female Genital Mutilation/Cutting
FLAG	Female Lawyers Association of The Gambia

G

GBA	Gambia Bar Association
GBV	Gender-Based Violence
GFS	Gambia Fire Service
GID	Gambia Immigration Department
GPF	Gambia Police Force
GPS	Gambia Prisons Service
GPU	Gambia Press Union

I

ICT	Information and Communications Technology
IGP	Inspector General of Police

M

M&E	Monitoring & Evaluation
MOFEA	Ministry of Finance and Economic Affairs
MOI	Ministry of Interior
MOJ	Ministry of Justice
MOU	Memorandum of Understanding

N

NALA	National Agency for Legal Aid
NDP	National Development Plan
NAGBV	Network Against Gender-based Violence
NHRC	National Human Rights Commission
NPAGW	National Policy for the Advancement of Gambian Women
NWC	National Women's Council

P

P&AM	Planning & Asset Management
PIU	Police Intervention Unit

R

RoL	Rule of Law
RoL WG	Rule of Law Working Group

S

SC	Supreme Court
SSR	Security Sector Reform
SGBV	Sexual Gender-Based Violence

T

TANGO	The Association of Non-Governmental Organizations
ToR	Terms of reference
TYW	Think Young Women
TRRC	Truth Reparations and Reconciliation Commission

U

UN	United Nations
UNDP	United Nations Development Programme
UNICEF	United Nations International Children's and Emergency Fund

W

WB	Women's Bureau
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CHAPTER 1

INTRODUCTION

After 22 years of dictatorship, The Gambia is embracing democracy, including enhancing the Rule of Law (RoL) and access to justice. During this transition, the Government is grappling with new prospects and strategies for strengthening the independence and functioning of critical justice sector institutions. The National Development Plan (NDP), launched on January 6, 2018, speaks to the national development agenda and a need for change to achieve good governance and accountability, social cohesion, national reconciliation, and respect for the rule of law.¹

To achieve the NDP's objectives, The Gambia Government led by the Ministry of Justice in partnership with UNDP's Strengthening the Rule of Law and Enhancing Justice and Security Service Delivery Project (UNDP RoL) has developed this roadmap for the rule of law sector.² The Rule of Law Roadmap (Roadmap), backed by a shared sector-wide vision, endeavors to coordinate efforts to achieve sustainable reforms and the priorities noted in the NDP for the sector.

The Roadmap provides a robust framework for coordinating resources to assist with the justice reform process. A justice sector that is coordinated in terms of planning and budgeting will be in a much better position to argue a case for increased funding in support of clearly identified needs.

The Roadmap should be understood as an integrated approach covering shared strategic objectives for all rule of law sector institutions. It highlights the interlinkages and actions that can be taken collaboratively across all institutions. It is based on the communication, cooperation, and coordination model³ and addresses the key challenges and priorities of the institutions within the sector.

Considering the challenges and opportunities defined by the development context of The Gambia, the Roadmap is now more critical than ever. All rule of law sector institutions must choose to stay engaged to provide quality justice services to the people of The Gambia.

1.1. Methodology for developing the Roadmap

The Roadmap development process began with a desk review based on information collected through a systematic review of the available documents relevant to The Gambia's rule of law sector as well as from web research and literature review. The consultant team reviewed strategic plan documents from all of the rule of law institutions. However, obtaining base-line statistics proved to be a challenge. Therefore, one of the roadmap's outputs is to increase the capacity of obtaining base-line data, such as the number of personnel, number of posts, caseloads, etc. to begin utilizing evidenced-based management, which is critical for policy development and planning.

The consultant team conducted 23 key informant interviews. This process included meetings with senior government officials and technical staff from the rule of law sector institutions, partners, and civil society.

On October 18, 2019, a technical Rule of Law Working Group (technical RoL WG) was formed. The group included members from the following institutions and partner organizations:



The Ministry of Justice (MOJ)

The Judiciary



The Ministry of Interior (MOI)



The Gambia Police Force (GPF)

The Gambia Prisons Service (GPS)



The National Agency for Legal Aid (NALA)



The Alternative Dispute Resolution Secretariat (ADRS)



The Gambia Bar Association (GBA)

¹ The National Development Plan [2018-2021]

² UNDP-TOR, Development of the Rule of Law Roadmap for the Gambia, Strengthening Rule of Law and Enhancing Justice and Security Service Delivery in The Gambia, June 2019

³ <https://www.projectmanagement.com/articles/322957/The-Three-Cs-of-Success--Collaborate--Coordinate---Communicate> (Accessed on October 30, 2019)

On October 25, 2019, and November 8, 2019, the technical RoL WG met at the MOJ to agree on the overall objectives and key outcome areas of the Roadmap, as well as to identify key challenges and possible solutions to include in the Roadmap. Additionally, the consultant team held several individual follow-up meetings with members of the technical RoL WG at their respective offices to accommodate work commitments.

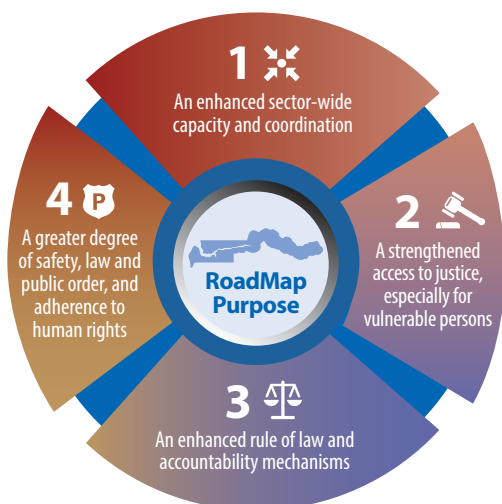
The consultant team, in collaboration with the technical RoL WG, conducted a mapping exercise of the rule of law sector. Based on the mapping of key RoL institutions, several issues were identified and have been clustered under four outcomes detailed below and used as the framework for the Roadmap. Further, during the mapping exercise, a cause-effect analysis of the challenges faced by the institutions was carried out and revealed the following:

- Insufficient numbers and lack of qualified personnel, resources, and equipment
- Limited access to justice especially for vulnerable persons
- Reports on the breach of the rule of law and abuse of human rights
- Need for improvement in safety, law and public order

On November 18, 2019, the consultant team presented the first draft of the Roadmap to the technical RoL WG and several Civil Society Organizations (CSOs). The outputs and key policy actions for the Roadmap were agreed upon, as well as the organization and management structure of the senior RoL WG.

1.2. Purpose of the Roadmap and National Development Plan

As indicated, the Roadmap is built on the following four outcomes to achieve the overarching goal of improving the quality of, and access to, justice services in The Gambia:



If these four outcomes are achieved, The Gambia will have a RoL sector that is responsive to its citizenry and provides quality justice services that are affordable, accessible, adaptable, predictable, and timely.

1.3. Linkages between the Roadmap & National Development Plan

The purpose of the Roadmap is to strengthen the rule of law, increase access to justice, and promote accountable governance. It is aligned with the National Development Plan's Goal to "deliver good governance and accountability, social cohesion, and national reconciliation and a revitalized and transformed economy for the wellbeing of all Gambians."⁴

The RoL sector recognizes the linkages between the Roadmap's outcomes and the NDP thematic areas. The Roadmap's outcomes contribute and are directly linked to the first goal of the NDP, i.e., "Restoring good governance, respect for human rights, the rule of law, and empowering citizens through decentralization and local governance." The Roadmap speaks to the critical enablers of the NDP, such as developing effective and responsive public institutions, empowering Gambian women and youth, and engaging CSOs as development partners.

** Please note that the names of Government officials in leadership positions are at the time of writing*

⁴The National Development Plan [2018-2021]

CHAPTER 2

OVERVIEW OF THE JUSTICE SECTOR

2.1. Institutional Overview – See Annex I for Legal Framework

2.2. Judiciary

The Judiciary is distinctive from the other RoL institutions in that it is an arm of the State, not of the Executive, which supports the system of checks and balances in place. It also ensures that democratic values and principles, the rule of law, as well as equal justice for upheld. Rebuilding a strong and independent Judiciary supports not only the government's NDP agenda but is also consistent with international best practices that promote the rule of law.

The Judiciary, under Chief Justice Hassan B. Jallow, has made significant strides towards the indigenization of the Judiciary. The Judiciary is now almost entirely comprised of Gambians with the exception of 2 Ghanians and four Nigerians, three of whom were appointed by the transition government. The Chief Justice, Supreme Court Judges, High Court Judges as well as the President of the Court of Appeals and Justices of Appeals are predominantly Gambian. All Magistrates, except for two, are Gambians. The Judiciary appears more credible than in the past and, as far as the public is concerned, it has more legitimacy.

The Judiciary does face challenges with administering court management. In terms of efficient court administration practices of the Judiciary, its most significant challenge is the massive backlog of cases⁵ and poor court management in general. The Judiciary does not have sufficient Information and Communication Technology (ICT) infrastructure to support an automated case management system that would facilitate case tracking from filing to final disposition. While it had an ICT system in the High Court at one stage, it is no longer functional. Currently, case tracking is done manually and intermittently. At the time of writing, the consultant team was unable to verify the total number of cases pending in the courts. Information concerning delays and backlog are anecdotal from several sources.

There are no Practice Directions or policies in place for efficient case management. The deficiency of the High Court Practice Directions (2013) have been noted particularly in cases de novo where there is a change in judges. This compounds the challenge of case backlog in addition to the high turnover of High Court foreign judges who are normally seconded to The Gambia for 2 years. Moreover, there are insufficient courtrooms, offices, and vehicles to ensure the proper functioning of the Judiciary. As a result, many Magistrates have to share the transportation provided by the Judiciary for security purposes and often do not arrive at court on time. These less than favorable working conditions have added to delays and adjournments, thus severely hampering the speedy adjudication of cases.

In addition, the lack of proper coordination between Judges, Magistrates, and support staff often impedes regular access to court records and obtaining copies of rulings and judgments. This also amounts to a constitutional violation of Section 24(4), which prescribes a mandatory copy of the record of proceedings to be made available to defendants within thirty days after the end of criminal trials. These delays directly limit defendants' constitutional rights to access the record of proceedings to lodge an appeal within the prescribed deadlines. Delays also affect the execution of judgments in civil matters. These shortcomings undermine the public's confidence in the courts and diminish faith in the justice system.

The lack of court infrastructure, particularly beyond the Greater Banjul Area, as well as the low number of judges and magistrates limits access to justice for a large portion of the rural population. This issue is compounded by the fact that many regions do not have permanent sitting judges. For example, in Basse, the High Court that covers the Central River Region jurisdiction sits once every month.

⁵ The backlog is due to the attrition rate of magistrates and judges, poor case management, and increase in land dispute cases.

Generally, the lack of sufficient training and resources are a handicap for all members of the Judiciary. A capacity development plan is needed and training must be provided to magistrates and judges ideally through the Judicial Training Institute.

2.3. Ministry of Justice

The Attorney General (AG) and Minister of Justice, is the chief legal officer in The Gambia. His role as AG consists of instituting criminal and civil suits on behalf of the State and acting as the counsel for governmental institutions involved in litigation. As Minister of Justice, he has various administrative functions but is mainly responsible for advising the government on legal matters and introducing new laws.

During the transition period, the role of the AG and Minister of Justice (Mr. Aboubacarr Tambadou), has been multi-faceted. His portfolio includes the oversight of the Constitutional Review Commission, the Truth, Reconciliation and Reparations Commission (TRRC), and the Security Sector Reform process (SSR). He is also in charge of the review of the Criminal Code and Criminal Procedure Code and legislative reforms. In December 2019 the AG is expected to table before the National Assembly (NA) the Information and Communication (Amendment) Bill 2019 (which promotes the freedom of the press), the Freedom of Information Bill 2019, as well as many other bills illustrating the AG's efforts to strengthen transparency and accountability.

i. Prosecution

The AG is responsible for initiating criminal prosecutions at the High Court and retains the power to discontinue or take over any criminal proceedings at the Magistrate level. His capacity to carry out this critical role has been significantly constrained because, at the time of writing, there was no one in the positions of the Director of Public Prosecutions (DPP) or the Deputy DPP. The lack of recruitment for these two positions has created a vacuum of leadership on public prosecutions. While State Counsel have legal training and qualifications, many police prosecutors lack a legal background. In either case, both left without adequate guidance due to the DPP and Deputy DPP vacancies.

Many senior State Counsel resigned from the MOJ to join the various newly established Commissions that offer better remunerations. The high attrition rate is linked to low remuneration vis-à-vis other public institutions. Even though counsels at the Ministry are relatively better paid than other civil service employees, due to allowances they receive, their salaries still lag those working for satellite agencies under the Ministry and public enterprises. Their departure deprives the MOJ of important institutional memory and the benefits of previous training. The AG's Chambers do not have enough counsels to deal with its massive caseload. This exodus of lawyers from the AG's Chambers, especially at the senior level, prompted the AG in July 2019 to call it a "crisis."⁶

There are specialized units within the MOJ, such as the Child's Right Unit established in 2003 and the Sexual Gender-Based Violence Unit (SGBV Unit) established in 2018. Both mandates focus on issues involving vulnerable persons and investigating and fast-tracking justice for victims. However, due to the lack of specialized capacity and personnel, both units face serious challenges in fulfilling their mandates.

The MOJ also has ministerial oversight of other institutions that are critical to providing legal services to the public. The National Agency for Legal Aid (NALA) and the Alternative Dispute Resolution Secretariat (ADRS) were created ten years ago to meet an increasing demand for accessible and speedy dispensation of justice, especially for the poor. The lack of personnel, materiel, and budget constraints at the MOJ and its satellite institutions severely hamper its ability to deliver quality services, especially to the vulnerable segments of the population.

ii. National Agency for Legal Aid

The National Agency for Legal Aid (NALA) offers free legal services for people charged with capital offenses (murder, arson, and treason). Its mandate derives from the Legal Aid Act 2008, which provides for access to legal aid by indigent persons to ensure equality before the law. Currently, a significant proportion of NALA's cases are murder and rape offenses.

⁶ www.gambiana.com. "Attorney General expresses concern over lawyer scarcity at Ministry of Justice," adding that his ministry only had 17 lawyers to deal with the heavy caseloads at the courts as well as providing legal services to the government. Mr. Tambadou stated that "..... this ministry is in crisis it's on the verge of collapse"(Accessed 6 October, 2019).

Section 72(1)(f) of the Children’s Act 2005 also imposes a statutory obligation on NALA to provide legal assistance to all accused persons under the age of 18 charged with criminal offenses at the Children’s Court, regardless of the congestion of its caseload and scarce resources.

NALA suffers from an insufficient number of lawyers and resources. The Executive Director, Mr. Kemo Ceesay, and two dedicated lawyers are handling approximately 175 cases across the country. As a result, they are unable to attend courts nationwide, or on time, leading to adjournments and prolonged delays. All offenses that NALA handles at the High Court are non-bailable, which means defendants can remain in prison for years awaiting trial. These delays impact the defendants’ rights to trial within a reasonable period and equality before the law.

Taking NALA’s limited resources, it is inevitable that these limitations have a direct impact on its ability to represent defendants across the country. NALA is actively pushing for an increased budget to be able to meet the demands it is facing.

iii. Alternative Dispute Resolution Secretariat

The Alternative Dispute Resolution Secretariat (ADRS) is mandated under the Alternative Dispute Resolution (ADR) Act of 2005 to provide decentralized services and facilities to those wishing to settle their civil disputes. ADRS is used primarily for rural citizens, the majority of whom are poor and turn to traditional means to resolve disputes.

The Secretariat, located in the Greater Banjul Area, serves the West Coast Region and the North Bank Regions. Two regional offices were established in Farafenni to cover the North Bank Region, and in Basse to serve the Upper River Region (North and South Bank).

The Secretariat and regional offices have been reasonably successful in mediating and resolving disputes. The majority of the cases they handle are land disputes, civil claims, and family matters. The Head of the ADRS, Mrs. Kumba Jow, Principal State Counsel, has managed to staff the head office fully. However, ADRS still needs to increase its staff base in the regions and to decentralize ADR facilities.

The Secretariat introduced the training of community mediators at the grassroots level to address the needs of the people as well as to assist the regional offices in their work and outreach. However, there are only a few certified mediators and nearly as few who have received formal training on ADR. Many of those who have received training did so over a decade ago and have received little to no follow-up training since.

To build public awareness of what ADR is and how it can be used to resolve disputes, the Secretariat has also been quite active in community outreach and awareness activities through sensitization workshops, radio programs, and visiting villages on market days to raise awareness on the availability of ADR.

However, the Secretariat lacks equipment, and human resources. It suffers from budget constraints and relies on government and donor funding to carry out its mandate and related activities. The fact that ADRS is essentially a governmental body decreases substantially its ability to be perceived as an independent body, which is an essential attribute to any neutral third party in dispute resolution.

Another challenge for ADRS is the lack of recognition of mediation agreements by the courts, which discourages members of the community from using mediators as there is no obligation for a party to honor the agreement. If a party chooses to go to court to enforce the ADR decision, they would have to litigate the claim from the beginning, defeating the purpose of going through ADR. In the absence of an efficient legal mechanism guaranteeing the enforcement of mediation agreements, citizens will be less likely to attempt to resolve their disputes amicably. Lack of enforcement is, therefore, one of the most critical weaknesses of ADR in The Gambia.

While the current Chief Justice is keen on enhancing the number of cases referred to the ADR process, there are no defined mechanisms as to when and how a case could be referred to ADR once it is before the courts. There is also no mention of ADR or any dispute settlement in the rules and regulations of lower courts, including magistrate courts, which hear a notable percentage of all civil and criminal cases.⁷ There is also a need to amend ADR legislation to allow for the enforcement of mediated decisions.

⁷ Summary of Findings: Alternative Dispute Resolution in The Gambia, The West African Legal Institute, 2013.

There is a need for ADR awareness and training to demonstrate to judges its benefits and its relevance to their practice in terms of a reduced caseload. Such training is necessary for all justice sector actors, including lawyers, judges and magistrates, at all levels and in all courts. This should include training of chiefs who sit on District Tribunals, The Gambia's customary law courts, as well as judges at the Islamic courts, known as Cadi Courts.

2.4. Ministry of Interior

The Ministry of Interior (MOI), led by Mr. Yankuba Sonko, a former Inspector General of Police (IGP), is responsible for internal security, law, and public order. It has supervisory jurisdiction over the Gambia Police Force (GPF), the Gambia Prison Services (GPS), the Department of Immigration (GID), the Drug Law Enforcement Agency (DLEA), and the Gambia Fire Service (GFS).

The operational responsibility of these institutions rests with the respective Service Chiefs and the management structures existing therein. Each institution runs its affairs within the parameters of its mandate. However, the resources for the implementation of their respective operational activities are provided through the MOI, which in turn allocates resources based on the existing priorities set by each line department. Many of the institutions have garnered financial support from international donors to fund projects and activities.

However, lack of coordination affects the ability to maximize institutional collaboration. The Ministry should strengthen links with the institutions under its mandate through its strategic plan. The strategic plans of each of the institutions should be closely aligned to MOI's overarching strategic plan in terms of mandate, substance, orientation and planning. This will reduce the variances between what the MOI plans to achieve at the sector level to ensure coherence with more robust and effective implementation.

i. The Gambia Police Force

The role of the Gambia Police Force (GPF) is to serve and protect the public and maintain law and order within the country. This mandate was wholly undermined during the Jammeh regime. Since then, there have been some noticeable improvements, such as the creation of human rights, gender, and child welfare units, initiation of community policing, the construction of police stations, the establishment of police posts,

the decentralization of the Police Intervention Unit (PIU) and operations for the maintenance of peace and security. The IGP, Mr. Mamour Jobe, is engaged and committed to rehabilitating the image of the GPF and restoring public confidence.

The GPF is under-resourced and requires training facilities, vehicles, police equipment (speed guns, alcohol testers, communications and surveillance equipment and standardized uniforms). Budgetary constraints have hampered the GPF's ability to fulfill its mandate.

The GPF suffers from a lack of basic and specialized training for officers. Weaknesses in the investigation capacity of the police are a key blockage in the criminal justice chain. Many cases submitted by police are rejected because of inadequate preparation by police investigators, police prosecutors, and MOJ State Counsel. The GPF also struggles with taking a victim-centered approach and in gathering evidence documenting sexual violence. In terms of service delivery, targeted capacity building is vital.

In its prosecutorial capacity, the IGP is responsible for the majority of all criminal matters prosecuted in the Magistrates Courts. Many police prosecutors are not sufficiently trained in the law and often find it challenging to appear in court against experienced defense lawyers. As a result, defendants' constitutional rights to speedy trials are severely affected. Police prosecutors are overwhelmed by a large caseload and the slow pace of the courts. Consequently, cases are not prosecuted diligently and expeditiously.

ii. The Gambia Prisons Service

The Gambia Prisons Service (GPS) is responsible for the operations of the three Prisons in The Gambia: State Central Prison Mile II, Jeshwang Prison, and Janjanbureh Prison in the Central River Region. The Constitution mandates the establishment of the Prison Service, and the Prison Act 18 of 1953 is still applicable, which provides rules on the humane treatment of prisoners.

There is a Remand Wing where inmates awaiting the conclusion of their trials are kept and the general population wing for the convicted, including death row. At the time of writing this report, the statistics reveal that there were approximately 676 inmates out of which 325 were on remand. The Juvenile Justice wing in Jeshwang was built specifically to house juveniles under the age of 18 in conflict with the law. Due to overcrowding in the Remand Wing at Mile II, structures were expanded to

house remand prisoners in Jeshwang. Currently, there are 124 adult remand inmates at Jeshwang in addition to the juvenile detainees.

The Director-General of the Prisons Service, Mr. Ansumana Manneh, is dedicated to improving the services and conditions provided to inmates. His goal is to ensure that the Prisons Service meets the minimum standards for the treatment of prisoners under the Mandela Rules. GPS has installed fans to improve ventilation and is currently fixing pipes to improve waste removal. There is an inmate's capacity development program sponsored by MRC Holland and the Insight Training Centre supports the GPS's efforts to rehabilitate and reintegrate inmates into society. The program equips inmates with electrical engineering, plumbing, and tailoring skills that allow them to provide for their families.

The GPS has entered into a Memorandum of Understanding (MOU) with NALA and the GBA, with support from UNDP RoL, to establish legal aid desks in Mile II and Jeshwang. The legal aid desks increase inmates' access to pro bono legal advice and/or representation and endeavors to push their cases through the courts more quickly.

The Mile II prison and its structures date back to the colonial period and are in a state of disrepair and dilapidation. Inmates suffer from deplorable living and sanitation conditions. Mile II is the main prison complex and the most in need of rehabilitation.

Like many of the RoL institutions, due to insufficient budget allocations, the GPS suffers from a lack of equipment, vehicles, a case management system and capacity development opportunities. There are insufficient computers for all staff, vehicles, and improper space to store information; prisoner records are kept manually and are stored in an old cupboard. Often, records cannot be found. Many officers take prisoners to court using their private vehicles.

2.5. The Gambia Bar Association

The Gambia Bar Association (GBA) is a committed government partner in enhancing access to justice and strengthening the rule of law. As indicated, NALA, the GPS, and GBA, with UNDP RoL Support, are working together at Mile II and Jeshwang prisons, to provide pro bono legal services to prisoners.

The GBA President, Mr. Salieu Taal, in partnership with NALA, the ADR Secretariat and with UNDP RoL support, launched a free mobile legal aid clinic (MLACs), which provides pro bono legal advice and services to the public. The GBA also attends community market days where members engage with the public offering free legal advice. The GBA has been involved in advocating for the rule of law through Ted-talks, and radio shows enlightening the public on their roles and responsibilities as citizens, the right to demand greater transparency and accountability of public institutions.

The GBA struggles with attracting lawyers to assist with providing pro bono services, severely limiting the scope and number of services that it can provide. The GBA's goal is to engage younger advocates through the law school who would be willing and able to bolster service delivery to the vulnerable.

2.6 Priorities of the Rule of Law Institutions

Through the mapping exercise, each institution created the following list of priorities for the next five years.

MOJ



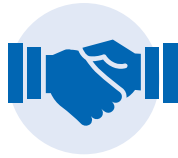
- Develop Human Resources Management Plan (increase personnel, especially State Counsel, address retention, improved remuneration packages)
- Create a Capacity Development Plan
- Enhance operational efficiency and effectiveness in quality services delivery
- Appointment of a DPP and Deputy DPP
- Obtain vehicles and equipment - law books, laptops, printers, electronic database

JUDICIARY



- Secure security of tenure and terms and conditions of services for judges, magistrates, and judicial officers
- Improved access to justice and service delivery
- ICT/Electronic Case Management System
- Improve internal governance
- Develop Human Resources Management
- Develop Capacity Development Plan
- Institute monitoring and evaluation

ADRS



- Create a Capacity Development Plan for Secretariat and community mediators
- Develop Human Resources Management (increase personnel especially at the local level, address retention, improved remuneration packages)
- Obtain budgetary control
- Develop Arbitration Services
- Decentralize services to cover all regions

MOI



- Increase internal coordination between various line Ministries
- Develop a Capacity Development Plan
- Strengthen Planning Unit
- Develop and implement Communication Strategy (website, improved internal, inter-institutional and public)
- Increase permanent staff positions

NALA



- Develop Human Resources Management Plan (increase personnel address retention, improved remuneration packages)
- Develop a Capacity Development Plan
- Obtain vehicles and equipment, computers, printers
- Increase number of interpreters
- Strengthen the Board of Directors
- Obtain budgetary control

POLICE



- Develop a Human Resource Management Plan (increase personnel address retention, improved remuneration packages)
- Develop Capacity Development Plan
- Embark on infrastructural improvements
- Obtain vehicles and equipment: police equipment, i.e., traffic gadgets, speed guns, riot gear, vehicles/uniforms, and supplies
- Enhance service delivery
- Enhance community policing

PRISONS

- Develop a Human Resource Management Plan (increase personnel address retention, improved remuneration packages)
- Develop a Capacity Development Plan
- Enhance rehabilitation services: vocational skills training; (expand project);
- Enhance Legal Aid Desks Mile II and Jeshwang
- Decrease overcrowding in Remand Wing



GBA

- Increase personnel
- Develop Strategic Plan & enhance pro bono services
- Strengthened Collaboration with Civil Society
- Increase funding and support
- Increase pro bono services by lawyers

2.7. Sector status, achievements, and challenges

Progress in the justice sector has been made during the transition period. For example,

- The Judiciary has Gambianized⁸ the Courts and increased the number of women judges.
- The MOJ's undertaking of legal reforms such as the review of the Criminal Procedure Code (CPC) and Security Sector Reform (SSR), as well as the establishment of the National Human Rights Commission (NHRC) and The Truth, Reconciliation and Reparations Commission (TRRC).
- GPF has initiated community policing, construction of police stations, the establishment of police posts, and the decentralization of PIU operations for the maintenance of peace and security.
- GPS, in partnership with GBA and NALA, and with support from UNDP RoL, has set up legal aid desks in the prisons to provide legal advice to prisoners. It also provides a rehabilitative/training program for prisoners.
- ADRS is fully staffed and operational, providing mediation services throughout the country.
- NALA continues to provide legal services nationwide in spite of a shortage of staff.
- All institutions have developed strategic plans.

Although the sector has made progress during the three year transition period, it continues to face numerous challenges, including an ideological mindset; work ethic and entrenched culture from the former autocratic regime; insufficient numbers of qualified staff, resources and infrastructure; lack of affordable and accessible justice for many; lack of accessible legal aid and representation; and considerable backlog of cases, including a large number of criminal cases and land disputes. Moreover, many institutions work in silos and do not communicate effectively with each other.

An examination of the case backlog demonstrates how all institutions are linked together. The following analysis of the causes and effects of case backlog is a perfect example of the need for enhanced communication, collaboration, and coordination. The example below is based on criminal cases but could equally apply to all case types. The problem does not reside with the courts alone. The key takeaway is that the causes and effects of the backlog of cases involve all RoL actors in the criminal justice chain. To adequately address this challenge, interlinkages need to be identified and planned to ensure optimum coordination among and across the sector, thereby underscoring the need for an overall holistic approach in implementing the Roadmap.

⁸This process is referred to as the Gambianization of the Judiciary and has helped in the regaining of trust in the Judiciary. Conflict and Development Analysis the Gambia updated - June 2019, page 20-21.

A KEY CHALLENGE FOR THE RoL SECTOR: CASE BACKLOG

Causes – Increasing case backlog due to poor court administration practices

All of the justice sector institutions suffer from lack of information on case files, including the number of pending cases, broken down by case type, year, and agreement upon when actions need to be taken in a case, including at the pre-trial stage, to ensure that cases flow from initial filing to final disposition within a reasonable time. As mentioned above, the tracking of cases is done manually and intermittently. Each court does not keep an adequate account of the number of backlogged, incoming, or pending cases. Thereby making it difficult to prioritize cases. For example, decisions about the handling of individual cases are not based on time standards for prioritization in terms of the length of time spent on the case and the vulnerability of the person accused.

Court hearings are often held without prior coordination with other institutions, increasing the number of unnecessary dismissals or adjournments. Bureaucratic procedures characterize cases listed for trial without follow-up or supervision contributing to increased backlog.



Causes – Frequent adjournments. No trial date certainty.

Frequent adjournments cause delays in the disposal of cases. Judges and magistrates do not play a sufficiently proactive role to ensure the rights of the defendant to a fair trial – including a reasonable timeframe for adjudication expressly provided for under the Constitution of The Gambia. For example, there is insufficient information provided to inmates in the Remand Wing (Mile II, Central Prison) or those appealing convictions on court dates. The lack of adequate notification of court dates to inmates leads to their absence at court hearings, resulting in an unnecessary extension of procedures, particularly in cases of felonies, where courts cannot proceed in the absence of defendants.



Causes – Weak investigations

Weaknesses in the investigation capacity of the police are a key blockage in the criminal justice chain. Many cases submitted by police are rejected because of inadequate preparation by police investigators, police prosecutors, and MOJ State Counsel. Moreover, cases with limited evidence end up going through the justice chain, thereby contributing to building up the number of pending cases and, eventually, also the backlog of cases, raising the risk of unlawful or arbitrary detention.



Causes – Poor records management

Court case files are often incomplete and decisions or judgments are often misplaced. These delays directly limit the defendants' constitutional rights to access the record of proceedings to appeal within the prescribed deadlines. Many of the RoL institutions also struggle to maintain adequate records, which frequently contributes to request for continuances.

Causes – Shortage of personnel, vehicles, and infrastructure

In addition to the issues raised above, the challenges linked to the insufficient number of staff, vehicles and infrastructure affect the RoL sector as a whole. There is less time for parties involved to be adequately prepared due to the shortage of personnel. Due to the lack of vehicles, magistrates, for example, carpool and often cannot commence hearings timely. As mentioned above, NALA lawyers also cannot cover hearings nationwide due to an inadequate number of lawyers and transportation. They often have to carpool with prosecutors.



Causes – Poor case management

The RoL institutions are provided with limited information on their caseloads, such as the categories and dates of cases. Therefore, no one has a clear overview of the number of cases pending. Caseloads build-up, and contribute to the backlog. Moreover, it becomes challenging to distribute cases evenly. The focus, therefore, tends to be on more recent cases rather than on a systematic and prioritized approach to dealing with the total caseload.



Causes – Inadequate defense of accused persons

The justice system in The Gambia is operating with limited human and material resources. This inevitably affects NALAs' ability to provide adequate representation for defendants across the country, especially for juveniles in conflict with the law. For example, with only three lawyers, NALA's counsels are unable to attend all hearings scheduled at the Children's courts around the country. As cases cannot proceed without the assistance of a lawyer, young inmates often spend extended periods on remand.



Causes – Non-appearance of witnesses

Due to case delay, witnesses can lose interest and motivation to appear in court. Without the contribution of relevant witnesses, cases can collapse, leading to dismissal for lack of prosecution.



Effects – Overcrowded prisons – Remand Wing, Mile II Central Prison

The above weaknesses, therefore, raise challenges for the GPS, which finds itself at the receiving end of this congested system. At the time of writing, the total prison population was approximately 676 of which 325 were on remand. Out of the 325 on remand, 124 were housed at the Juvenile Wing in Jeshwang. The capacity of prisons is overstretched and some prisoners awaiting trial overstay the maximum sentence for the crime they are charged with. This, in turn, leads to violations of their constitutional rights to a fair trial in a reasonable time.

Effects – Prison conditions struggle to meet international standards

Overcrowding contributes to a general situation of inadequate facilities for adequate housing of prisoners and raises challenges for bathing, cooking, etc. that fail to meet various standards required by the Prison Act 18 of 1953 and the UN Standard Minimum Rules for the Treatment of Prisoners and other international Protocols.⁹ Due to the poor infrastructure of the central prison—Mile II, many prisoners live in deplorable conditions. The issue is of even more significant concern when there is a breach of the Children’s Act (2005) and the international ban on mingling juveniles with adults in detention.¹⁰ As of the time of writing, Jeshwang housed 124 adult prisoners with juveniles.

Effects – Higher rates of recidivism

With overcrowded prisons, segregation between different categories of prisoners is not possible. Those presumed innocent awaiting trials are mingled with convicted prisoners. This is because individualized treatment of detainees is impeded, and more impressionable prisoners or those that might otherwise be rehabilitated are ‘exposed’ to ‘hardened’ prisoners.

Effects – Violations of the right to trial within a reasonable time

Delay in the disposal of cases risks widespread violation of the human right principle to trial within a reasonable time.

Effects – increased opportunities for corruption

Irregular procedures and corrupt practices increase in a system where information on caseload is not readily available, where the relevant institutions are not applying the principles of communication, cooperation, and coordination, and where the processing of cases is slow. The poor and vulnerable suffer the most in such a system since they do not have the means to afford the bribes required. For example, aggrieved persons often pay for police transportation costs to investigate a case.

Effects – loss of public confidence in the criminal justice system

As a consequence, citizens lose confidence in the criminal justice system and its ability to provide timely quality services that are predictable and affordable. Loss of confidence also leads to the under-reporting of crimes.

Effects – The Gambia’s development

Poor RoL coordination can have a broader impact on governance and society. It includes the loss of income due to arbitrary or unlawful detention for hundreds of Gambian families. It may also negatively impact economic growth by acting as a disincentive for investment in the country. Human rights violations also contribute to conflict within society¹¹ and negatively impacts on the Gambia’s efforts to comply with its international human rights obligations and NDP priorities.

As the backlog example illustrates, there is a need for a higher degree of cooperation, communication, and coordination at both the operational and policy level for effective service delivery. One of the advantages of a Roadmap is that it moves from a narrow institutional view of service delivery to a more holistic and comprehensive view. It allows a focus on the linkages between the RoL institutions, as well as on the institutions themselves.

⁹ Rapid Prisons Assessment Report, Aug. 2019

¹⁰ Id. See also, <https://rightsblog.net/2016/04/18/the-rights-of-juvenile-suspects-under-international-law/>

¹¹ Conflict and Development Analysis the Gambia updated - June 2019

CHAPTER 3

SECTOR-WIDE STRATEGIC FRAMEWORK

3.1 Conceptual approach for the Rule of Law Sector

As indicated, the Roadmap covers the period from 2020-2025 and is aligned to the NDP. The four outcomes show the contribution that the sector will make to strengthen the rule of law and justice delivery system in The Gambia. The Roadmap will contribute to achieving the first goal of the NDP, particularly Goal 1, and address the critical drivers that promote the realization of the goals. Although the NDP expires in 2022, the Roadmap can continue to serve as a framework of cooperation for the RoL institutions. Once a new NDP is developed, the RoL Working Group can realign its goals as necessary.

The sector's goals are strengthening the rule of law, increasing access to justice and promoting accountable governance. These goals mean ensuring that the law applies equally to all citizens, as established in the Constitution of The Gambia. Moreover, everyone in The Gambia should have equal access to the protection of the law and should be equally bound by the responsibilities the law imposes. Access to justice is a fundamental right, as well as an essential means to defend other rights. Further, it is an essential tool to address inequalities in power, especially as it applies to the most vulnerable in society.

It is important to reiterate that achieving the four outcomes will enable The Gambia to have a RoL sector that is responsive to its citizenry and provides quality justice services that are affordable, accessible, adaptable, predictable, and timely.

3.2. Crosscutting issues

Addressing cross-cutting issues such as the inclusion of Gender, Youth, and Children are important to highlight. RoL sector policies on crucial cross-cutting issues will benefit from a more proactive approach and implementation.

i. Gender

In The Gambia, women represent about half of the population (50.41%)¹² but are disproportionately the most affected socio-economically, politically, and legally. Women are subject to discriminatory patriarchal practices that adversely affect their overall economic power and social status. Therefore, gender equality and women's empowerment remain a challenge in The Gambia. Notwithstanding the explicit constitutional provision on the right to equal treatment with men (including equal opportunities in political, economic and social activities), as well as the prohibition of discrimination based on gender (respectively Section 28 and Section 33 of the Constitution), the welfare of the Gambian women continues to lag significantly behind that of men.

At the international level, gender equality is recognized as a fundamental right. The Gambia is a signatory to several international treaties, in particular, the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), the Beijing Platform and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (known as the Maputo Protocol). The latter highlights the disparities between men and women on legal rights, power-sharing, decision-making, access to and control of productive resources. Article 8 of the Maputo Protocol refers to Access to Justice and Equal Protection before the Law. It states that women and men are equal before the law and shall have the right to equal protection and benefit of the law. Article 8 (a) provides that equal access for women to judicial and legal services including legal aid. Subsection 9(b) provides for equal representation of women in the judiciary and law enforcement agencies. The latter is of particular importance for the RoL institutions as service providers.

¹² <https://www.worldometers.info/world-population/gambia-population/#sex-ratio>

Significant steps have been taken in The Gambia for the empowerment of women through several legislative acts as well as vigorous efforts to ensure gender parity in primary education. The National Women's Council Act 1980, amended in 2010, provides for the creation of a National Women's Council, composed of 65 members with 8 nominated councilors representing the interests of women countrywide. Women in all districts of the country are represented in the Council with the view of engaging women in their community and promote their participation in decisions affecting them. The Act mandates the Council to:

- develop methods for the integration and implementation of gender and women's rights initiatives in all areas of government activities;
- initiate education for all public officers and authorities regarding equality between women and men;
- examine and study the economic, social and cultural structure of the society; and
- advise the government on areas where the participation of women should be encouraged and strengthened.

In 2010, The Gambia enacted further legislation. The Women's Act, which is dedicated to the advancement of the rights and welfare of women,¹³ requires the State to ensure that women are adequately represented in the judiciary and law enforcement organs of the State. The Woman's Act is a directive principle of state policy to ensure that women are fairly represented and involved in decision-making positions. Section 14(3)(e) specifically provides that the Government must eliminate all forms of discrimination, especially all forms of stereotypes and acts which perpetrate or tend to perpetrate gender inequality. In addition to the massive grassroots sensitization campaigns by government and NGOs on harmful traditional practices such as Female Genital Mutilation (FGM) and Child Marriage, the Women's Act 2010 was amended in 2015 to criminalize female circumcision. Section 32B of the Act prohibits the practice of FGM in all its forms. The Act also imposes a legal duty to report the practice of FGM although only one case reached the courts in 2018 (State vs. Sunkaru Darboe and Saffiatou Darboe) at the Mansakonko High Court. The case was subsequently withdrawn by the State largely due to insufficient evidence. The eradication of FGM is challenging due to the deep-rooted nature of the practice in Gambian society. Similarly, the Children's Act 2005 was amended to criminalize Child Marriage and betrothals. Many organizations such as the Female Lawyers Association of The Gambia (FLAG), Think Young Women (TYW), the

Network Against Gender-Based Violence (NGBV), and the Women's Bureau have over the years engaged in major sensitization campaigns on the Women's Act to challenge the notion of patriarchy in Gambian society.

In addition to legislative measures, The Gambia adopted the National Policy for the Advancement of Gambian Women 2010–2020, which focuses on gender as a development concept and the participation of women and men in an equal and equitable manner for the economic, political and social development of The Gambia. One of the policy's guiding principles is to take affirmative actions to redress historical and traditional forms of discrimination against women and girls in political, education, economic and other social spheres. However, it remains challenging to gather data on whether these are effectively implemented on the ground. According to a 2013 census, 4.6% of people aged 15–59 had experienced sexual violence. There is no reliable data available regarding the number of complaints lodged by victims of domestic violence since the enactment of the Domestic Violence Act 2013. Data collected by the NGBV showed that in 2017, there were 138 cases of sexual violence in the country.

At the institutional level, the Government's law reform agenda provides for measures to strengthen the judiciary and women's access to justice by appointing them to decision-making positions. Since the new Government took office, 5 of the 12 new judicial appointments to the superior courts are women. Of the newly re-constituted Gambia Court of Appeal, 4 out of the 7 Justices are women. For the first time in the history of The Gambia, the highest court in the land, the Supreme Court, welcomed the appointment of a female Gambian Justice. In the Judiciary and legal sector, out of a total of 20 Judges, there are currently 8 female judges in the Superior courts, with one sitting in the Supreme Court and one serving as President of the Court of Appeal. From 1997 to 2018, the position of Vice President of the Gambia has been occupied by a woman. However, only 4 out of 20 Cabinet Ministers were women in 2018, and although the National Assembly Speaker was a woman, there were only 5 female National Assembly Members.

¹³ Those include the right to dignity, access to justice and equal protection before the law, right to moveable and immoveable property, right to freedom of expression, protection from violence, prohibition of discrimination, right to health and health care services, the rights of women in rural communities, right to marry, special protection of elderly women, women with disabilities and women in distress.

There is an opportunity for the RoL sector to ensure that all institutions are aware of and implement laws, rules, and promote policies that ensure women are not discriminated against or disadvantaged. Increased funding, staff support, and training opportunities are needed for institutions and CSOs that provide services to vulnerable women and girls, especially at the community level.

ii. Youth

The youth make up a substantial proportion of the total population (38.5% between the ages of 15 and 35).¹⁴ The youth continue to face challenges in multiple areas (such as lack of adequate education, high unemployment, poverty, disenfranchisement and social discontent) leading to a high percentage either migrating or being caught in the criminal justice system.

The NDP acknowledges that the government must urgently prioritize the growing challenge of youth employment, considering the high concentration of the population in urban areas as well as the youthful age of the country's population. The government expressed its determination to realize its commitment to "leave no youth behind," recognizing that youth are the engines of growth, and are an essential pillar for any development strategy.¹⁵

More is needed from the government to communicate opportunities and connect with youth to understand their expectations. Young people suffer from limited involvement in policy dialogue and their voices are too often unheard during the policy process. As such, their complex and multifaceted needs are not known, let alone met. The National Youth Council (NYC) established in 2000 has played a central role in empowering Gambian youth during the transition. However, members of civil society and the private sector often stress that there has been insufficient communication from the new government on what is being done and what plans it has for the country.¹⁶

The NDP (2018-2021) aims at addressing poverty, and the government is committed to serious economic reforms. It is hoped that greater socio-economic opportunities for the youth will result in a decrease in youth crime and irregular migration.¹⁷

Many argue that the increasing level of prostitution, rape, armed robbery, burglary, petty theft, and other offences may also be related consequences of youth dissatisfaction and unemployment. Youth in conflict with the law often get caught in a vicious cycle of repeat offending and sometimes get "lost" in the system

during long periods of incarceration while awaiting trial. The criminal justice system in this regard must be reformed. Mechanisms to minimize delays and backlog will decrease the length of time youth offenders stay on remand before they go to trial. Non-custodial alternatives to criminal behavior such as community service are envisaged in the draft Criminal Offences Bill of 2019 and Criminal Procedure Bill 2019. Moreover, prison rehabilitative programs focused on the needs of youth—learning a trade, reading and writing, can help young offenders reintegrate into society once their sentence is served.

A longer-term goal for the criminal justice sector would be to implement a juvenile diversion program that allows youth who commit offenses to be directed away from the formal juvenile justice system. Alternatives to detention (parole, community service) can eventually become a part of community policing (CP) once the GPF are sufficiently staffed and adequately trained.

iii. Children

Children in The Gambia are a vulnerable group in need of protection. The Children's Act of 2005 (amended in 2016), compiles all the laws relating to children, sets out the rights and responsibilities of children and provides for their care, protection, and maintenance.

However, many challenges remain in the protection of children, including the fight against social norms and harmful traditional practices that continue to persist in spite of their explicit prohibition in the law. For example, (FGM/C) and child marriage persists due to deep-rooted cultural practices among mainly rural families. Legislative intervention and prosecution alone will not eradicate the problem of child marriage, which primarily requires grassroots level outreach and awareness-raising to be dealt with effectively. Accordingly, the Department of Social Welfare in collaboration with a number of institutions, such as TYW, FLAG, NGBV, Child Rights Unit of the Ministry of Justice have been engaged in advocacy and sensitization training highlighting the dangers of child marriage and encouraging parents to abandon the practice.

¹⁴ The Gambia National Human Development Report, Youth Employment, 2014, p. 6. According to the 2013 Population and Housing Census, those aged 13-30 years constitute 36.7 per cent of the population

¹⁵ The National Development Plan [2018-2021], xii.

¹⁶ <https://www.accord.org.za/conflict-trends/sustaining-peace-in-the-new-gambia/>

¹⁷ According to IOM data, 11,973 Gambian nationals were registered arriving in Italy and Greece in 2016. Gambian nationals make up 6 per cent of the total arrivals to Italy in 2016. By the end of July 2017, an additional 5,465 Gambian nationals entered Italy placing them as the 6th nationality group on the top 10 registered nationalities arriving to Italy that year.

Additionally, children in The Gambia are enlisted in child labor, including forced begging and commercial sexual exploitation, sometimes as a result of human trafficking. The Government has made moderate advancement in the efforts to eliminate forced child labor. However, gaps in the law remain, including that children may commence an apprenticeship in the informal sector at the age of 12, an age below the compulsory age of 16.

Although the government has adopted various policies addressing human trafficking¹⁸, research found no evidence of a policy on other worst forms of child labor such as commercial sexual exploitation of children and offering of a child by others for illegal activities. In addition, the scope of social programs is insufficient to fully address the extent of the problem, as programs do not reach all children working in agriculture and domestic work, or those vulnerable to human trafficking, commercial sexual exploitation, forced begging and street work.¹⁹

Factors exacerbating challenges to the protection of children include insufficient funding, lack of capacity to prosecute perpetrators, inadequate services to victims, lack of preventive and protective services for children, absence of capacities and insufficient outreach. There is also an issue of jurisdiction between the Children's Courts and the Cadi Courts and potential areas of conflict include custody and maintenance.

The child protection system in the Gambia needs strengthening to prevent, respond, and reduce violence, abuse and exploitation of children. The NDP pledges to increase and strengthen the child protection system including legal provisions and administrative structures and personnel. This will entail collaboration and coordination with child protection stakeholders to strengthen and review existing laws and legislation on child protection. The government should also advocate for the harmonization of legal instruments to include comprehensive child protection issues/violations (FGM/C, child marriage, child trafficking, children on the move, child exploitation and child labor) for law enforcement.²⁰

3.3. Strategies for achieving outcomes

The following four chapters (chapter 4D to 4G) provide a narrative description of the four outcomes and their respective outputs and key actions that must be taken to achieve them. For each intended outcome, a summary of the key issues explains the inclusion of the outcome in the Roadmap.

The four outcomes, their outputs and key policy actions that form the framework for the Roadmap over the next five years (2020-2025) are summarized below. Annex III provides a list of activities that the RoL WG can implement independently and those activities where donor support may be required.

¹⁸ During the year, the government published detailed information related to the criminal enforcement of child labor and allocated \$36,000 in funding to the National Agency Against Trafficking in Persons for the 2018 fiscal year. It also provided trainings to hotel staff in support of the Code of Conduct of The Gambia Tourism Authority for the Protection of Children https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tca2018/The%20Gambia.pdf

¹⁹ Id.

²⁰ The National Development Plan

CHAPTER 4

OUTCOME 1: AN ENHANCED SECTOR CAPACITY & COORDINATION

The five outputs under Outcome 1 are:



Output 1.1
RoL WG and Secretariat Established



Output 1.2
Human Resource Management Plan Developed



Output 1.3
Capacity Development Plan Developed



Output 1.4
Infrastructure Strategy Developed



Output 1.5
Planning and Asset Management Units Strengthened/Established

4.1. Introduction

The seven institutions that form the RoL WG would benefit from the implementation of a Roadmap that delivers a sector-wide approach to justice delivery in a holistic manner. The RoL WG, established in October 2019, is comprised of technical staff from the respective institutions and the GBA. The technical RoL WG identified key challenges of the sector and opportunities for improved communication, coordination and collaboration.

However, a national level RoL WG should be established, comprised of decision-makers from each RoL institution, responsible for policy direction and with overall responsibility to ensure the timely delivery of strategies and outputs set out in the Roadmap.

Further, the RoL WG should also validate and endorse its Terms of Reference (ToR) to enable it to function efficiently.

The RoL WG should decide on its leadership modality, whether it will be co-chaired or use a rotation method. It is recommended that the RoL WG organize quarterly meetings to review progress towards objectives, outputs, and targets, as well as develop annual work plans against the NDP and the Roadmap (See Annex II - RoL WG ToR).

It is also highly recommended that the RoL WG includes a representative of the Ministry of Finance and Economic Affairs (MOFEA) or, at a minimum, that MOFEA be actively engaged with the RoL WG as the success of the outputs is directly linked to budget allocations.

Initially, a small secretariat (RoL WG Secretariat) with dedicated staff should be established to ensure enhanced communication. Communication is especially important for donor coordination. Within the RoL WG Secretariat, a coordinator should be tasked with gathering information from institutions and coordinating activities. The coordinator could also act as a focal point to liaise with donors.

Due to the lack of human resources, it is essential that the RoL WG incrementally expand to include a steering committee (RoL WG Steering Committee), and thematic working groups as relevant institutions begin to recruit staff.

Additionally, a RoL WG Monitoring & Evaluation (M&E) Committee (RoL WG M&E Committee) should be established to coordinate the work of individual M&E units created within each RoL institution.

The justification for including this outcome is based on consultations with personnel from the RoL institutions indicating weak capacity and poor coordination in the RoL sector.

The list of challenges that contribute to weak capacity and poor coordination are:



The following five outputs are intended to address the limited coordination and communication within the sector, weak capacity, insufficient staffing levels, and resources. The policy actions and activities will broaden the impact of the RoL WG as a whole and thereby contribute to achieving the outputs of the Roadmap as each output includes several key actions. Each action can then be broken down into one or more activities to be implemented during the 5-year Strategy. In this way, results (targets) can be identified which will be reviewed during RoL WG quarterly meetings. Possible annual targets are included under each output.

Expected result after 5 years: A coordinated and strengthened RoL sector with sufficient resources and staff to deliver quality justice services.

4.2. Output 1.1: RoL WG and Secretariat Established

The Roadmap is designed to strengthen coordination, cooperation, and communication. The commencement of a fully functional RoL WG and Secretariat is necessary to achieve a high-level coordination within and between institutions.

It is imperative to strengthen the coordination between the RoL WG and donor partners. In some cases, ad-hoc projects have potentially undermined

the ability for RoL institutions to capitalize on areas of collaboration and synergy amongst themselves and other stakeholders. In addition, the Roadmap calls for other institutions, CSOs and development partners in particular, to strengthen their internal communication and coordination to facilitate the collection and consolidation of data by the RoL WG Secretariat. A donor partner lead is recommended as a counterpart to the coordinator of the RoL WG Secretariat.²¹

A key action to enhance the RoL sector coordination is to operationalize the RoL WG and establish a Secretariat.

Examples of activities for this key policy action include:

- Establish a permanent national-level RoL WG comprised of high ranking leadership (decision-makers) from Judiciary, MOJ, ADRS, NALA MOI, GPF, GPS and possibly the MOFEA;
- RoL WG to review, adopt and endorse the Roadmap;
- Establish a fully staffed RoL WG Secretariat to ensure communication and appoint a coordinator;
- M&E Committee established within the RoL WG, comprised of members from each M&E unit from the RoL institutions;

²¹ The Secretariat can start of small and include a focal point and one M&E specialist from amongst the institutions.

- e. Each RoL institution to create a small Monitoring & Evaluation (M&E) unit;
- f. Set up a review by each RoL institutions of their existing annual work plans and strategic plans to align to the Roadmap and NDP; the creation of SOPs, endorsed by each institution would ensure better inter-institutional communication and monitoring;
- g. RoL WG meets quarterly to report on the achievements and challenges from their institutions;

Annual expected results within this output are:

Year 1:

- Establishment of permanent national-level RoL WG and ToR validated
- M&E Unit in each RoL institution established;
- Secretariat with skeletal staff (appoint a focal point/Coordinator and small M&E team) established
- RoL SOPs/policy on inter-institution communication, coordination, and monitoring of Roadmap outputs/targets developed;
- RoL WG quarterly meeting held (including MOFEA to discuss progress and priorities of Roadmap activities);
- At least 1 quarterly meeting with donors to discuss priorities of the Roadmap;
- At least 1 annual meeting with CSOs held to review priorities of the Roadmap;
- Review and alignment of strategic plans to NDP and Roadmap completed; and
- Review and alignment of annual work plans to NDP and Roadmap completed and continues for Year 2 through Year 3. Align all activities with new NDP if applicable.

Year 2:

- Increase Secretariat support staff as needed;
- Develop thematic working groups, i.e., backlog working group, change management working group, training needs working group, planning, and M&E working groups created;
- RoL WG quarterly meetings held (including MOFEA and donors);
- RoL WG annual meeting held with CSOs; and
- Review of annual work plans.

Intermediate targets:

Year 3:

- Staffing of Secretariat completed;

- RoL WG quarterly meetings held (including MOFEA);
- Annual donors meeting held;
- RoL WG annual meeting held with CSOs;
- RoL Thematic WGs quarterly meetings held; and
- Review of annual work plans.

Year 4:

- RoL WG quarterly meetings held (including MOFEA);
- RoL WG annual meetings with CSOs and donors;
- RoL Thematic WG quarterly meetings held; and
- Review of annual work plans.

Year 5:

- RoL WG quarterly meetings held (including MOFEA);
- RoL WG annual meetings with CSOs held and donors;
- RoL Thematic WGs quarterly meetings held; and
- Review of annual work plans.

4.3. Output 1.2: Human Resources Management Plan Developed

Each institution would benefit from a comprehensive assessment of its human resource needs. The Sector as a whole is facing severe challenges of staff shortages and staff retention. Each institution should first take stock of existing personnel resources and capacities. This includes institutional organigrams. Organigrams must include clear reporting lines, job descriptions, and staffing tables to determine the number of posts available in each section and unit.

Using this evidence base, the institution should then design and develop a comprehensive human resources strategy in consultation with, and support from, the Civil Service Commission and MOFEA. The strategy should be structured around a policy on rewards and compensation, recruitment, selection, mentoring, professional development, and performance management to better motivate staff and support their career development needs. It should also prioritize attracting qualified female staff in senior positions.

As indicated, the use of evidence-based practices will facilitate the planning and coordination of the sector as a whole. Human resources planning is predicated on actual numbers of personnel, needs, workload, number of posts, and budget allocation. An institution cannot deliver efficiently or effectively without the workforce to do so.

These deficiencies can be addressed through a series of policy actions and activities:

- a. Develop a ToR for the Human Resources assessment process;
- b. Identify consultants to support/conduct the human resources needs assessments for each institution;
- c. Each institution review and endorse recommendations in consultation with the Civil Service Commission;
- d. Develop a budget subcommittee co-chaired by RoL WG and MOFEA; and
- e. Each institution annually reports to the RoL WG on their respective recruitment progress and staffing levels.

Annual expected results within this output are:

Year 1:

- Institutional Human Resources needs assessments completed;
- Recommendations for each institution reviewed and endorsed;
- Organigrams and staffing levels for each institution completed. Updating organigrams and staffing tables will continue from Year 2 through Year 5; and
- Each institution reports annually through RoL WG on recruitment progress and staffing levels. This action continues annually through to Year 5.

Year 2:

- 10% of recommendations of the human resources assessment implemented;
- Updated organigrams and staffing tables; and
- Each institution reports annually through RoL WG on recruitment progress and staffing levels.

Intermediate targets:

Year 3:

- 40% of recommendations of the human resources assessment implemented;
- Updated organigrams and staffing tables; and
- Each institution reports annually to the RoL WG on recruitment progress and staffing levels.

Year 4:

- 70% of recommendations of the human resource assessment implemented;
- Updated organigrams and staffing tables; and

- Each institution reports annually to the RoL WG on recruitment progress and staffing levels.

Year 5:

- 100% of the recommendations of the human resource assessment completed;
- Updated organigrams and staffing tables; and
- Each institution reports annually to the RoL WG on recruitment progress and staffing levels.

4.4. Output 1.3: Capacity Plan Developed

The RoL sector, as a whole, does not have a comprehensive capacity development plan or coordinated training schedules. Each institution should design and develop a comprehensive capacity development strategy with its training facilities where relevant. For example, the Judiciary has a Judicial Training Institute that can be used to conduct continuing education for magistrates and judges. Likewise, the GPF has a Training Academy. Considering that these facilities are not fully operational, it is recommended that they be a part of the assessment and targeted for support in terms of building greater training capacities and facilities.

A clear understanding of institutional training needs makes it easier to identify where training can be done by the RoL sector collaboratively. The Training Needs Working Group (TNWG), if created as suggested above, would prioritize key areas of where inter-institutional training is useful. For example, joint training can be held in the areas of evidence-based planning, case management, M&E, change management, gender-mainstreaming. The TNWG could also identify specialized training needs in the areas of GBV, the use of human rights-based approaches, and sensitization on challenges faced by vulnerable groups. This is also an opportunity to invite relevant CSOs to participate, as many are also service providers, thereby enhancing cooperation and coordination within the RoL sector.

All institutions should identify and train a small cadre of evidenced-based planning and M&E specialists that can collect, analyze, and share relevant data that could assist with institutional and sector-wide planning. This would provide donors with a clear understanding of training needs and how to support the RoL sector as a whole.

The challenges mentioned above can be addressed through a series of policy actions and activities:

- a. Each institution reviews its capacity development needs (conduct training needs assessments) and devises a strategy that ensures all staff has adequate

training and continuous education to improve their skills. Additionally, each RoL institution to develop and implement gender mainstreaming policies.

- b. RoL WG identifies, agrees, and prioritizes key areas where individual and inter-institutional joint training are useful. The development of a training thematic working group would assist in this coordination.
- c. Each institution reports quarterly to the RoL WG on their own capacity development.

Annual expected results within this output:

Year 1:

- Institutional Capacity development needs assessments completed;
- Recommendations reviewed and endorsed by RoL (WG);
- Capacity Development plans created. Identification of training needs will continue through Year 2 to Year 5; and
- Each institution reports quarterly on training plans and those completed. This action continues from Year 2 through to Year 5

Year 2:

- 20% of recommendations of the training capacity implemented;
- Each institution identifies training and possible joint training for the year; and
- Each institution reports quarterly on training plans and those completed.

Intermediate targets:

Year 3:

- 40% of recommendations of the training capacity implemented;
- Identify training and joint training for the year; and
- Each institution reports quarterly on training plans and those completed.

Year 4:

- 75% of recommendations of the training capacity implemented;
- Identifying training and joint training for the year; and
- Each institution reports quarterly on training plans and those completed.

Year 5:

- 100% of recommendations of the training capacity development plan implemented;
- Identify training and joint training for the year; and
- Each institution reports quarterly on training plans and those completed.

4.5. Output 1.4: Infrastructure Strategy Developed

Almost all of the RoL institutions' infrastructures need rehabilitation or the construction of new facilities. For example, the Judiciary needs additional courtrooms around the country; GPS is in dire need of a new prison (Mile II), and GPF needs several police posts built nationwide. NALA and ADRS need offices to decentralize services under their mandates. Therefore, it is important to develop a sector strategy that prioritizes the needs of each institution. This is particularly important considering that key infrastructures, such as the refurbishing of the Judiciary and Mile II, will represent long term and costly projects.

Prioritizing infrastructural needs can be addressed through a series of policy actions and activities:

- a. Each institution reviews it's the current state and use of existing infrastructure, conducts an assessment to identify infrastructural needs and devises a strategy that is based on priority and costs;
- b. Each institution develops infrastructure plans that include priorities, budgets and timelines;
- c. RoL WG communicates and coordinates on the prioritization of infrastructural and budgetary needs with MOFEA and donors; and
- d. Each institution reports quarterly on building/renovation plans, including those completed. This action continues from Year 2 through to Year 5

Annual expected results within this output are:

Year 1:

- Infrastructure needs assessments completed;
- Recommendations of assessments reviewed and endorsed;
- Each institution reports quarterly to RoL WG on building/renovation plans and those completed; and
- 20% of recommendations implemented

Year 2:

- Each institution reports quarterly to RoL WG on building/renovation plans and those completed; and
- 30% of recommendations implemented.

Intermediate targets:

Year 3:

- Each institution reports quarterly to RoL WG on building/renovation plans and those completed; and
- 40% of recommendations implemented

Year 4:

- Each institution reports quarterly to RoL WG on building/renovation plans and those completed; and
- 50% of recommendations implemented.

Year 5:

- Each institution reports quarterly on building RoL WG/renovation plans and those completed; and
- 60% of recommendations implemented.

4.6. Output 1.5: Planning and Asset Management Units Enhanced

The RoL sector, as a whole, requires strengthening in evidenced-based management. It is worth reiterating the need for all institutions to train personnel in the use of evidence-based planning and M&E to collect, analyze, and share relevant data that could assist with institutional and sector-wide planning. Success will depend on working with the entire RoL sector and institutional leadership to identify clearly what specific information is relevant to perform their management functions effectively.

Likewise, each institution should establish an asset management unit to track, manage, maintain and dispose of their assets. For example, allocation and tracking of vehicles should be prioritized to ensure personnel can carry out their duties. However, many institutions do not have a dedicated Planning and Asset Management Unit to plan for yearly project activities and tracking of assets.

Establishing Planning and Asset Management Units would assist institutions in planning and budgeting tailored to needs and identified gaps.

This deficiency can be addressed through a series of policy actions and activities:

- a. Each RoL Institution establishes a Planning and Asset Management Unit (P&AM). Those institutions that have existing planning units can include asset management; and
- b. Training on evidence-based management, asset management, and M&E conducted for all relevant personnel; and
- c. P&AM working group with members from each institution established which shares information that informs sector-wide planning and budget priorities.

Annual expected results within this output are:

Year 1:

- Planning and Asset Management Units strengthened/established;
- Training on evidence-based management and asset management completed;
- P&AM working group established. Meetings continue from Year 2 through to Year 5; and
- Number of management decisions informed by reports generated from the strengthened planning increased by 20%.

Year 2:

- P&AM meetings held quarterly; and
- Number of management decisions informed by evidenced-based reports generated from the strengthened planning increased by 40%.

Intermediate targets:

Year 3:

- P&AM meetings held quarterly; and
- Number of management decisions informed by evidence-based-reports generated from the strengthened planning increased by 60%.

Year 4:

- P&AM meetings held quarterly; and
- Number of management decisions informed by evidence-based-reports generated from the strengthened planning increased by 80%.

Year 5:

- 100% use of evidence-based policy and planning; and
- P&AM Working Group meetings held quarterly.

CHAPTER 5

OUTCOME 2: A STRENGTHENED ACCESS TO JUSTICE ESPECIALLY FOR THE VULNERABLE

The six Outputs under Outcome 2 are:



Output 2.1

Increased number of cases processed



Output 2.2

Period of detention/remand reduced



Output 2.3

Justice service delivery at local level reinforced



Output 2.4

Access to legal aid increased



Output 2.5

Execution of court judgments improved



Output 2.6

Alternatives to detention identified and implemented

5.1. Introduction

One of the principal duties of the State is to provide access to justice for all. A Constitution setting out guaranteed rights, included good laws enacted on its basis, is not sufficient. Laws must be known and enforced; justice delivery must be made accessible, affordable, predictable and timely. Justice must also be decentralized and include informal alternatives to reach indigent populations to achieve genuine access to justice by all citizens.

RoL institutions have taken initiatives to make justice more accessible for The Gambian population. For example, the GPS, NALA, and the GBA collaborate to

fast track prisoner's cases through the establishment of prison legal aid desks (PLADs) in Mile II and Jeshwang with the support of UNDP RoL. The prison legal aid desks increases inmates' access to legal services by NALA and the GBA on a pro bono basis.

The ADRS has made tremendous strides in establishing a cadre of locally trained mediators at the community level. It has been reasonably successful in mediating and resolving land disputes.

The Association of Non-Governmental Organizations (TANGO), is the umbrella organization mandated to coordinate civil society work in the country. It counts more than 100 members as of 2019 and a Board of Directors that provides oversight. It has several NGOs working in the rule of law area (Action Aid, Activista, Think Young Women, Female Lawyer's Association (FLAG), and the Gambia Press Union (GPU)).

TANGO has a critical role to play in ensuring that NGOs have clear mission statements and strategic direction in their rule of law, humans rights, and governance work. TANGO also fosters cordial relationships with the government and other stakeholders on national development activities. Further, it encourages its members to align their missions to national and relevant international policies, plans, and programs.

Civil society has a key role to play, but the responsibility for justice delivery (and for funding justice delivery) lies solely with the State. However, the development of the Roadmap presents an opportunity for CSOs to work in a coordinated manner with RoL institutions to enhance justice service delivery. For example, the FLAG supports women and girls in exercising their rights. FLAG has facilitated the training of eleven female lawyers to represent rural women and girls in Cadi courts.

Think Young Women (TYM) is active in women's empowerment and awareness-raising on Sexual Gender-Based Violence (SGBV) around the country. They have conducted training and sensitization programs on SGBV and have held two intergeneration dialogues with men and women openly discussing SGBV to educate society and destigmatize the topic.

Nonetheless, there remain challenges within the RoL sector that limit access to justice, such as inadequate funding, human, and material resource shortages. The following list of issues limiting access to justice for the vulnerable was raised during the mapping of the RoL sector:

- Delays and backlogs at all court levels
- Delays in the processing of cases
- Poor record-keeping both at pre-trial and post-trial levels causing prolonged detention without trial
- Lack of screening at the GPF level, which means too many minor criminal cases enter the formal justice system
- Inadequate human, material, and financial resources for all RoL institutions and CSOs service providers
- Lack of awareness of rules and procedures

Expected result of this outcome after five years: Justice delivered in a reasonable time with accessible pro bono legal services.

5.2. Output 2.1: Increased number of cases processed.

The key actors within the criminal justice chain are the GPF, MOJ, GBA, MOI, GPS, ADRS, NALA, and the Judiciary. As demonstrated above, processing a case through the criminal/civil justice system involves complex interactions between all the institutions. There are weaknesses in the chain – both within each individual RoL institution and amongst them. A weakness in one institution will inevitably impact on the performance of another-as noted in the cause-effect of backlogged cases.

In addition, all institutions involved in the administration of justice (criminal/civil) must be trained in case management practices. The Judiciary could take the lead and devise a policy that prioritizes all criminal cases quarterly to reduce the backlog. In the longer term, the Judiciary should devise a case backlog strategy that takes stock of all pending criminal and civil cases and develop timelines to dispose of them.

The introduction of case tracking practices will help monitor incoming cases and quickly capture bottlenecks in the pace of trials. Improving manual processes will also ensure a consistent flow of events within each case. Ideally, an automated system is preferred; however, manual procedures can still ensure the timely disposition of cases until the infrastructure to install an automated system is in place.

Further, the reintroduction of a recording system that captures and records the proceedings will expedite hearings, as magistrates currently manually transcribe all hearings.

Mechanisms at the level of the GPF and MOJ should be identified and implemented for better screening of case files to ensure that only meritorious cases (adequate evidence to support a prosecution) are allowed to enter the system. This is essential to the State's obligation to prevent human rights violations such as arbitrary or unlawful detention. Also, the introduction of case management will facilitate the preparation of a case for trial and allow for the identification of the relevant evidence, including witnesses to be heard. A mechanism to refer minor cases to the ADRS would also be beneficial in reducing congestion in the formal system.

The key policy actions are the development of SOPs for internal coordination and communication and Practice Directions by the Judiciary to address the timely disposition of cases.

Activities to support key policy actions are:

- a. Judiciary develops Practice Direction to identify and prioritize all criminal cases based on length of time. Sets time limits by which all cases should be disposed of;
- b. Judiciary develops a manual case tracking system that captures relevant information of all cases from filing to final disposition identifying bottlenecks in the system;
- c. Reinstigate the use of audio-recording of hearings in magistrate courts to expedite trials;
- d. Judiciary/MOJ develop manual on case management as well as court and prosecution administration;
- e. Establish a Backlog/Case management group comprised of members from each institution;
- f. Develop manuals for record-keeping and file integrity; and
- g. MOJ and GPF develop a case file review mechanism for screening of evidence for the prosecution of cases.

Expected annual results within this output are:

Year 1:

- Practice Direction on case disposal of backlog procedures developed and adopted;
- Practice Direction on case tracking tool developed and adopted;
- Manual on case management, court and prosecution administration developed and adopted;

- Manual on improved record-keeping developed and adopted;
- Mechanism for case file review for screening of evidence developed and adopted;
- Case processing time of selected priority case types reduced by 20%; and
- Case backlog in courts and prosecution reduced by 20%.

Year 2:

- Training on backlog procedures delivered;
- Training in case management, as well as court and prosecution administration, delivered;
- Handbook on best practice guidelines on screening of evidence review developed and approved;
- Backlog reduction strategy developed and adopted;
- Case processing time of selected priority case types reduced by 40%; and
- Case backlog in courts and prosecution reduced by 40%.

Intermediate targets:

Year 3:

- Level of satisfaction regarding court system improved by 30% regarding disaggregation of such data and guidance for the implementation of effective surveys of public confidence;
- Case processing time of selected priority case types reduced by 60%; and
- Case backlog in courts and prosecution reduced by 60% .

Year 4

- Level of satisfaction of the formal court system improved by 50%;
- Case processing time of selected priority case types reduced by 80%; and
- Case backlog in courts and prosecution reduced by 80%.

Year 5:

- Level of satisfaction of the formal court system improved by 70%;
- Case processing time of selected priority case types reduced by 100%; and
- Case backlog in courts and prosecution reduced by 100%.

5.3. Output 2.2: Period of detention reduced

The time taken to process a case from arrest to the sentence will, in most cases, affect the time spent in detention. A review of long-term cases of detention will facilitate the identification of prisoners, especially those in need of special attention. Measures to improve case management undertaken under output 2.1 will assist in reducing that time. Initiatives aimed explicitly at reducing pre-trial detention will be introduced under output 2.2. These measures are intended to be applied in light of the detailed legal framework applicable, in this case to pre-trial detention in The Gambia.

Additional measures should be taken such as regular inspections of places of detention, including both police cells and prisons. The MOJ, Judiciary, MOI, GPF, and GPS should closely monitor the legality of any detention of prisoners, especially the vulnerable-- children, women, youth, and the mentally incapacitated. In particular, a check on the length of detention and release dates are necessary to identify any possible violations quickly. The activities that will be undertaken in support of key policy actions within this output are:

- a. RoL WG supports the identification of irregularities in places of detention (prisoners overstaying the constitutional time limit, juveniles in detention, lack of separate female and juvenile facilities, prisoners overstaying on remand, situation analysis of the operation of the right to bail, etc);
- b. Quarterly inspections of prisons and police cells by MOJ, NALA, GPF, GPS, Judiciary, GBA, FLAG; and

Expected annual results within this output are:

Year 1:

- Two quarterly inspection reports of places of detention with recommendations carried out;
- Cases of irregularities identified and corrective measures taken; and
- Legal counsel provided to children in conflict with the law

Year 2:

- Two quarterly inspection reports of places of detention with recommendations carried out;
- Cases of irregularities identified and corrective measures taken;
- Pre-trial detention is compliant with the law for 50% of cases involving minors in conflict with the law; and
- Mechanism is set for follow up of former detained minors reintegration into the community.

Intermediate targets:

Year 3:

- Time taken to process criminal cases from arrest to sentencing reduced by 10%;
- Average duration of pre-trial detention reduced by 10%; and
- Pre-trial detention is compliant with the law for 70% of minors in conflict with the law.

Year 4

- Time taken to process criminal cases from arrest to sentencing reduced by 30%;
- Average duration of pre-trial detention reduced by 15%; and
- Pre-trial detention is compliant with the law for 90% of minors in conflict with the law.

Year 5:

- Time taken to process criminal cases from arrest to sentencing reduced by 50%; and
- Average duration of pre-trial detention reduced by 50%.

5.4. Output 2.3: Justice delivery at local level reinforced

To strengthen access to justice, the Government of The Gambia has recognized the importance of promoting dispute resolution at the community level. The ADRS was established under the Ministry of Justice in 2008 and is mandated under the ADR Act of 2005 to decentralize and to provide services to those wishing to settle their civil disputes outside of the courts. ADRS's efforts are aimed at strengthening community mediation at the grass-roots level. In practice, community mediation typically deals with cases related to land, succession, family, paternity, and marriage. With regard to the latter, it is noted that more female mediators are needed, as many women still do not feel comfortable discussing all matters with men.

The Secretariat lacks funding, equipment, and human resources. It suffers from budget constraints and relies on government and donor funding to carry out its mandate and related activities.

One challenge for ADRS is that while courts recognize arbitration awards, mediation agreements are not recognized. This discourages members of the community from using mediators because a party does not have to honor the agreement. If they choose to go to court, they are essentially initiating a new claim.

Therefore, the Judiciary needs to coordinate with ADRS on recognizing mediation agreements concluded under the ADR process. This requires revision to the existing ADR Act. The recognition of mediation agreements would increase efficiency in the courts as ADRS could mediate a higher number of cases, thereby reducing the backlog. This will also contribute to the success of Output 2.1.

Greater community outreach and awareness on the services ADRS provides is critical as many citizens may not be aware of its work. Examples of activities that could be undertaken in support of key policy actions include:

- Increase the human and material resource capacity of ADRS and allow budgetary control over its resources to operate effectively;
- Identify and train community-level mediators with an emphasis on attracting women to participate in training;
- Increase outreach and awareness-raising on ADRS services;
- Judiciary and ADRS to advocate for amendment to legislation and for court recognition mechanism; and
- Liaise with the Gambia Law School to attract recent graduates in supporting/working with ADRS.

Expected annual results within this output are:

Year 1:

- ADRS mediation agreements recognized by courts;
- ADRS services increased regional coverage by 20%; and
- Mediation agreements accepted by courts increased by 20%.

Year 2:

- ADRS services increased regional coverage by 30%;
- Mediation agreements accepted by courts increased by 40%.

Intermediate targets:

Year 3:

- ADRS services increased regional coverage by 40%;
- User perception of community mediation improved by 10%; and
- Mediation agreements accepted by courts increased by 60%

Year 4:

- ADRS services increased regional coverage by 50%;
- User perception of community mediation improved by 20%; and
- Mediation agreements accepted by courts increased by 80%

Year 5:

- User perception of community mediation justice increased by 30%
- Mediation agreements accepted by courts increased to 100%; and
- ADRS services increased regional coverage by 60%;

5.5. Output 2.4: Legal aid policy enhanced and implemented

The Gambia has undertaken to respect, and to provide for, the right to legal advice and representation in a range of situations, including in cases of indigent defendants. Defendants in criminal trials (particularly those accused of serious crimes) must be afforded proper legal representation, one of their human and constitutional rights.

NALA is mandated by the Constitution to provide free legal services for people charged with capital offenses: murder, rape, arson, and treason. NALA must be strengthened in order to provide adequate justice delivery to those in need of its services. At the time of writing, NALA had three lawyers handling over 100 cases. As a result, it is unable to attend courts nationwide, leading to adjournments and prolonged delays. These delays impact on a defendant's rights to trial within a reasonable period.

The right to legal aid has not been extended to include civil cases due to insufficient resources in cases of inheritance rights and to protect free expression. A key policy action to address this concern includes the formulation and implementation of a legal aid policy to support the relevant regulatory framework.

CSOs have so far led the way in fulfilling the State's duty to provide legal advice and raise awareness of people's rights at the community level. CSOs services also tend to be focused on particular groups and issues, e.g., women and children, land, succession, and family cases. For example, FLAG and its coordinating body, Network Against Gender-based Violence, represents vulnerable women and girls that cannot afford legal services and representation. However, they too need funding and support if they are to partner with RoL institutions to enhance the delivery of justice services.

The GBA should work to encourage more private attorneys to provide pro bono services. There is a need to foster a more pro bono spirit amongst private attorneys. GBA may consider providing pro bono legal assistance in cases involving minors, women (particularly survivors of SGBV), and other vulnerable groups. Particular attention should be given to supporting GBA's effort to provide professional lawyers, at all stages, to minors in conflict with the law.

In addition, the establishment of a database to facilitate the management and prioritization of such cases should be supported.

Examples of activities that could be undertaken in support of key policy actions include the following:

- Fully operationalize NALA including obtaining budgetary control to staff and equip offices;
- Prioritize representation of vulnerable persons such as children, survivors of SGBV, and those charged with serious offences;
- The Legal Practitioner's Act, 2015, is amended to include mandatory pro bono services which serve as CLE credits for lawyers;
- Collaborate with CSOs that provide justice sector services (FLAG) to enhance legal capacities and abilities to provide legal support to women and girls; and
- Enhance the legal aid desks at the Prisons to provide access to legal services by NALA and the GBA on a pro bono basis.

Expected annual results within this output are:

Year 1:

- NALA staff increased by 20%;
- Legal Aid budget increased by 10%, and budgetary control by NALA established;
- The Legal Practitioners Act 2015 amended to include mandatory pro bono services, which serve as CLE credits for lawyers (prioritize representation of vulnerable persons such as children, survivors of SGBV and those charged with serious offences); and
- Proportion of accused persons legally represented at one or more court appearances increased by 20%.

Year 2:

- NALA staff increased by 30%;
- Legal aid budget increased by 15%;
- GBA provides services that include prioritizing minors by 10%;

- FLAG increases legal services for women and girls by 10%; and
- Proportion of accused persons legally represented at one or more court appearances in their cases increased by 30%.

Intermediate targets:

Year 3:

- NALA staff increased by 50%;
- Proportion of accused persons legally represented at one or more court appearances increased by 40%;
- Legal aid budget increased by 25%;
- GBA provides services that include prioritizing minors by 20%; and
- FLAG increases legal services for women and girls by 20%.

Year 4:

- Proportion of accused persons legally represented at one or more court appearances increased by 50%;
- Legal aid budget increased by 30%;
- GBA provides services that include prioritizing minors by 30%; and
- FLAG increases legal services for women and girls by 30%.

Year 5:

- Proportion of accused persons legally represented at one or more court increased by 60 %;
- GBA provides services that include prioritizing minors increased by 40%; and
- FLAG increases legal services for women and girls by 40%.

5.6. Output 2.5: Execution of Court judgments improved

Justice is not delivered if judgments are not executed and if confidence in the rule of law is undermined. A review of the system for the enforcement of civil judgments is needed together with a review of the role and regulation of bailiffs. Reform of the system can be done on a pilot and phased basis. Examples of activities that could be undertaken in support of this key policy action include the following:

- a. Conduct an assessment on the role and regulation of bailiffs

- b. Development of a handbook on Best Practice Guidelines for the criminal and civil justice process using human rights-based performance standards

The recommended handbook on Best Practice Guidelines for the criminal and civil justice process using human rights-based performance standards (this is referred to in output 2.1) will include performance standards for the enforcement of judgments.

- c. Develop SOPs for the supervision and monitoring of bailiffs
- d. Provide training to bailiffs on new procedures and practices

Expected annual results within this output are:

Year 1:

- A study analyzing general enforcement mechanisms conducted.

Year 2:

- Strengthened supervision of bailiffs approved; and
- Training for bailiffs delivered.

Intermediate targets:

Year 3:

- Recommendations from study on bailiffs system and general enforcement mechanisms implemented in selected pilot areas; and
- Strengthened minimum standards for the recruitment and supervision of bailiffs implemented.

Year 4:

- Average time taken from delivery of a judgment to its enforcement reduced by 10% in selected pilot areas; and
- Number of complaints against professional bailiffs reduced by 20%.

Year 5:

- Average time taken from delivery of a judgment to its enforcement reduced by 20% in selected pilot areas; and
- Number of complaints against professional bailiffs reduced by 30%.

5.7. Output 2.6: Alternative penalties identified

Prisons are reported to be currently operating at a capacity of 130 % with the detention of 624 prisoners at the time of writing. Whether or not there is over-crowding as an additional justification, human rights standards require that in appropriate cases, alternatives to imprisonment be applied, as well as requiring that the system be designed to rehabilitate offenders.²²

Currently, the Gambia Prisons Service (GPS), with support from an INGO, provides training to convicted prisoners in the Mile 2 Central Prison. The program trains inmates on electrical engineering, plumbing, and tailoring skills endeavoring to reduce recidivism and provide a means for the offender to support their families financially. This training is not extended to prisoners on remand or juveniles in detention.

Other measures that could be tested include diversion programs for juveniles and petty offenders, the introduction of parole for prisoners who have served part of their sentence based on specific criteria. Such reductions in the prison population would also strengthen opportunities for rehabilitation, including the implementation of prisoner classification schemes and steps to pave the way for reintegration into society upon release. However, more funding would be needed to establish and expand such programming.

Key actions under this output would be to implement proposals for alternatives to detention and to expand the rehabilitation program.

Examples of activities that could be undertaken in support of such key policy actions include the following:

- a. Create a working group that reviews options for alternatives to detention and develops proposals based on feasibility;
- b. Identify options on how to expand the rehabilitation program for more prisoners including women and youth; and
- c. RoL WG endorse proposals for implementation and oversight.

It should be noted that Output 2.6 will have a direct impact on the number of prisoners detained on remand.

Expected annual results within this output are:

Year 1:

- Thematic working group established and meets quarterly;

- Research and report on alternatives to detention conducted; and
- Identify activities to enhance rehabilitation programs for more prisoners.

Year 2:

- Thematic working group meets quarterly to discuss research results and recommendations;
- Alternatives to detention proposals drafted and submitted for endorsement; and
- Activities to enhance Rehabilitation programs identified and endorsed by RoL WG.

Intermediate targets:

Year 3:

- Thematic working group meets quarterly to discuss implementation of recommendations;
- Rehabilitation program enhanced by 15%; and
- Number of convicts qualifying for alternative detention/non-custodial sentences increased by 15%.

Year 4:

- Thematic working group meets quarterly to discuss implementation of recommendations;
- Rehabilitation program enhanced by 30%; and
- Number of convicts qualifying for alternative detention/non-custodial sentences increased by 30%.

Year 5:

- Thematic working group meets quarterly to discuss implementation of recommendations;
- Rehabilitation program enhanced by 50%; and
- Number of convicts qualifying for alternative detention/non-custodial sentences increased by 50%.

²² <https://www.penalreform.org/priorities/prison-conditions/standard-minimum-rules/> The Standard Minimum Rules are often regarded by states as the primary – if not only – source of standards relating to treatment in detention, and are the key framework used by monitoring and inspection mechanisms in assessing the treatment of prisoners

CHAPTER 6

OUTCOME 3: AN ENHANCED RULE OF LAW AND ACCOUNTABILITY MECHANISMS

The three outputs under outcome 3 are:



Output 3.1

Existing laws modernized, indexed and codified



Output 3.2

Development of International Arbitration Center



Output 3.3

Written laws are consistently and effectively enforced

6.1. Introduction

Sound laws, which are clear and predictable, are a key aspect of the rule of law. Laws that have potentially far reaching effects on people's lives must be consistently enforced. During the transition, The Gambia has embarked on massive efforts to modernize and reform its legal framework. The previous regime enacted several criminal laws with the specific purpose of using them as instruments of repression. The current review of the Criminal Code and the Criminal Procedural Code is expected to improve the criminal justice system by recommending penal laws that are just, fair, protect fundamental rights and are in line with international best practices.

The Information and Communication (Amendment) Bill 2019 (which promotes the freedom of the press), the Freedom of Information Bill 2019, as well as many other bills illustrate the MOJ's efforts to strengthen the rule of law with regards to transparency and accountability. However, it is important to ensure that amended laws are consistently enforced. Moreover, enhanced engagement and coordination with civil society is required to raise awareness of existing laws.

The following list of issues arose regarding the rule of law and accountability in the administration of justice during mapping of the RoL sector include:

- Lack of awareness of the principles of rule of law
- Legacies of 22 years of dictatorship
- Inadequate accountability in some areas
- Poor conversion of policies into laws

The three recommended outputs aim to strengthen human rights in the administration of justice process, and strengthening each output includes key policy actions. Examples of annual targets are included under each output.

6.2. Output 3.1: Existing laws modernized, indexed and codified

To ensure that the legal system serves the country's changing development needs and is aligned to the NDP 2018-2021, it is important to have regular law reforms. It is also important to include the Gambia Law Reform Commission in this endeavor.

For sustainable development, citizens must be aware of the laws, which requires that the law be more publicly accessible.

Output 3.1, which aims at the modernization of existing laws and at creating awareness of laws is based on two policy actions:

- Key policy action 1 – Improvement of laws based on societal needs
- Key policy action 2 – Public dissemination of laws and sensitization of the population.

Examples of activities that will be undertaken in support of key policy actions include:

- a. Continuous updating the inventory of national laws and creating an inventory of international (human rights) legal instruments applicable in The Gambia;

- b. Identifying international legal instruments, not in force, and ensure their domestication;
- c. Identifying, prioritizing, analyzing, and drafting laws in need of reform;
- d. Indexing and codifying laws (national laws, regional, and internationally ratified legal instruments);
- e. Establishment of MOJ communication strategy; and
- f. MOJ coordination and communication with CSOs to obtain feedback and input on the draft laws.

Expected annual results within this output are:

Year 1:

- Inventory of laws updated;
- Laws in need of reform identified, analyzed and drafted;
- Implementing legal instruments provided for by laws identified and drafted;
- Establishment of a MOJ communication strategy; and
- Active engagement with CSOs on draft laws.

Year 2:

- Analysis and drafting of laws in need of reform continue.

Year 3:

- Law reforms completed.

6.3. Output 3.2: Establishment of an International Arbitration Center

The establishment and efficient operationalization of an international Arbitration Center will consolidate the first generation of commercial justice reforms, improve contract enforcement and increase investors' confidence and will contribute to reducing case backlog in the courts.

The vision of the center should be formulated as "the regional choice for commercial dispute resolution". The Centre should have, among others, the mission of promoting Banjul as a seat of arbitration & developing partnerships with other International Arbitration Centers.

An arbitration center with a well-designed and defined arbitration legal framework will showcase Gambia as the regional venue for arbitration. It will also contribute towards fostering trust with the business community and encourage international investment.

Output 3.2 addresses these issues through the following policy action: promote and establish the Center as an institute of excellence for domestic and international arbitration.

The activities in support of this proposed policy action should include the following:

- a. Study, analyze and draft the arbitration legal framework;
- b. Develop arbitration policy;
- c. Establish suitable infrastructure for the Center (facilities for arbitration & ADRS);
- d. Carry out a national awareness-raising campaign; and
- e. Promote capacity building (training and certification of professionals in arbitration) and knowledge sharing.

Expected annual results within this output are:

Year 1:

- Arbitration law passed and published;
- Arbitration policy developed;
- Commence national level awareness campaign; and
- Establish baseline for number of arbitration cases.

Intermediate targets:

Year 2-3:

- Lawyers and technical professionals trained and certified in arbitration to level one and two;
- Continue national awareness campaign;

Year 4:

- Lawyers and technical professionals trained and certified in arbitration to level three;
- Banjul viewed as the choice for commercial dispute resolution at the national level with interest from international businesses and clients; and
- Yearly % increase of arbitration caseload

Year 5:

- Lawyers and technical professional trained and certified in arbitration to level 4;
- Banjul viewed as the choice for commercial dispute resolution at the national level with cases from international businesses and clients; and
- Yearly % increase of arbitration caseload

6.4. Output 3.3: Laws are consistently and effectively enforced

Strengthening the rule of law through the public justice system's reliable delivery of accessible, consistent, timely, and predictable law enforcement is the foundation of a healthy, inclusive, and developed society. Effective and accessible law enforcement is the platform of stability and safety upon which every other system of society depends.

The government of The Gambia recognizes that the poor are uniquely and disproportionately vulnerable to, and affected by, violence and exploitation and that such violence and exploitation is a significant obstacle to their being lifted from poverty. The Government also recognizes that the poor cannot afford private means of restraining and deterring violence that may be available to the more affluent. Effective law enforcement from RoL institutions, therefore, is indispensable to delivering to the poor the promises of protection contained in the laws of The Gambia.

For these reasons, the government of The Gambia, through the Roadmap, can over the next five years strengthen the capacity of its RoL sector institutions to enforce and deliver the promises and protections of the law. The RoL should monitor and evaluate the efficacy of the investment in consistently and effectively enforcing the law as written. The GBA, FLAG and relevant CSOs can play their part and provide oversight to monitor and evaluate the efficacy of the RoL institutions' efforts to reliably and effectively enforcing the law as written.

Output 3.3 addresses these issues through the following policy action: establish a mechanism to follow up and monitor the consistent and effective enforcement of The Gambia laws.

The activities in support of this policy action include the following:

- a. Train judges, prosecutors, and law enforcement personnel on rule of law principles/importance of consistent and effective enforcement of laws;
- b. The RoL WG M&E team, in conjunction with CSOs, develop a mechanism to monitor and evaluate RoL institution's performance in consistently and effectively enforcing laws; and
- c. Individual RoL institutions monitor and evaluate the performance of judges, prosecutors, and law enforcement personnel in their consistency and effectiveness in enforcing laws.

Expected annual results within this output are:

Year 1:

- Through training, 20% of all judges, prosecutors, and

law enforcement personnel have been trained on the rule of law principles/importance of consistent and effective enforcement of laws;

- Individual institutions M&E staff are trained on monitoring and evaluating their members on the consistent and effective enforcement of laws and procedures;
- Judiciary conducts a baseline study on what percentage of court proceedings and judgments follow the laws; and
- MOJ, GPF conducts a baseline study on what percentage of prosecutors' actions and charges follow the laws.

Year 2:

- Through training, 30% of all judges and prosecutors have been trained on rule of law principles/importance of consistent and effective enforcement of laws; and
- Inspection reports show a 15% increase from baseline in prosecutors' actions and judges' court proceedings and judgments consistency in following the law.

Intermediate targets:

Year 3:

- Through training, 40% of all judges and prosecutors have been trained on rule of law principles/importance of consistent and effective enforcement of laws; and
- Inspection reports show a 20% increase from baseline in prosecutors' actions and charges and judges' court proceedings and judgments consistency in following the law.

Year 4:

- Through training, 50% of all judges and prosecutors are trained in rule of law principles/importance of consistent and effective enforcement of laws; and
- Inspectorate reports show a 50% increase from baseline in prosecutors' actions and charges and judges' court proceedings and judgments consistency in following the law.


Year 5:

- Through training, 60% of all judges and prosecutors are trained in rule of law principles/importance of consistent and effective enforcement of laws; and
- Inspection reports show that 30% of prosecutors' actions and charges and judges' court proceedings and judgments consistently follow the law.


CHAPTER 7

OUTCOME 4: IMPROVED SAFETY, LAW AND PUBLIC ORDER AND ADHERENCE TO HUMAN RIGHTS


The five outputs under Outcome 4 are:




Output 4.1
Community participation and awareness of crime prevention improved




Output 4.2
Crime prevention capacity improved



Output 4.3
Criminal investigation capacity strengthened



Output 4.4
Awareness and respect for human rights standards strengthened



Output 4.5
Improved detention facilities and conditions

7.1. Introduction

Outcome 4 addresses a range of human rights issues that cut across the entire RoL sector, from upholding the rule of law and ensuring accountability to strengthening human rights. All the RoL actors in the system should integrate these norms into all activities.

The vision of the GPF is to make people living in The Gambia feel safe, involved, and reassured. The GPF is a critical part of the RoL sector and plays an integral role in maintaining law and order as it is mandated to ensure the internal security of the country. However, the GPF cannot provide policing services to the community in isolation from other sector institutions, and most

importantly, the community itself. Cooperation between the GPF and other stakeholders is vital to ensure safety, security, and the maintaining of law and order in the country.

The GPF, currently estimated at 6000 officers and 101 police stations nationwide, is responsible for The Gambia's internal security and a population of approximately 1.9 million, thus giving a ratio of 316 people per 1 police officer.²³

Challenges the GPF faces in terms of fulfilling its mandate:

- Poverty and economy-related crimes
- Access to drugs/drug abuse
- Inadequate mechanisms for the prevention of crime (data, crime statistics, technological, media campaigns, insufficient equipment, etc.)
- Lack of awareness of human rights by GPF personnel
- Insufficient engagement and coordination with civil society
- Fearful attitudes towards police which may lead to further abuse (low expectations of rights holders vis-a-vis duty bearers)

Five outputs are recommended under this outcome. Each is necessary and relevant to achieve the outcome as well as to address the causes and effects of weaknesses in safety, law, and public order. Each output includes key policy actions. Each key policy action is then broken down into one or more activities to be implemented during the five-year Roadmap. Targets should be reviewed during the quarterly RoL WG meetings.

Expected result of this outcome after five years: Strong positive public perception of the police and safety within the country.

²³ Ministry of Interior Strategic Plan (2018-2021, page 16.

7.2. Output 4.1: Community participation and awareness of crime prevention improved

Gambian communities continually ask for a Police Service that is more visible, accessible, and familiar to them. Community Policing (CP) is well suited to deliver on the community's expectations with respect to crime and safety. CP emphasizes the establishment of the police-community partnership and a problem-solving approach that is responsive to the needs of the community. It is based on the assumption that the objectives of the GPF can only be achieved through the collaboration of the GPF with the local community and other RoL institutions.

The GPF Strategic Plan 2018-2023 has made Community Policing a key priority. As a result, a Community Policing Strategy (CPS) was developed, which focuses on community engagement, evidence-based policing, client centered problem solving, and the establishment of police posts around the country. It also recognizes the need for a service-oriented approach by GPF personnel. For example, local police will develop annual policing plans based on community voiced priorities.

Currently, the GPF has 101 police stations, most of which are owned by the government and spread across the country. In addition, there are 54 police posts, most of which are rented premises.²⁴ The majority of these buildings were designed more than 20 years ago and many do not meet the current needs of the police or the communities, especially in the new environment where a CP philosophy is the preferred method of policing.²⁵

For the CP Strategy to be fully realized, a GPF training curriculum should be reviewed and updated to enable the CPS (and philosophy) to be successfully implemented. A CP training program needs to be developed to allow training, which includes child protection and SGBV issues.

Output 4.1 addresses these issues through the following policy action: implement the CP Strategy through training, community involvement, and the development of police posts around the country.

The activities in support of this policy action include the following:

- a. GPF develops a comprehensive CP training program that includes enhancement of communication and problem-solving skills, sensitization on SGBV, child protection and dealing with youth that come in conflict with the law;
- b. Establishment and refurbishment of government owned police posts;

- c. All regional community policing units are operational and equipped with transport and communication;
- d. SOPs on categories of vulnerable such as women and children are adopted; and
- e. Implement CP awareness campaign.

The above measures will be supported and reinforced under this output. Examples of possible areas of emphasis and key policy actions include violence against the person.

Likewise, a focus on child, domestic, sexual, and gender-based violence will require strengthening police capacity building.

Expected annual results within this output are:

Year 1:

- Community Policing commences implementation according to GPF CP Strategy and Implementation Plans;
- GPF M&E personnel provided training on data collection, collation, and analysis; and
- Quarterly Crime Statistics published and made public.

Year 2:

- Phased implementation of GPF CP Strategy and Implementation continues;
- Capacity-building initiatives for improved community participation and crime prevention continued;
- GPF M&E personnel provided training on data collection, collation, and analysis; and
- Quarterly Crime Statistics published and made public.

Intermediate targets:

Year 3:

- Phased implementation of GPF CP Strategy and Implementation continues;
- Capacity-building initiatives for improved community participation and crime prevention continued;
- GPF M&E personnel provided training on data collection, collation, and analysis; and
- Quarterly Crime Statistics published and made public.

²⁴ GPF and UNDP Community Policing Strategy, page 10.

²⁵ Id.

Year 4:

- Implementation of GPF CP Strategy and Implementation continues;
- Capacity-building initiatives for improved community participation and crime prevention continued;
- GPF M&E personnel provided training on data collection, collation, and analysis; and
- Quarterly Crime Statistics published and made public.

Year 5:

- Implementation of GPF CP Strategy and Implementation completed;
- Refresher courses updated and continued for recruits;
- Capacity-building initiatives for improved community participation and crime prevention continued;
- GPF M&E personnel provided training on data collection, collation, and analysis; and
- Quarterly Crime Statistics published and made public

7.3 Output 4.2: Crime prevention capacity improved

Crime is on the rise in The Gambia. The Ministry of Interior has noted that crime rates have increased significantly from 2013 (2,083) to 2014 (3,401) to 2015 (3,693).²⁶ As a result, an Anti-crime Unit was established to address the rising crime rate in the Greater Banjul Area.

As noted above, poor and vulnerable people tend to be overwhelmingly the victims of certain types of crime. Personal safety and safety of property are both central indicators of a functioning justice system. To be more efficient and effective, the RoL institutions must use an evidence base founded on data and analysis to make the best use of scarce resources. Working in close coordination with each other, the institutions can build their capacity and resilience. Activities that will be undertaken in support of key policy actions include the following:

- a. RoL institutions, relying on data collected and analyzed through their M&E units will coordinate to address rising criminality;
- b. RoL institutions, based on the evidence from crime reports, will adjust training programs of personnel so that they can more effectively address the types of criminality occurring throughout the country;
- c. RoL Institutions, based upon the crime reports and analysis conducted, will deploy personnel and assets to best address the crimes occurring throughout the country.

Expected annual results within this output are:

Year 1:

- RoL WG and M&E units collect and analyze and share data quarterly to establish a baseline of criminality in the country based upon the Criminal Codes;
- RoL institutions complete assessments of personnel, assets, and resources to identify SWOT; and
- RoL institutions complete database of personnel which includes education and training courses.

Year 2:

- Targeted training courses are conducted across the institutions tailored closely to the crime reports and baseline information;
- CSOs, women's and youth groups are engaged to provide perceptions on criminality in the country and effectiveness of RoL institutions to address the public's concerns; and
- Annual targets are reviewed and Year 3's Annual Work Plan for the RoL WG is developed based on performance assessment of RoL sector as a whole.

Intermediate targets:

Year 3:

- Crimes targeted through training and deployment decrease by 10%; and
- Public perception of RoL institutions improve by 10%.

Year 4:

- Crimes targeted through training and deployment decrease by 20%; and
- Public perception of RoL institutions improve by 20%.

Year 5:

- Crimes targeted through training and deployment decrease by 30%; and
- Public perception of RoL institutions improve by 40%.

7.4. Output 4.3: Criminal investigation capacity enhanced

Weaknesses in the detection and investigation capacity of the police are a key blockage in the criminal justice chain. As highlighted above in the example of the interlinkages between RoL institutions, many cases submitted for prosecution end up rejected due to inadequate preparation by the police investigators and MoJ/police prosecutors.

²⁶ Ministry of Interior Strategic Plan (2018-2021), page 11.

Measures to strengthen crime detection and investigation require cooperation between the MoJ and police, particularly for the successful prosecution of such cases. Joint programs and particularly specialized skills training (trial techniques, use of forensic evidence, interviewing skills, etc.) provide a stronger foundation to address criminality in the country. Improving and addressing operational and logistical challenges is also essential: securing witnesses, transporting detainees for court dates, movement of case files, etc.

Activities that will be undertaken in support of key policy actions include the following.

- a. Establish a joint training program for police prosecutors, police investigators and the prosecutors of the Ministry of Justice;
- b. Create a coordination mechanism for the exchange of data and analysis on cases and crime reports by region; and
- c. Establish a coordination mechanism between the M&E units of the GPF and MOJ to exchange information and analysis.

Annual expected results within this output are:

Year 1:

- Joint training program developed and embedded at the Police Training School;
- Quarterly meetings for respective M&E and Data Collection/Statistics units established and commenced; and
- Baseline for number of cases prosecuted and number of convictions established.

Year 2:

- Joint training program amended to reflect crime reports and data. Specialized training programs developed to address emerging crime issues and trends; and
- Increase in successful prosecution of crimes by 10%.

Intermediate targets:

Year 3:

- Joint training program amended to reflect crime reports and data. Specialized training programs developed to address emerging crime issues and trends; and
- Increase in successful prosecution (prosecution that results in either conviction or release of defendant) of crimes by 20%.

Year 4:

- Joint training program amended to reflect crime

reports and data. Specialized training programs developed to address emerging crime issues and trends; and

- Increase in successful prosecution of crimes by 40%.

Year 5:

- Joint training program amended to reflect crime reports and data. Specialized training programs developed to address emerging crime issues and trends; and
- Increase in successful prosecution of crimes by 60%.

7.5. Output 4.4: Awareness and respect for human rights standards strengthened

The Government of The Gambia has affirmed its commitment to implementing its human rights obligations, including justice sector reform in the NDP. The NDP makes clear that decentralization should contribute to effective implementation of its human rights obligations, and that education and awareness-raising regarding human rights is one of its pillars.

While access to justice has improved, public knowledge of rights and understanding of procedures, remains a challenge. The general public and justice officials could benefit from human rights sensitization especially in the rural areas. Performance is measured primarily against the number of cases handled, rather than on the outcome of the case. This could create perverse incentives to violate human rights such as the right to a fair trial, the presumption of innocence, etc. Significant efforts need to be made to ensure that attitudes and behavior of RoL personnel are in line with the Gambia's aspirations to respect all human rights. For this to be achieved, there is a need to establish an M&E unit for the RoL sector, accountability measures for each institution for when rights are found to be abused and the strengthening of CSOs to provide feedback and monitoring. Engagement with the National Human Rights Commission would also be critical to ensure human rights are respected by RoL personnel in the course of their duties.

Output 4.4 addresses these issues through the following policy action: the RoL institutions must reinforce their outreach programs in terms of awareness-raising and sensitization. Performance standards that also measure quality (the fairness of the trial and outcome of the case, persons in detention for more than the legal limit, treatment while in custody/detention, the number of cases with legal aid representation, etc.) should be developed, including both national and local level performance standards. There is also a very strong need to establish an accountability mechanism at the RoL WG level to ensure that the RoL institutions are monitoring

their personnel and reporting HR infractions to the national level. This also should be measured against targets and an established baseline. Again, partnership and inclusion of the NHRC would be essential.

There is a need to strengthen human rights-based training of justice sector institutional staff, set baselines, targets, and standards to measure changing attitudes and behavior. There is also a need to ensure RoL institutional level leadership is actively monitoring and holding personnel accountable.

Within this output, three key policy actions are intended:

- a. Systematic sensitization and awareness program on human rights, including access to justice issues, developed and implemented at all levels, especially the local level;
- b. Development and implementation of human rights-based performance standards and mechanisms that monitor and measure quality and changing behavior within RoL institutions; and
- c. Accountability mechanism strengthened/established in all RoL institutions and embedded at the National level with the RoL WG with engagement from the NHRC and ability to hold RoL personnel accountable if HR are violated in the course of their duties

Examples of possible activities in support of these key policy actions include the following:

- a. Ensure HR training and is embedded in training programs for all RoL institutions and reflected in performance evaluations of personnel;
- b. Establish/Strengthen code of conduct or other accountability units within all institutions and create an oversight unit at the RoL WG national level; and
- c. Engage NHRC and CSOs to support monitoring and feedback on RoL personnel adherence to HR standards.

The result should be that the public understands that RoL personnel are trained and held accountable to HR standards.

Expected annual results within this output are:

Year 1:

- Review of all training programs and performance evaluations across the RoL institutions completed and HR indicators/training incorporated/strengthened;
- Baseline on incidents of RoL personnel violating HR standards collected as well as public perception survey on HR adherence by RoL personnel completed; and
- Accountability or Code of Conduct units established/strengthened across RoL institutions and

accountability unit established within RoL WG at the national level.

Year 2:

- 20% of all RoL personnel have completed HR training and received marks on HR indicators in performance evaluations;
- 10% decrease in HR infractions by RoL personnel;
- # of cases referred to the national RoL WG accountability unit and % of personnel held to account.

Intermediate targets:

Year 3:

- 40% of all RoL personnel have completed HR training and received marks on HR indicators in performance evaluations;
- 20% decrease in HR infractions by RoL personnel; and
- # of cases referred to the national RoL WG accountability unit and % of personnel held to account.

Year 4:

- 80% of all RoL personnel have completed HR training and received marks on HR indicators in performance evaluations;
- 30% decrease in HR infractions by RoL personnel; and
- # of cases referred to the national RoL WG accountability unit and % of personnel held to account.

Year 5:

- 95% of all RoL personnel have completed HR training and received marks on HR indicators in performance evaluations;
- 50% decrease in HR infractions by RoL personnel; and
- # of cases referred to the national RoL WG accountability unit and % of personnel held to account.

7.6. Output 4.5: Detention facilities and prisons meet international minimum standards on detention (Mandela Rules)

The Gambia Prisons Service still faces significant challenges in ensuring it meets international minimum standards on the detention of individuals. As of July 2019, GPS had 857 personnel across the three prisons: the State Central Prison: Mile 2, Jeshwang (classified as an extension of Mile 2 and housing a juvenile justice

section), and Janjanbureh in the Central River Region. This number is made up of 122 administration staff (58 males and 64 female); 613 prison officers (348 males and 265 female); 108 riot squad (72 males and 36 female); 3 support staff (all female) and 11 clinical staff (6 males and 5 female).²⁷ According to figures by the Rapid Prisons Assessment (RPA) report, there are 676 detainees in prison. Of these, about 325 are on remand (awaiting trial), and 124 are on remand and housed at the Juvenile wing at Jeshwang prison.²⁸

These figures are a reduction, albeit not too significant, compared to the 857 detainees in the 2013 census. Those on remand are people denied bail or unable to meet bail conditions.

Any individual under sixteen years of age is to be detained at the juvenile justice wing in Jeshwang, which was built purposely to house juveniles in conflict with the law. However, due to overcrowding at the remand wing of Mile 2 prison, new structures were built at Jeshwang prison to accommodate 124 adult remand detainees.²⁹

Despite the improvements GPS had made since 2017, Gambia's prisons are operating at approximately 130% of the designed capacity. There is currently no provision for alternatives to detention (i.e., community service, parole), although the initiatives the GPS has undertaken for the rehabilitation of prisoners should be noted. The draft Criminal Offences Act 2019 and Criminal Procedure Act 2019 aims at expanding alternative sentencing for a number of crimes, in particular, less serious offenses.

This output aims at tackling a number of challenges by identifying and implementing measures to improve prison conditions and prisoner rehabilitation. The aim is to enhance inmate conditions to reach minimum human rights standards including a focus on rehabilitation. CSOs and NGOs are expected to play a central role in this regard.

To advance implementation of these key policy actions, examples of possible activities include:

- a. Develop social integration and rehabilitation programming (income-generating, education) for prisoners;
- b. Engage with Ministry of Health to identify areas of improvement for health care facilities, personnel, and supplies within the 3 prisons;
- c. Support pro bono legal aid services to prisoners and promote transparency through CSO and NHC monitoring visits; and
- d. Prioritize infrastructure rehabilitation for prisoners and prisons personnel.

Expected annual results within this output are:

Year 1:

- Rehabilitation and social integration programming strengthened;
- MOU with Ministry of Health endorsed to provide regular oversight and support to Prisons;
- MOU with CSOs and NHRC endorsed to permit monitoring visits; and
- Assessment of Prisons infrastructure completed and submitted to the National Assembly for budget support.

Year 2:

- % of prisoners graduating from rehabilitation and social integration programming;
- # of prisoners receiving satisfactory medical care; and
- # of facilities renovated improving housing and care of prisoners.

Intermediate targets:

Year 3:

- % of trained prisoners able to generate income as a result of rehabilitation programming;
- Rate of recidivism reduced by 10%;
- Overcrowding of Mile 2 prison reduced by 10%; and
- 50% of facilities prioritized in assessment are rehabilitated.

Year 4:

- % of trained prisoners able to generate income as a result of rehabilitation programming;
- Rate of recidivism reduced by 10%;
- Overcrowding of Mile 2 prison reduced by 20%;
- 50% of facilities prioritized in assessment are rehabilitated

Year 5:

- % of trained prisoners able to generate income as a result of rehabilitation programming;
- Rate of recidivism reduced by 10%;
- Overcrowding of Mile 2 prison reduced by 30%; and
- 50% of facilities prioritized in assessment are rehabilitated.

²⁷ Rapid Assessment Report, August 2019, page 10.

²⁸ Id, page 7.

²⁹ Id. Page 9.

CHAPTER 8

RECOMMENDATIONS

1. During the Validation Workshop held on November 27, 2019, many participants raised the need for cultural change within the institutions for the Roadmap to take effect. In particular, they argued that staff attitudes and behavior, amongst all institutions, is a pervasive problem. Employees do not respect office hours, and there is a general lack of a service-oriented approach. Therefore, it is recommended that a change management program is implemented that includes senior-level management. A change management program would kickstart proactive steps towards improving work culture and management.
2. Due to limited time, the Roadmap does not address the amount of funding needed to implement the activities suggested. However, through an evidence-based planning approach, the RoL institutions can to identify shared priorities and work as a sector to address gaps and challenges. As mentioned above, a RoL sector that is coordinated in terms of planning and budgeting will be in a much better position to argue a case for increased funding to support identified needs.
3. Although the Roadmap suggests each institution develop capacity development plans, RoL institutions both individually and collectively can benefit from more immediate training in specific areas such as:
 - a. Evidence-based planning, management, and M&E
 - b. Human rights
 - c. Rule of law
 - d. SGBV including the use of victim-centered approaches
 - e. Investigative techniques and forensics
 - f. Case management systems and record-keeping
4. The rule of law sector includes several more institutions that are not included in the RoL WG. The WG could benefit from eventually, including other agencies and institutions that can complement the coordination and collaboration of its work. For example, MOFEA is a crucial institution, in terms of budgetary allocations, and impacts the implementation of activities from the Roadmap. The NHRC would also play a critical role in the RoL WG.

Annex III lists activities that the RoL WG can implement independently and those activities that may need donor support.

To demonstrate commitment, it is recommended that the Government of The Gambia allocate at least 1% to 2% of its budget toward the Roadmap. This allocation would demonstrate a national commitment to the sector and the priorities articulated in the NDP.

2.1. Institutional Overview – Legal Framework

RoL Institutions	Mandate
<p>Judiciary</p>	<p>Section 120 (The courts and the judicial power) of the 1997 Constitution of The Republic of The Gambia states that:</p> <p><i>“(1) The Courts of The Gambia are:</i></p> <ul style="list-style-type: none"> <i>(a) Superior Courts comprising;</i> <ul style="list-style-type: none"> <i>(i) the Supreme Court,</i> <i>(ii) the Court of appeal,</i> <i>(iii) The High Court and the Special Criminal Court, and</i> <i>(b) the Magistrates Courts, the Cadi Court, District Tribunals and such lower courts and tribunals as may be established by an Act of the National Assembly.</i> <p><i>(2) The judicial power of The Gambia is vested in the courts and shall be exercised by them according to the respective jurisdictions conferred on them by law.</i></p> <p><i>(3) In the exercise of their judicial functions, the courts, the judges and other holders of judicial office shall be independent and shall be subject only to this Constitution and the law and, save as provided in this Chapter, shall not be subject to the control or direction of any other person or authority.</i></p> <p><i>(4) The Government and all departments and agencies of the Government shall accord such assistance to the courts as the courts may reasonably require to protect their independence, dignity, and effectiveness.”</i></p> <p>According to Section 121 (1), the Chief Justice shall be the head of the Judiciary and, subject to the provisions of the Constitution, shall be responsible for the administration and supervision of the courts.</p> <p>Section 124 (1) (Courts to give timely decision) states, in relevant part, that:</p> <p><i>“(1) It shall be the object of every court to deliver its decision expeditiously and [...]</i></p> <p><i>(b) [...] not later than three months after the conclusion of the evidence or arguments on appeal, and final addresses[...].”</i></p> <p>Section 143 (1) (Administrative provision for the administration of the courts) provides that:</p> <p><i>“In the exercise of his or her responsibilities, the Chief Justice may issue orders and directions for the proper and efficient operation of the courts.”</i></p> <p>Section 147 (Other function of the Judicial Service Commission) provides that:</p> <p><i>“In addition to the other functions conferred on the Judicial Service Commission by this Constitution, the Commission shall have power</i></p> <ul style="list-style-type: none"> <i>(a) to advise the President in the exercise of their powers relating to the appointment of judges;</i> <i>(b) to make recommendations as to the terms and conditions of service of judges and other judicial officer and officers and staff of the courts;</i> <i>(c) to make proposals to improve the administration and efficiency of the courts;</i> <i>(d) to prepare and implement programmes for the education of the public about the administration of justice.</i> <i>(e) to exercise such other functions as may be conferred on it by an Act of the National Assembly.”</i>

RoL Institutions	Mandate
Ministry of Justice	<p>The Ministry of Justice has ministerial supervision over the administration of justice in Gambia. It is headed by the Attorney General and the Minister of Justice. The Ministry of Justice has the following six departments each headed by a director: Civil and International Law Division, Criminal Division, Curator of Intestate Estates Division, Legislative Drafting Division, Registrars General Division, and Registrar Companies in Gambia. There are two units created in 2003 and 2018 respectively: The Child's Right Unit and the Sexual and Gender-Based Violence Unit.</p> <p>There are six satellite agencies and they include: National Agency for Legal Aid (NALA), Alternative Dispute Resolution Secretariat (ADRS), National Agency Against Trafficking in Persons (NAATIP), National Council for Law Reporting (NCLR), Law Reform Commission (LRC), and Anti-Corruption Commission (ACC).</p> <p>According to Section 84 of the 1997 Constitution of The Republic of The Gambia, there shall be a Director of Public Prosecutions, appointed by the President, whose office shall be an office in the public services. The Director of Public Prosecutions shall have power (subject to the approval of the AG), to initiate and undertake criminal prosecution against any person before any court.</p> <p>Section 85 further states that:</p> <p><i>"The Director of Public Prosecutions shall have power in any case in which he or she considers it desirable to do so, and subject to the approval of the Attorney General -</i></p> <p><i>(a) to initiate and undertake criminal proceedings against any person before any court for an offence against the law of The Gambia;</i></p> <p><i>(b) to take over and continue any criminal proceeding that has been instituted by any other person or authority;</i></p> <p><i>(c) to discontinue, at any stage before judgement is delivered, any criminal proceeding instituted or undertaken by himself or herself or any other person or authority."</i></p> <p>Pursuant to Section 85 (4), the Director of public prosecutions shall be subject to the direction or control of the Attorney General.</p>
Ministry of Interior	<p>The Ministry of Interior is to formulate, implement, supervise and evaluate policies relating to the protection of life and property, preventing and mitigating disasters, immigration control, preventing and detecting crimes, ensuring safe custody and rehabilitation of offenders, enforce all drug laws and regulations of the Gambia and bring perpetrators to justice as well as initiate and support non-enforcement.</p> <p>The mandate of the Ministry and its semi-autonomous departments is set out variously in enabling legislation, government policy and convention. The key elements of this mandate are:</p> <ul style="list-style-type: none"> • Ensure adequate protection of life and property • Ensure effective and efficient crime prevention and detection • Strengthen disaster prevention, management and social mobilization • Regulate and monitor the entry, stay and exit of nationals of all countries • Develop a highly efficient and humane custodial and reformatory system • Improve institutional capacity • Improve public relations.
Gambia Police Force	<p>Section 178 of the 1997 Constitution of The Republic of The Gambia provides for the establishment of a Police Force, headed by the Inspector General of Police.</p> <p>The mandate and functions of the Gambia Police Force are also provided for in the Police Act Chapter 18:01 Vol IV Laws of the Gambia. The Police are mandated by law, under S4 of the Police Act to:</p> <ul style="list-style-type: none"> • Protect life and property; • Preserve law and order; • Detect and prevent crime; • Apprehension and prosecution of offenders • The due enforcement of all laws and regulations with which they are charged with. <p>The Gambia Police Act of 1954 provides for the establishment, organization, and command control of the Police Force; and provides for the functions of the Police Force and the conditions of its members; and for related matters.</p>
Gambia Prisons Service	<p>Section 182 of the 1997 Constitution of The Republic of The Gambia mandates the establishment of a Prison Service headed by the Commissioner of Prisons.</p> <p>Section 183 (Control of Prison Service) states that:</p> <p><i>"Subject to the general authority and direction of the President and the Prison Service Council, the Commissioner of Prisons shall be responsible for the operational control and administration of the Prison Service and Prisons in The Gambia."</i></p> <p>The Prison Act 18 of 1953 was amended in 1960 and 1963. The Prisons Act provides for the maintenance of Prisons under the Prison Rules (Rules 2/1953)</p>

RoL Institutions	Mandate
National Agency for Legal Aid	<p>The 1997 Constitution of the Republic of The Gambia set out the principles of equality before the law and the right to a fair trial (section 24).</p> <p>Section 24 (3) states that: <i>“provided that where a person is charged with an offence which carries a punishment of death or imprisonment for life, that person shall be entitled to legal aid at the expense of the State”.</i></p> <p>Section 72 (F) of the Children’s Act of 2005 states that: <i>“the child shall have a right to legal representation and legal aid provided by Government.”</i></p> <p>The Legal Aid Act 2008 expands legal aid provision from capital offences to all criminal and civil cases involving indigents, marginalized persons and to all cases of children from the point of arrest, throughout trial and on appeal.</p>
Alternative Dispute Resolution Secretariat	<p>Pursuant to Chapter 6:08 of the Alternative Dispute Resolution Act of 2005, the Alternative Dispute Resolution Act provides <i>“an alternative dispute resolution system for The Gambia in conformity with international rules on arbitration, conciliation and mediation, to establish an Alternative Dispute Resolution Secretariat to facilitate dispute resolution, and for connected matters.”</i></p> <p>Section 5 (Arbitration of disputes) states that: <i>“(1) Any dispute which the parties have agreed to submit to arbitration under an arbitration agreement may be determined by arbitration unless the arbitration agreement is contrary to public policy or, under any other law, the dispute is not capable of determination by arbitration.</i> <i>(2) The fact that an enactment confers jurisdiction in respect of any matter on a court but does not refer to the determination of that matter by arbitration does not, in itself, indicate that a dispute about that matter is not capable of determination by arbitration”</i></p> <p>Section 9 provides for the possibility for a court to refer the action, or any part of the action, for resolution through arbitration.</p> <p>Section 12 (1) states that, except for cases falling under section 12 (2): <i>“a court before which proceedings are brought in a matter which is the subject of an arbitration agreement shall, if a party so requests not later than when submitting his or her first statement on the substance of the dispute, stay those proceedings and refer the parties to arbitration.”</i></p> <p>Part V of the Act states in more details the jurisdiction and conduct of arbitral tribunal, including their power to order interim measures (section 31), the principle of equal treatment of parties (section 32) and the decision-making process by arbitrators (section 43). Chapter IV details the applicable provision to mediation.</p> <p>The Act provides for the establishment of an Alternative Dispute Resolution Secretariat (Chapter V), which is independent (section 101) and shall, inter alia, provide services and facilities to parties who wish to settle their dispute under the provision of the Act, maintain a register of experienced arbitrators, and advise parties and provide assistance in relation to the settlement of dispute under the Act (section 100).</p>
Gambia Bar Association	<p>According to Article II of the Constitution of the Gambia Bar Association, the Association is established <i>“to be the governing body of the Bar and shall concern itself with all matters affecting the legal profession in The Gambia and shall take such action with respect thereto as may be considered expedient with special reference to the following matters:</i></p> <ul style="list-style-type: none"> <i>a. To maintain the standards, integrity, honour and independence of the Bar, to promote, preserve and improve the services and functions of the Bar, and to represent and act for the Bar generally as well as in matters affecting the administration of justice;</i> <i>b. To consider, lay down and implement general policy with regard to all matters affecting the Bar;</i> <i>c. Establish schemes for the promotion and protection of the welfare, security and economic advancement of legal practitioners;</i> <i>d. To defend and uphold freedom, justice and the rule of law in The Gambia;</i> <i>e. To maintain and defend the honour, independence and integrity of the legal profession;</i> <i>f. To maintain and defend the independence of the judiciary;</i> <i>g. To promote the advancement of legal education, continuing legal education, Advocacy and Jurisprudence;</i> <i>h. To maintain professional standards, discipline and etiquette and to regulate under the guidance of the General Legal Council the conduct, practice and discipline of Legal Practitioners;</i> <i>i. To support the establishment, maintenance and efficient operation of a system of prompt and efficient legal aid and assistance for those in need but who are unable to pay for same;</i> <i>j. To promote good relations among the members of the Association and the furtherance of good relations between The Association and similar organizations of legal professionals in other countries;</i> <i>k. To promote the protection of human rights and fundamental freedoms as defined under the Constitution of The Gambia, United Nations Universal Declaration on Human and Peoples Rights, The African Charter on Human and People’s rights and other laws and conventions in force in The Gambia or to which The Gambia is a signatory.</i>
Female Lawyers Association of The Gambia (FLAG)	<p>The Female Lawyers Association of The Gambia (FLAG) was founded in 2007 and is made up of female members of the legal profession. It is a non-political, non-sectarian, non-partisan, non-governmental and non-profit making organization. FLAG aims to ultimately secure changes to the laws of The Gambia for the protection and wellbeing of women and children, with the objective of eliminating violence against them, educating and enable them to participate effectively in the development process of the country and promoting freedom of expression.</p>



Terms of Reference for the Rule of Law Working Group (RoL WG)

Project name: Strengthening Rule of Law and Enhancing Justice and Security Service Delivery in The Gambia

1. Background

The Gambia has suffered from a 22-year dictatorship that has left the justice sector institutions weak. The rule of law sector as a whole recognizes the need for strengthened institutions to provide accountable governance by maintaining security, ensuring due process³⁰, and enforcing the rule of law. As part of the transition government’s agenda, the government’s strategic and policy document, the National Development Plan (2018-2021) (NDP), introduces a new chapter in the nation’s history and developmental agenda. The NDP offers a “renewed opportunity to build a modern, accountable state based on the foundations of democracy, good governance, respect for human rights and security and prosperity for all.”³¹

The strengthening of all institutions in the rule of law sector, aligned with the NDP, responds to the challenges and opportunities the sector faces and, in turn, enables it to incorporate best practices to ensure adherence to the rule of law.³²

2. The goal of the Rule of Law Working Group

The aim of a senior-level Rule of Law Working Group (RoL WG) is to facilitate the strengthening of RoL institutions to increase access to justice and to enable all RoL institutions to deliver quality services to all citizens as well as empowering them in the exercise of their rights. To support this goal, the RoL WG shall implement the 5-year sector-wide RoL Roadmap. The Roadmap is aligned to the NDPs’ strategic priority of restoring good governance, respect for human rights, the rule of law, and empowering citizens (through decentralization and local governance)³³ and critical enablers³⁴, such as:

- i. A public sector that is efficient and responsive to the citizenry;
- ii. Empowering the Gambian Woman to realize her full potential;

- iii. A civil society that is engaged and is a valued partner in national development; and
- iv. Strengthening evidence-based policy, planning, and decision-making.

3. Members of the RoL WG:



4. Objectives (Purpose and Outcomes) of the RoL WG Roadmap:

The overall objective of the RoL WG Roadmap is a national coordination mechanism and policy that provides direction for justice sector institutions to strengthen the rule of law and promote accountable governance in a coordinated manner, backed by a shared sector vision for the medium to long term. Furthermore, The Gambia needs a coherent framework for mobilizing and coordinating international donor assistance to help carry out a reform and development strategy for the justice sector.³⁵

³⁰ Due process is the right to a fair hearing pursuant to The Gambia Constitution, Article 19.

³¹ The Gambia National Development Plan [2018-2021], page 4.

³² Rule of Law means enforcement of laws enacted by The Gambia Government in accordance with the Constitution.

³³ Id. Page 11.

³⁴ Id.

³⁵ TOR Development of the Rule of Law Roadmap for The Gambia, Strengthening Rule of Law and Enhancing Justice and Security Service Delivery in The Gambia, Rule of Law Sector Wide Roadmap/Strategy, June 2019.

The Roadmap is built on the following four outcomes to achieve the overarching goal of improving the quality of, and access to, justice services in The Gambia:

1. To enhance sector-wide capacity and coordination;
2. To strengthen access to justice particularly for vulnerable persons;
3. To enhance the rule of law and accountability of mechanisms;
4. To better maintain security, law, and order, and enhance adherence to human rights.

5. RoL Sector Policy Objectives

The Roadmap is to be understood as an integrated approach covering strategic objectives for all RoL sector institutions. It highlights the interlinkages and actions that can be taken collaboratively across all institutions. It is based on the communication, cooperation, and coordination model³⁶ and addresses the key challenges and priorities of key institutions within the RoL sector.

6. RoL WG Tasks and responsibilities

Operationalize the RoL WG at the Ministerial Level and establish a Secretariat to coordinate information. Within the RoL WG Secretariat, a coordinator should be tasked with gathering information from institutions and coordinating activities. The coordinator could also act as a focal point to liaise with donors.

7. Monitoring and Evaluation (M&E)

A Monitoring & Evaluation (M&E) plan is provided that links outcomes and outputs and related key policy actions and activities to the Roadmap and NDP priorities. The M&E plan serves as a basis for monitoring the progress of the implementation of the Roadmap. Using evidenced-based management and improved data collection is critical to implementing the Roadmap.³⁷

³⁶ <https://www.projectmanagement.com/articles/322957/The-Three-Cs-of-Success-Collaborate-Coordinate-Communicate> (Accessed on October 30, 2019)

³⁷ The Roadmap hinges upon the development of policies and plans that are grounded in actual and relevant data.

8. Key Actions

Actions	Date	Purpose
A. Establish a permanent Working Group (RoL WG) comprised of senior leadership (decision-makers) from Judiciary, MOJ, ADRS, NALA, MOI, GPF, and GPS 1. Create a Mission and Vision Statement 2. Decide on rotating leadership 3. Decide on the number of meetings to be held annually 4. Decide on the inclusion of other institutions, i.e., MOF, Civil Service Commission	2020	Develop a senior level working group that can make decisions for the RoL sector To enhance coordination, cooperation, and communication between RoL institutions To present itself as a unified sector to donors.
B. RoL WG adopt and endorse the Roadmap	2020	To obtain buy-in and endorsement of a holistic approach to development in the RoL sector
C. Establish Secretariat	2020	To support the senior level RoL WG in communication within the RoL sector and vis a vis donors
D. Develop SOPs: 1. for better inter-institutional communication, cooperation, and coordination 2. M&E plan endorsed	2020	To develop a document that identifies how the RoL WG conduct its work To agree and endorse how the RoL WG meets its targets against the M&E Plan
E. Establish M&E RoL WG	2020	To collect, analyze, and share information from institutions for use in policy development and planning of yearly activities To provide donor accurate and timely information
F. Each RoL institution to review existing annual work plans and strategic plans and align to the roadmap	2020	To ensure alignment of work and strategic plans that result from evidenced-based planning
G. RoL WG prioritize policy actions and activities yearly	2020	To enhance coordination across RoL institutions
H. RoL WG engage MOFEA, donor community and CSOs regularly	2020 - 2025	To communicate successes and challenges to all stakeholders involved

ANNEX III

Activities	Institutions involved	Actions	Responsible stakeholders	Donor Support
Outcome 1: An Enhanced Sector Capacity & Coordination				
1. Validate TOR and commit to Roadmap	Judiciary, MOJ, MOI, NALA, ADRS, GPS, GPF	<ol style="list-style-type: none"> 1. Establish a small Secretariat that includes a focal point and M&E person from RoL Institutions that is tasked with coordination and monitoring work of RoL sector 2. Develop TOR for positions 3. Each Institution appoint a person responsible for data collection and M&E 	Judiciary, MOJ, MOI, NALA, ADRS, GPS, GPF	
2. Review Annual work plans and strategic plans in alignment with NDP	Judiciary, MOJ, MOI, NALA, ADRS, GPS, GPF	<ol style="list-style-type: none"> 1. Each Institution review work plans and strategic plans and update if necessary 	Judiciary, MOJ, MOI, NALA, ADRS, GPS, GPF	
3. Develop SOPS on internal and external communication; frequency of meetings with MOFEA, donors, and CSOs	Judiciary, MOJ, MOI, NALA, ADRS, GPS, GPF	<ol style="list-style-type: none"> 1. Draft SOPS on how RoL WG will communicate vis a vis each other, MOFEA, and donor community 	Judiciary, MOJ, MOI, NALA, ADRS, GPS, GPF	
4. Each RoL Institution conduct a human resource needs assessment	Judiciary, MOJ, MOI, NALA, ADRS, GPS, GPF	<ol style="list-style-type: none"> 1. Conduct Assessment 2. Develop/update organigrams and staffing levels 3. Implement recommendations from the assessment 	Judiciary, MOJ, MOI, NALA, ADRS, GPS, GPF	possible donor support to conduct assessment
5. Each RoL Institution conduct capacity development needs assessment	Judiciary, MOJ, MOI, NALA, ADRS, GPS, GPF	<ol style="list-style-type: none"> 1. Identify training needs for the year 2. Create training group 3. Identify possibilities of joint trainings 4. Implement recommendations from the assessment 	Judiciary, MOJ, MOI, NALA, ADRS, GPS, GPF	possible donor support to conduct assessment
6. Each RoL Institution conduct infrastructure needs assessment	Judiciary, MOJ, MOI, NALA, ADRS, GPS, GPF	<ol style="list-style-type: none"> 1. Identify infrastructural needs/ assessment 2. Prioritize needs 3. Implement recommendations from the assessment 	Judiciary, MOJ, MOI, NALA, ADRS, GPS, GPF	
7. Each Institution enhance/ develop Asset Management and Planning Units	Judiciary, MOJ, MOI, NALA, ADRS, GPS, GPF	<ol style="list-style-type: none"> 1. Identify focal point to manage assets 2. Develop Asset Management & Planning Units in Institutions that do not have them 3. Identify staff to conduct M&E in each Institution 4. Train a cadre of staff on evidence-based management, data collection, and M&E 	Judiciary, MOJ, MOI, NALA, ADRS, GPS, GPF	

Activities	Institutions involved	Actions	Responsible stakeholders	Donor Support
Outcome 2: A Strengthened Access to Justice especially for the vulnerable				
1. Judiciary develops Practice Direction on case disposal of backlog.	Judiciary, MOJ, MOI, NALA, GPS, GPF, GBA, FLAG	<ol style="list-style-type: none"> 1. Create working group responsible for development of Practice Directions on prioritization of criminal cases 2. Establish a Backlog/Case management group comprised of members from each institution; 3. Communicate and coordinate on implementation of strategy to stakeholders 4. Monitor and evaluate effectiveness of Practice Direction 5. M&E results shared with RoL WG Secretariat 	Judiciary Judiciary, MOJ, NALA, GPF, GPS, GBA, FLAG	possible donor support to assist with backlog
2. Judiciary develop a manual case tracking system that captures relevant information of all cases from filing to final disposition	Judiciary, MOJ, MOI, NALA, GPS, GPF, GBA, FLAG	<ol style="list-style-type: none"> 1. Create working group responsible for development of Practice Direction on case tracking 2. Track processing time of selected priority case types 3. Communicate and coordinate with relevant stakeholders on implementation of Practice Direction 4. Monitor and evaluate effectiveness of Practice Direction 5. M&E results shared with RoL WG Secretariat 	Judiciary	possible donor support to assist in court administration
3. Reinstigate the use of audio-recording of hearings in magistrate courts to expedite trials	Judiciary, MOJ, NALA, GPF, GBA, FLAG	<ol style="list-style-type: none"> 1. Identify pilot courts 2. Identify/Upgrade recording equipment 3. Identify staff to transcribe recordings 4. Monitor and evaluate effectiveness of Practice Direction 5. M&E results shared with RoL WG Secretariat 	Judiciary	possible donor support to assist on audio-recording equipment
4. Develop manual for record-keeping and file integrity	Judiciary, MOJ, NALA GPF, ADRS	<ol style="list-style-type: none"> 1. Assess current record-keeping practices 2. Draft manual on best practices for record-keeping and file integrity 3. Implement best practices in each institution 4. Monitor and evaluate effectiveness of manual 5. M&E results shared with RoL WG Secretariat 	Judiciary, MOJ, NALA GPF, ADRS	support to assist with court and prosecution administration
5. Judiciary/MOJ develop manual on case management as well as court and prosecution administration	Judiciary, MOJ, GPF	<ol style="list-style-type: none"> 1. Assess current court and prosecution administration practices 2. Draft manual on best practices for court and prosecution administration 3. Implement best practices in court and prosecution administration 4. Monitor and Evaluate effectiveness of manual. 5. M&E results shared with RoL WG Secretariat 	MOJ, GPF	

Activities	Institutions involved	Actions	Responsible stakeholders	Donor Support
6. MOJ and GPF develop a case file review mechanism for screening of evidence for the prosecution of cases	MOJ, GPF	<ol style="list-style-type: none"> 1. Draft protocols for screening evidence 2. Train relevant staff on new procedures 3. Implement review mechanism for screening evidence 4. Monitor and Evaluate effectiveness of screening mechanism. 5. M&E results shared with RoL WG Secretariat 	MOJ, GPF	
7. MOJ, Judiciary, MOI, GPF, and GPS monitor closely the legality of any detention of the prisoners, especially the vulnerable	Judiciary, MOJ, GPF, GPS	<ol style="list-style-type: none"> 1. Identify relevant staff 2. Establish protocol to monitor prisoners 3. Each staff member rotate visits 4. Report findings on legality of detention and any irregularities. 	Judiciary, MOJ, GPF, GPS	
8. Identify and train community-level mediators including women	ADRS, CSOs	<ol style="list-style-type: none"> 1. Identify potential community-level mediators 2. Train mediators 3. Monitor & Evaluate effectiveness of mediation training 4. M&E results shared with RoL WG Secretariat 	ADRS	possible donor support to fund mediation training
9. ADRS enhances community radio programming to sensitize community on the benefits of ADR	ADRS	<ol style="list-style-type: none"> 1. ADRS develop plan to increase community radio 2. Conduct at least 2 radio shows monthly 3. Monitor and Evaluate effectiveness of radio programs 	ADRS	
10. Judiciary and ADRS develop mechanism and amend legislation for court recognition of mediation agreements	Judiciary, ADRS	<ol style="list-style-type: none"> 1. Judiciary and ADRS hold consultations 2. ADR Act revised to allow enforcement of mediation decisions 3. Develop mechanism for court recognition of mediation agreements 4. Implement agreed mechanism 5. Monitor and Evaluate effectiveness of mechanism 6. M&E results shared with RoL WG Secretariat 	Judiciary, ADRS	
11. Prioritize representation of vulnerable persons such as children and those charged with serious offences.	NALA, GBA, FLAG, CSOs	<ol style="list-style-type: none"> 1. Identify vulnerable persons 2. Develop a list of lawyers willing to provide representation 	NALA, GBA	
12. Amendment of Legal Practitioners Act 2015	NALA, GBA, CSOs	<ol style="list-style-type: none"> 1. Identify provisions for amendments 2. Submit for review 	NALA, GBA	
13. Training women from FLAG to represent women before Cadis Courts	Judiciary, FLAG	<ol style="list-style-type: none"> 1. Collaborate with Judiciary on training program 2. Identify women lawyers 3. Identify training program 4. Women lawyers appear before Cadis 5. Monitor and Evaluate effectiveness of mechanism 6. M&E results shared with RoL WG Secretariat 	Judiciary, FLAG	

Activities	Institutions involved	Actions	Responsible stakeholders	Donor Support
14. Training on representing children, protection	MOJ, GBA, GPF, FLAG, NALA, CSOs	<ol style="list-style-type: none"> 1. Identify staff and relevant CSOs for training 2. Provide training 3. Monitor and Evaluate effectiveness of training 4. M&E results shared with RoL WG Secretariat 	MOJ	possible support from UNICEF to fund training
15. Conduct an assessment on the role and regulation of bailiffs to improve judgment enforcement	Judiciary	<ol style="list-style-type: none"> 1. Conduct assessment of general enforcement mechanisms and role of bailiffs 2. Develop SOPs on improved enforcement procedures 3. Provide training to bailiffs 4. Identify pilot courts to implement new procedures 5. Monitor and Evaluate effectiveness of training and number of judgments enforced 6. M&E results shared with RoL WG Secretariat 	Judiciary	possible donor support on assessment and training
16. Create a working group that reviews options to alternatives to imprisonment, expansion of Rehabilitation Program, and support mechanisms for social reintegration of prisoners completing detention	MOI, GPS, GPF	<ol style="list-style-type: none"> 1. Create working group 2. Develop proposals based on feasibility 3. Present to RoL WG for endorsement 4. Implement relevant activities 	MOI, GPS, GPF	possible donor support in providing consultant on international best practices
Outcome 3: An Enhanced Rule of Law and Accountable Mechanisms				
1. Coordination and communication with CSOs to obtain feedback and input in the analyzing draft laws.	MOJ, CSOs, GBA	<ol style="list-style-type: none"> 1. Hold regular meetings with CSOs 	MOJ	
2. Study, analysis and drafting of national arbitration legal framework	ADRS, MOJ	<ol style="list-style-type: none"> 1. Development of arbitration policy 2. Capacity building (training and certification of professionals in arbitration) and knowledge sharing. 3. Establish suitable infrastructure for the Center (facilities for arbitration & ADRS); 4. Carry out a national awareness campaign 	ADRS	possible donor support
3. Train judges, prosecutors, and law enforcement personnel in rule of law principles/ importance of consistent and effective enforcement of laws.	Judiciary, MOJ, GPF	<ol style="list-style-type: none"> 1. Develop training materials 2. Identify participants 3. The RoL WG M&E team, in conjunction with CSOs, develop a mechanism to monitor and evaluate RoL institution's performance in consistently and effectively enforcing laws. 4. Individual RoL institutions monitor and evaluate the performance of judges, prosecutors, and law enforcement personnel in their consistency and effectiveness in enforcing laws. 5. Each RoL engage in sensitization 	Judiciary, MOJ, GPF	possible donor support for development of training program

Activities	Institutions involved	Actions	Responsible stakeholders	Donor Support
Outcome 4: A Better Maintained Safety, Law and Order and Enhanced Adherence to Human Rights				
1. GPF develops a comprehensive CP training program that includes enhancement of communication and problem-solving skills, human rights, sensitization on SGB, child protection and dealing with youth that come in conflict with the law.	GPF	<ol style="list-style-type: none"> 1. Develop CP training program 2. Include Train-of-trainer (TOT) for sustainability 3. Identify police officer to participate 4. Roll-out training program 	GPF	possible donor support to assist in CP curricula development and TOT
2. Implement CP awareness campaign	GPF, MOI, CSOs	<ol style="list-style-type: none"> 1. Develop a CP awareness and sensitization campaign that includes: 2. Increase collaboration with youth 3. Organize caravans in collaboration with Ministry of Basic and Secondary Education to discuss with students their responsibilities as members of the community. 4. T.V. programs to sensitize the youth on the dangers of engaging in criminal conduct 	GPF	
3. Priority crimes identified for crime prevention, without neglecting other crimes;	GPF, MOI	<ol style="list-style-type: none"> 1. Identify priority crimes 2. Provide training to strengthen the detection and investigation of those crimes specifically 3. Monitor and Evaluate effectiveness of investigation training 4. M&E results shared with RoL WG Secretariat 	GPF, MOI	
4. Support intensive training program for police-prosecutors	GPF	<ol style="list-style-type: none"> 1. Conduct needs assessment for police-prosecutors 2. Develop a training program 3. Implement training 4. Monitor and Evaluate effectiveness of training 5. M&E results shared with RoL WG Secretariat 	GPF	possible donor support to provide a training program
5. Develop human rights training programs adapted and local level issues (linked to human rights-based civic education).	Judiciary, MOJ, MOI, NALA, ADRS, GPS, GPF, CSOs	<ol style="list-style-type: none"> 1. Develop human rights training materials (these materials can also serve as part of induction training for RoL Institutions) 2. Design baseline surveys regarding access to justice before, and after, such capacity-building. 3. Provide sector-wide training 4. Monitor and Evaluate effectiveness of training 5. M&E results shared with RoL WG Secretariat 	Judiciary, MOJ, MOI, NALA, ADRS, GPS, GPF	possible donor support to provide funding for sector-wide training
6. Sensitize inmates and prison officers on contagious diseases, HIV/Aids and health care education;	GPS, Ministry of Health	<ol style="list-style-type: none"> 1. Invite Ministry of Health to conduct workshop on healthcare education to staff 2. Staff share information with prisoners 	GPS	
7. Improve literacy skills development programs for inmates especially youth offenders	GPS	<ol style="list-style-type: none"> 1. Develop literacy program for prisoners 	GPS	possible donor support to provide funding for implementation of program



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