



THE UNITED REPUBLIC OF TANZANIA
NATIONAL AUDIT OFFICE



PERFORMANCE AUDIT REPORT ON THE CRIMINAL JUSTICE SYSTEM IN TANZANIA



CONTROLLER AND AUDITOR GENERAL
MARCH, 2022

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Mandate

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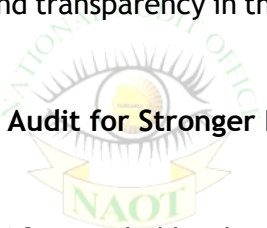
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PREFACE



Section 28 of the Public Audit Act No. 11 of CAP 418 gives mandate to the Controller and Auditor General to carry out Performance Audit (Value-for-Money Audit) to establish economy, efficiency, and effectiveness of any expenditure or use of resources by Ministries, Departments, Agencies, Local Government Authorities, Public Authorities and other Bodies. The Audit involves enquiring, examining, investigating and reporting, as deemed necessary under the circumstances.

Based on the above mandate, I have the honour to submit to Her Excellency, Hon. Samia Suluhu Hassan, the President of United Republic of Tanzania, and through her to the Parliament of the United Republic of Tanzania, the Performance Audit Report on the Criminal Justice System in Tanzania.

This report contains audit findings and recommendations aimed at improving the Criminal Justice System by Judiciary of Tanzania. The Judiciary of Tanzania, the National Prosecution Service, the Tanzania Police Force and the Ministry of Constitution and legal affairs being the audited entities, were given an opportunity to scrutinize the report and comment thereon. I acknowledge that discussions with Judiciary of Tanzania, National Prosecution Service, Tanzania Police Force and the Ministry of Constitution and legal affairs have throughout been useful and constructive.

In completion of the assignment, the office subjected the report to the critical reviews of Dr. Abdallah Halfani Gonzi, an Advocate and Lecturer in Law from the University of Dar-es-Salaam and Dr. Baraka Boniface Mkami, a Lecturer in law in the Department of Public Law, University of Dodoma who together came up with useful inputs on improving the output of this report.

This report has been prepared by Ms. Anna J. Minja - Team Leader, Mr. Kulwa M. Kija - Team Member and Mr. Nyanda L. Mabuga - Team Member under supervision and guidance of Mr. Michael D. Malabeja - Chief External Auditor, Mr. James G. Pilly - Assistant Auditor General and Mr. George C. Haule - Acting Deputy Auditor General.

I would like to appreciate my staff for their devotion and commitment in the preparation of this report. I also extend my appreciation to the Judiciary, the National Prosecution Service, the Tanzania Police Force and the Ministry of Constitution and legal affairs the audited entities for their cooperation with my Office which facilitated timely completion of this report.



Charles E. Kichere,
Controller and Auditor General,
Dodoma United Republic of Tanzania,
March, 2022.



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ABBREVIATION AND ACRONYMS

CAG	Controller and Auditor General
CAP	Chapter
CCA	Chief Court Administrator
CID	Criminal Investigation Department
DCJM	Division of Constitution and Justice Monitoring
DC	District Court
DPP	Director of Public Prosecutions
DCI	Director of Criminal Investigation
JSDS 2.0	Judicial Case Management System
MoCLA	Ministry of Constitution and Legal Affairs
NPS	National Prosecutions Services
PP	Police Prosecutor
PI	Preliminary Inquiries
RM	Resident Magistrate



EXECUTIVE SUMMARY

Background

The administration of criminal justice in the country is a collective role of different institutions including the Judiciary of Tanzania, the Police Force, the National Prosecution Services, Prison as well as Parole Board. The Judiciary is the apex body in the dispensation of justice. Timely criminal cases disposition is one of the factors exhibiting the existence of justice in any country. The observance of rule of law as enshrined in the Constitution of the United Republic of Tanzania of 1977, compels expeditious and timely disposition of justice particularly in criminal cases, irrespective of individual status, and without undue regard to procedural technicalities.

However, delays in criminal cases disposal have factored as one of the major challenges facing the Judiciaries in Sub-Saharan Africa including Tanzania. The delay referred in this report is with respect to the time consumed in the disposal of criminal cases in excess of the ideal time within which a case reasonably ought to have been finally decided by the Court.

This Audit was driven by weaknesses in the administration of justice in Tanzania, predominantly the delay in criminal cases disposition. Based on the speech by Her Excellency Hon. Samia Suluhu Hassan the President of United Republic of Tanzania, on 21th May 2021 during the swearing ceremony of Judges, it was noted that delays in both criminal and civil cases, timely disposal of cases in Tanzania's is a challenge.

The delays in the disposal of criminal cases exist in all stages of the administration of criminal justice from investigation to judgment when an accused is either acquitted or convicted. The suspect or accused, victims of crime, witnesses, and other interested persons in the criminal justice machinery face unnecessary delays in the disposal of criminal cases. Her Excellency the President of noted further that, most delays are caused by prolonged investigation and legal technicalities involved in the criminal justice process, consequently, causing a backlog of cases. This state of affairs does not augur well with the constitutional principles of fair trial and presumption of innocence. Justice delayed is justice denied.

Furthermore, the Audit was motivated by the ever-increasing number of remandees and the resulting increased government expenditure in their maintenance in prisons. According to the statistics presented in the

parliament on 11th April 2021, there were 16,836 prisoners and 16,703 remandees in prisons all over the country. In general prisons spend about TZs 900 million per month to feed all inmates whose incarceration is attributed to backlog of cases involving them.

Much public funds and human resources have been put in the criminal justice sector in an attempt to ameliorate the situation but in vain. For example, a total of TZS. 8,509,463,204.29 was released to the judiciary by the World Bank specifically as an initiative of backlog reduction in the justice system. The funds were released in three years between 2016/17-2018/19.

Likewise, presence of prolonged investigation process causes undue delay in criminal justice delivery. There have been public complaints on delay of investigation causing backlog of cases in judiciary. The prolonged investigation process contributes to the delay of cases and delay of justice.

It is from the above background that, the Controller and Auditor General decided to carry-out performance audit on Criminal Justice System in Tanzania. The Audit objective was to determine whether the Judiciary and Ministry of Constitution and Legal Affairs have adequately managed to control the delay in dealing with criminal cases in the justice system.

Therefore, the Audit assessed four organs namely; the Judiciary, NPS, Police Force and Ministry of Constitution and Legal Affairs as the public bodies having a collective role in ensuring timely and expeditious criminal justice delivery. The Audit covered a period of six (6) years from 2015/16 to 2020/21. The Audit evidence was gathered through documentary review and interviews with relevant officials.

Main Audit Findings

Audit Findings Related to the Performance of Judiciary of Tanzania

Performance of filed Criminal Sessions as compared to Disposed Criminal Sessions

This Audit has found out that, in all visited High Court Registries, none of them had disposed-off cases equivalent to the number of filed cases in criminal sessions. There were cases which took more than seven years to completion. Since the registration of cases is a continuous process, every day there are new registered cases, the prolongation of holding criminal sessions have created the burden of case backlogs and affected the efficiency of the Justice system. This is because Judges and Magistrates did not precisely specify criminal cases from other types of cases. The High Court did not effectively manage the criminal sessions, and Judiciary of Tanzania did not adequately involve key stakeholders in strategizing for disposal of criminal cases; and uneven distribution of cases (workload) among magistrates. The Audit also noted, non achievement resulted from the ineffective procedural requirement of scheduling criminal sessions which included submitting calendar and budget to the Chief Justice for approval. As a result, criminal sessions were disposed beyond Judiciary of Tanzania stipulated timeframes.

Inadequate Compliance to Performance indicator for Cases Disposal

The Judiciary of Tanzania resolved that every Judge and Magistrate was required to dispose 220 and 250 cases respectively in a year. Furthermore, the Audit observed that, the target included matters of different weight such as disposition of applications both civil and criminal and Criminal Preliminary Inquiries (PIs). As a result, the number of disposed cases on merits did not reach the agreed target by such courts.

High Court's Ineffective Criminal Sessions Cases Disposal

The Audit found that scheduling and conducting of criminal sessions was not effective as manifested by inconsistency in calling for sessions. The audit found that there was no case file which was disposed of in a single criminal session. Based on analysis, disposal of a criminal sessions case in the High Court and extended criminal sessions and hence one case ranged from two to three sessions to be disposed of. Instituted criminal cases in the High Court took an average of four years before they are called for first session.

Out of the 203 checked files, 179 cases took at least two years before being listed into the first session. The standard ideal time frame for a case to be disposed of at the High Court was two years. However, from the reviewed case files the audit did not find any cases which were attended to finality within a single criminal session (after plea taking). Most extreme delay was observed High Court District Registry at Dar-es-salaam where it was found that 13 criminal cases took more than 49 months to completion. This has resulted into an accumulation of criminal cases and hence the subsequent overstay of accused persons as remandees in the prison cells when charged with un-bailable offences.

Resident Magistrates' Courts and District Courts Inadequate Criminal Cases Disposal

Based on the Judiciary of Tanzania set standards, the waiting time for disposition of criminal cases for Resident Magistrates' Courts and District Courts is 12 months. According to the interviewed Judiciary of Tanzania staff, the time set was acceptable because the cases in these Courts are not subjected to the procedural requirement of Preliminary Inquiry (PI) also known as committal proceedings¹.

The reviewed progress reports showed that incomplete investigation has been the leading cause of the delays, followed by the unbalanced ratio of Prosecutor per Magistrate. The required ratio of one magistrate with one prosecutor was not met, and in all visited Resident Magistrates' Courts and District Courts there were more Magistrates than Prosecutors. The reviewed progress reports and interviews with Judiciary of Tanzania and NPS officials, observed that, another reason for delay of disposal of criminal cases was a fragmented systems for handling witnesses. There had been frequent adjournment of cases because of absence of witnesses before the court. The situation had resulted into an overall delay in criminal cases disposition.

¹Committal Proceedings are Court Hearings at the Magistrates' Court to decide whether there is sufficient evidence before sent/commit an accused to the High Court (S.244 of the Criminal Procedure Act)

Uneven Distribution of Caseload among Magistrate

The Audit found that there was uneven distribution of caseload among the Hon. Magistrates. Uneven distribution of cases was due to assignment of cases which consider other factors such as experience or area of specialization amongst Magistrates. As a result, it had negatively affected the timely disposal of criminal cases among the Hon. Magistrates making them not to attain the set standard of decided cases annually hence preventing the Judiciary to meet its set requirement to dispose of the targeted number of such cases in a year.

Findings Regarding the Judicial Case Management System (JSDS 2.0)

Inadequate use of the JSDS 2.0

The review of JSDS 2.0 and case files showed that in all visited courts, the use of the electronic system for documentation was predominantly low as manifested by the existence of files not registered in the system. For instance, out of 304 reviewed criminal files in Mbeya and Dar es Salaam, the Audit found 49 files not registered in JSDS 2.0; in Dar-es-salaam (32 cases) and Mbeya (17 cases).

Based on the review of progress report and interviews with Judiciary of Tanzania officials, several causes were linked to the insufficiency usage of the systems including lack of competence among the clerks and other Court officials. As an alternative, users of JSDS 2.0 would prefer to use the manual or physical documents filing and handling mechanism rather than the unreliable JSDS 2.0 system.

The Audit noted that Judiciary of Tanzania has not fully met the infrastructure requirement to smoothly run JSDS 2.0. The system was characterized with frequent outage of a network. In addition to this, it was also noted that Judiciary of Tanzania has no centralized mechanism to monitor and identify faults or performance problems of JSDS 2.0 remotely from all Courts. As a result, the use of JSDS 2.0 was not as effectively as it was intended.

Another reason for inadequate use of JSDS 2.0 system was the lack of proper follow up system. There was no established dashboard or alerts to show error messages resulting to accumulated poor quality data, inaccurate, and

incomplete data into the system. All these contributed to the delays in disposal of criminal cases.

Audit Findings related to the Performance of the National Prosecution Service (NPS)

Inadequate Management of Case Files during Investigation Process

The Audit reviewed 297 cases files and noted inadequate coordination between the offices of National Prosecution Services which provides the State Attorneys, and the Police Force that provides the Police Investigator. 78% of the 297 reviewed files at the NPS were found to be missing substantial attachments such charge sheet and police case file which included Investigation diary. The Audit further noted that among the visited NPS offices, 48% of files had no investigation diaries, which is an important document during the investigation process; 13% of the reviewed files did not contain the charge sheets; and the remaining 39% had no Police Case File (PCF).

Absence of these documents resulted into State Attorneys attending Courts proceedings without the police case files, therefore failing to state/update the court on the investigation progress during the Court proceedings. This has led to frequent adjournment of the cases hence contributing to case backlog. For non-bailable offenses, the accused persons are normally remanded for a long time until an investigation is complete, and the case was heard and finally determined by the court.

Absence of Stipulated Prosecution Timeframe

The Audit noted that, NPS has not set a time frame for prosecuting criminal cases. Review of actual prosecution files revealed that, prosecutions had to encounter several adjournments. For example, the highest case adjournment frequency for High Courts was 39 times at Dar es salaam HC, while for Resident Magistrate Court was 101 times at Dodoma RM, and for District Court was 67 times at Ilala District Court. In some instances, the judiciary decided to discharge the accused person either because the case had been adjourned beyond the described time limit² or when DPP had no interest to continue with the matter³. However, concerning the discharge

² under Section 225

³ DPP entered *nolle prosequi* under Section 91 of CPA

of the accused person, the Audit noted that the powers of RMs and District Court were only limited to cases of committal proceeding to which adjournment beyond 60 days did not result into discharge of the accused person.

Inadequate Human Resources Available

The NPS has 661 staff instead of the analysed demand of 5890. This deficiency is equivalent to 5229 State Attorneys. The Audit Team acknowledge the existence of insufficient number of State Attorneys compared to the number of cases handled yearly. Notwithstanding, NPS did not establish required standards, in some of the High Court and Courts of Resident Magistrate where the workload was relatively high. For example, in the High Court of Tanzania at Mbeya, one prosecutor was supposed to handle an average of 289 criminal cases per year, while at the Court of Resident Magistrate Court of Arusha, one prosecutor was required to handle an average of 325 criminal cases per year. These averages are not effective in the effort to minimize the prolonged investigation process and reduce the problem of delayed justice delivery.

The deficit of Prosecutors for each level of Court suggested that it was difficult to attain the ratio of one Judge or Magistrate per Prosecutor. It was also noted that some Courts lacked State Attorneys hence prosecutions were conducted by Police Prosecutors. Mwanza and Mbeya High Courts had deficits of 13 and 12 Prosecutors to make the balanced ratio of Prosecutor per Judge or Magistrate respectively.

Audit Findings related to the Performance of the Tanzania Police Force Unable to abide with the Time set for Criminal Investigation

The Audit noted that the time set for investigation of an offense was not specific (each stage of crime investigation from the beginning of the investigation to its finalization stage).

In addition to that, the Audit revealed that to abide by the time set depend on the nature of crime and investigation to be conducted. Some crimes such as homicides and economic crimes involved expertise for further examination and analysis which mostly led to exceeding the time set for investigation. From the interviews held with the Investigators, it was explained that reasons for failure to abide by the time set for investigations

include delays from experts' examination and geographical location of crime scene.

Inadequate Capacity to conduct Criminal Investigation

The Audit noted that all criminal investigators would first attend the basic investigation training at Police Staff College in Kidatu as a prerequisite requirement for them to become criminal investigation police. The Audit noted that the number of criminal investigators who attended subsequent training and specialized training to intensify their investigation capacity was low. In some regions like Dodoma about 80% of investigators did not attend the trainings. Dodoma Region on average sent only 10 investigation police each year for trainings, while Dar es Salaam send an average of 84 criminal investigators each year.

It was further noted that, the Criminal Investigation Department (CID) had not conducted a training needs assessment, to ensure that the knowledge gap was known, and all the training and other skills development programmes are implemented. Lack of documented skill gap assessment had to large extent affected the department in planning, budgeting, and setting training priorities each year.

Audit Findings related to the Performance of the Ministry of Constitution and Legal Affairs

Inadequate Monitoring and Evaluation Activity

It was noted that the function of monitoring justice delivery organs was inadequately conducted. The Audit noted that the Ministry of Constitutional and Legal Affairs prepares the implementation reports for different conducted activities. However, upon review of the performance reports, the report lacked the content or assessment that shows how the established Key Performance Indicators (KPI) were attained, or if the established target was reached and what were the challenges and opportunities faced.

The Audit noted that, the Ministry lacked plans, a clear method or framework for conducting the monitoring and evaluation of its undertakings. Due to absence of monitoring plan, there was no assurance of following up the progress and performance on a regular basis to allow for real-time, or an evidence-based decision-making.

The Audit observed that there has been no prioritization of the monitoring function to justice administration. The Ministry's budget has not been fully implemented, the budget of disbursed funds varied from 51% to 87%. Consequently, the Ministry of Constitutional and Legal Affairs could not effectively track, analyses, and report on the progress and situation of the justice system in the country. These noted shortcomings limited provision of proper actions, establishing interventions and strategies for improving the existing challenges.

Inadequate Efforts taken to assist the Judiciary of Tanzania and the NPS in improving Efficiency in Cases Administration

The Audit noted that, MoCLA conducted meetings between the Ministry and other justice stakeholders aimed at collecting opinions and challenges regarding the criminal justice system in the country. Further, the Audit noted that the planning for activities such as the identification of stakeholders, frequency of the meetings, intended goals and targets was unclear. The three meetings were conducted by MoCLA. Further, Audit review of implementation report noted that there was a single judicial activity conducted in Tanga from 21 to 24 October, 2020.

The inadequate human resources in the Ministry limited efforts to assist Judiciary of Tanzania and the NPS in improving efficiency in case administration. The Division of Constitution and Justice Monitoring (DCJM) has only three staff equivalents to 21% of the required fourteen staff as per MoCLA organisation Structure. Consequently, the Ministry could not effectively measure and ensure the improvement level of criminal justice system and assess the level of implementation of recommendations from the identified challenges.

Inadequate Coordination of Stakeholders caused by non-completion and non-integration of the Justice Sector Information Dashboard

The Audit noted that the Ministry developed Justice Sector Information Dashboard for data management among all criminal justices stakeholders. The MoCLA, aimed to have the Justice Sector Information Dashboard with the focus of coordinating justice system delivery organs to expedite and improve quality of delivery, provide coordinated and systematic flow of criminal justice by 2020. The MoCLA revealed that the Justice Sector Information Dashboard was not fully operating as expected and that,

different stakeholders were not integrated nor coordinated to achieve the common goal of timely criminal justice delivery.

The Audit noted that the non-integration and inadequate coordination through the Justice Sector Information Dashboard was caused by non-completion of a Unified Information Guideline which in turn resulted in MoCLA's failure to coordinate the activities of criminal justice stakeholders.

Overall Audit Conclusion

Justice delayed, is justice denied, this phrase has been clearly proven in this Audit. The Audit revealed that to a large extent the administration of criminal justice in the country was inadequately coordinated, with key stakeholders such as, Judiciary, Police, and NPS, having no common commitment and investment in ensuring adequate control on delay of disposal of criminal cases in the justice system delivery.

The audit concludes that, the Judiciary and the Ministry of Constitution and Legal Affairs had not adequately managed to resolve the problem of delays in dealing with criminal cases in the justice system. The audit acknowledges the effort made by the Judiciary in improving different processes such as the introduction of the JSDS 2.0 to assist and enhance efficiency of the Judiciary undertakings. However, the audit showed this system was not fully used as intended, the uploaded data in the system did not meet the required quality, and staff lacked requisite technical skills among the court clerk and other court officials. The system was also undependable due to a poor performance of networks and lack of required technical and infrastructure requirements to smoothly run JSDS 2.0, whenever there is a network outage.

The existing processes and procedures for case management at the Judiciary were not effectively implemented to allow for reduction of waiting time of cases. Controls over key case processes such as case submission, case filing, admission, conducting of inspection, and case assignment do not promote timely and expeditiously criminal justice delivery. As a result, the target set for Judges and Magistrates in the visited zones was not attainable and the administration of criminal sessions proved to be ineffective. These weaknesses had occasioned to accused persons overstay in prison and

prolonged waiting for conclusion of criminal trials with the resultant costs being shouldered by the Government.

Meanwhile, the prosecution procedures by the National Prosecutions Services (NPS) were not properly aligned with other actors to minimise the delay of cases in the criminal justice system. This had, to large extent affected the common goals of reducing the waiting time of disposition of criminal cases. In addition, the Police Force (Criminal Investigation) lacked adequate capacity to perform its role in support of timely criminal justice delivery.

Audit Recommendations

Recommendations to the Ministry of Constitution and Legal Affairs

The Ministry should;

1. Improve its planning system by ensuring that a well-defined monitoring plan is developed that will help in providing an assurance of following up the progress and performance on a regular basis to allow for real-time, or an evidence-based decision-making;
2. Develop a follow-up system for tracking the recommendations of identified challenges raised during the mission meetings done as part of ministerial effort to assist the Judiciary of Tanzania, NPS and other stakeholders in improving efficiency in cases administration; and
3. Accelerate the completion of the online integrated data management system for the criminal justice system (e-justice).

Recommendations to the Judiciary of Tanzania

The judiciary should;

1. Re-evaluate methods for distribution of workload and setting a case completion target for Judges and Magistrates and ensure that the performance of Judges and Magistrates are assessed based on the type of cases handled by each magistrate ie civil or criminal matter; Undertake to review procedural and statutory requirement for scheduling and conducting of criminal sessions and develop a more viable criminal session scheduling procedure;

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2. Undertake to review the viability of statutory requirement of committal proceedings in subordinate courts; and
 3. Establish the internal control to ensure that the data entry and data uploaded in the JSDS 2.0 system meets the required quality.

Recommendations to the National Prosecutions Service

The National Prosecutions Service should;

1. Develop a file monitoring system and documentation system to ensure that all files meet the required standard with all the key attachment such as the investigation diaries, charge sheets and police case files;
2. Establish a control mechanism to ensure that all State Attorneys are well prepared and informed on the specific cases before entering appearance to the court. This action will reduce the frequency of unnecessary adjournment of cases;
3. Improve present system of documentation of prosecution case files and system of obtaining statistical information within the NPS;
4. Develop guidelines, procedures or any other enforceable instrument to oversee governing of NPS in setting annual target of case dispositions per State Attorney; and
5. Conduct a training needs assessment to establish the skill gap at NPS that would help in planning, budgeting, and setting training priorities each year.

Recommendations to the Tanzania Police Force (Criminal Investigation)

The Tanzania Police Force should;

1. Conduct training needs assessment for the investigators, to ensure that the knowledge gap is known, and all the training and other skills development programmes are implemented.
2. Ensure the allocation of personnel is based on the workload, crime rate, and population size to minimize the delay of investigation activities.
3. Conduct an intensive awareness programme to rural communities and urban centres on basic procedures of dealing and reporting crime in their areas.

CHAPTER ONE

INTRODUCTION

1.1 Background of the Audit

Being a member of the United Nations, Tanzania is obligated to abide with the Sustainable Development Goals (SDG). The third target of SDG 16 speaks of promotion of rule of law at the national and international levels and ensuring equal access to justice for all. Delays in processing legal cases impede individual economic activities. Therefore, if the justice is delayed it means that conflicts remain unresolved, and people cannot obtain protection and redress on time, contrary to the SDG goal.

As a former British colony, Tanzania adopted a common law legal system whereby the Judiciary is the body entrusted with the legal mandate to interpret laws of the land. The executive undertakes to enforce the laws enacted by the people themselves through the Parliament.

Like any sovereign and democratic state, Tanzania strives to ensure observance of rule of law in maintaining peace and order within its borders. The administration of justice in the country is a collective role of different bodies including the Judiciary, Police, Prosecution, Prison as well as the Parole Boards.

Ideally, the Judiciary is required to deliver justice without delay to all persons irrespective of status, and without undue regard to procedural technicalities. However, today delay in the disposal of cases is one of the greatest challenges facing the Judiciary all over the world. Delay in justice delivery refers to the time consumed in the disposal of cases, in excess of the ideal time frame within which a case can be reasonably expected to be decided by the Court.

1.2 Motivation for the Audit

a) Delayed Justice Delivery

Based on the speech given by Her Excellence Hon. Samia Suluhu Hassan the President of United Republic of Tanzania on 21st May 2021 during the

swearing in ceremony of new Judges, it was noted that there is a problem of delay in disposition of both criminal and civil cases. Problems in criminal cases start from investigation of a suspect to the conviction or acquittal of the accused person.

Accused, victims, witnesses and other interested people suffer due to unnecessary and improper chronic delays in disposing criminal cases. Most delays are caused by prolonged investigation and legal technicalities involved in trial process, consequently, causing a backlog of cases.

b) Government incurring high cost to maintain Remanded Persons

This Audit was also motivated by the existence of a high number of remandees in prisons awaiting trials and judgments. According to the statistics presented in the Parliament on 11th April 2021, there were 16836 prisoners and 16703 remandees all over the country. Prisons spend about TZS 900 million per month to feed all inmates including both remandees and prisoners. This is attributed to a backlog of cases of the remanded inmates. Hence, this is unnecessary loss of taxpayers' money. There is also an opportunity loss of income tax that could have been generated through the remanded inmates had they been free and working in the community to generate income.

c) Presence of Delayed Investigation Process

According to the Criminal Procedure Act, [Cap 20 R.E 2019] of the laws of Tanzania, the obligation of conducting case investigation is vested to the Police Force. The National Prosecution Service Act, 2008 vests the duty to coordinate criminal investigation with the National Prosecution Service under the DPP. However, there have been public complaints on the delay of investigation, contributing to the backlog of cases in the courts.

Article 13 (6) (b) of the Constitution of the United Republic of Tanzania of 1977, stipulates that a criminal trial runs on the presumption that the accused person is innocent until the contrary is proved. For non-bailable offenses a person is being remanded waiting for the court procedures which depend on the completion of an investigation. The delayed investigation process contributes to the delay of disposal of cases in courts and delay of justice to many. Hence, the Chief Justice of Tanzania is in record too to

have is in record insisted on timely delivery of Justice; by fast tracking committal proceedings and plea taking during the case management meetings involving all criminal justice stakeholders.

1.3 Design of the Audit

1.3.1 Audit Objective

The Audit objective is to determine whether the Judiciary and Ministry of Constitutional and Legal Affairs have adequately managed to control the delays in dealing with criminal cases in the justice system.

1.3.2 Specific Objectives

Specifically, objectives of the Audit were:-

- a) To assess the existing processes and procedures for Criminal case management at the Judiciary and see if they allow for reduction of waiting time of cases;
- b) To analyse the prosecution procedures of the National Prosecutions Service (NPS) in order to see if they are properly aligned with other actors so as to minimise the delay of criminal cases in the justice system;
- c) To assess whether the Police Force has the capacity to perform its role in support of timely criminal justice delivery; and
- d) To appraise if MoCLA adequately monitors and evaluates the performance of justice system to ensure that there is effective control of processing time for case hearing.

The Audit questions and sub-questions used to answer the Audit objectives are presented in **Appendix 2** of this report.

1.4 Assessment Criteria

To assess the performance of the criminal justice system in Tanzania, assessment criteria were based on the Constitution, legislations, standards, strategic plans, and good practices, as presented below;

a) Process and Procedure for Case Management

The Constitution of the United Republic of Tanzania of 1977 (as amended) contains a strong foundation for the criminal justice system. The Judiciary of Tanzania has set a benchmark to identify the delayed cases (backlog of cases) as presented in Table 1.1.

Table 1.1: Targeted time (duration) for disposition of cases by Judiciary of Tanzania

Court Level	MAXIMUM DURATION FOR DISPOSITION OF A CASE
Court of Appeal	24 months
High Court	24 months
Resident Magistrate Court	12 months
District Court	12 months
Primary Court	6 months

Source: Judiciary Functions Strategic Plan 2015/16 to 2020/21

b) Assignment of Prosecution Process and Procedure with other Actors

According to the NPS strategic plan 2020, National Prosecutions Service was expected to have a system/mechanism to effectively manage the prosecution procedures. This was through working with other stakeholders and prosecuting without fear, favours, or prejudice with a view of ensuring the prevalence of justice, peace, and security in the society. Further, NPS was expected to establish interagency communication and partnerships with investigative agencies, judiciary, prisons, and other stakeholders.

c) Capacity to perform Criminal Investigation

According to ISO 9001:2015 Clause 7.1 on Resources Management, the ISO requires having sufficient resources to create quality services. This included conducting of a timely investigation to support the prosecution of the cases. This was through ensuring that the Criminal Investigation

Department has adequate resources such as; infrastructure (vehicles), finance, personnel, and required technology (eg.IT), to facilitate implementation of the activities.

d) Monitoring and Evaluation of the Performance of Justice Systems

Audit Criteria: The Ministry of Constitution and Legal Affairs was expected to monitor and compliment the performance of the Judiciary to ensure that justice system was effectively managed to support timely delivery of justice.

According to the Ministry's strategic plan of 2016-2021; the Ministry had an objective of enhancement of national, regional, international cooperation and collaboration on criminal matters. This was through strengthened communication and collaboration with stakeholders; and enhance partnership with national, regional, and international stakeholders.

Audit Scope

The main Audited entities were the Ministry of Constitutional and Legal Affairs (MoCLA), the Judiciary of Tanzania, The National Prosecution Service and Tanzania Police Force. The Ministry was regarded as the overseer of the justice delivery in the country, hence vested with the obligation of monitoring, evaluating, and coordinating the entities underneath. The Ministry is also responsible in ensuring effective implementation of policies on legal affairs and the justice system in Tanzania.

The Audit focused on the activities undertaken by the Judiciary of Tanzania (except for Primary courts); the National Prosecutions Service (NPS) and the Police Force through its Criminal Investigation Department (CID) which is responsible for conducting a criminal investigation on the filed cases.

The Audit covered six financial years (2015/16 to 2020/21). This period was selected to enable the audit to have an insight on-trend and analysis of the criminal sessions in High Court and management of criminal cases for subordinate courts over the years in order to draw the right conclusions on the findings⁴.

⁴ Crimiminal Sessions are Criminal trial meetings held in the High Courts

Data for the Courts was pulled from the JSDS 2.0. The Audit physically visited five judicial zones and seven sampled regions namely Mwanza, Geita, Arusha, Manyara, Dar-Es-salam, Mbeya and Dodoma. The Courts visited were the High Courts, Courts of Resident Magistrate, and District Courts. The audit visited National Prosecutions Services (NPS) and the Police Force (DCI-department).

1.5 Sampling Techniques, Methods for Data Collection, and Analysis

1.5.1 Sampling Techniques Used

The Audit used a combination of three sampling methods; these included stratified, purposeful and random samplings. A combination of these three methods was used to ensure that the required data were effectively collected.

All 27 regions in Tanzania mainland were grouped in strata representing seven geographical zones in the country namely, Lake Zone, Southern Zone, Northern Zone, Eastern Zone, Southern Highland Zone, and Central Zone.

To select courts to visit, the team listed down the existing judicial zones. Then the selection was done by consideration of the following criteria:

- i) Regions with High Courts that serve more than one region;
- ii) Regions with the Highest number of filed cases per year; and
- iii) Regions with no High courts.

The audit sampled five Judicial Zones to be visited which were: Mwanza, Mbeya, Dar-es-salaam, Arusha, and Dodoma.

The Audit also visited the offices of National Prosecutions Service (NPS) from each selected zone to be visited. Selected regions in the zones and the Court levels visited are as indicated in **Table 1.2** below:

Table 1.2: Selected Regions to be visited

Judicial Zone	Region to be visited	Level of Court to be visited
Dar-Es-Salaam	Dar-Es-Salaam	<ul style="list-style-type: none"> • Dar-Es-Salaam High Court • Kisutu Resident Magistrate Court • Ilala District Court
Mwanza	Mwanza	• Mwanza High Court
	Geita	<ul style="list-style-type: none"> • Geita Resident Magistrate Court • Sengerema District Court
Mbeya	Mbeya	<ul style="list-style-type: none"> • Mbeya High Court • Mbeya Resident Magistrate Court • Mbeya District Court
Arusha	Arusha	<ul style="list-style-type: none"> • Arusha High Court • Arusha Resident Magistrate Court • Babati District Court
Dodoma	Dodoma	<ul style="list-style-type: none"> • Dodoma High Court • Dodoma Resident Magistrate Court • Dodoma District Court

Source: Auditors' Analysis' based on the JSSDS 2.0 Judicial System

A total of 1,344 criminal cases were sampled for review. The audit considered the selection of cases that were categorized as backlog (delayed) from the JSDS 2.0

The sample size was calculated using the following sampling formula and presented in Table 1.3 below for each visited Court:

$$n = \frac{N}{1 + N * (e)^2}$$

where N = Number of Population (Backlog criminal cases); e = Precision level, 5%; and n = Number of sample size.

Table 1.3: Number of Sample Size for each of the Visited Courts

Visited Court	No. of Population (N)	No. of Sample Size (n) ⁵
Dar Es Salaam HC	2622	104
Dodoma HC	1650	96
Mwanza HC	2325	102
Mbeya HC	1512	94
Arusha HC	1184	88
Kisumu RMC	1765	97
Arusha RMC	1797	98
Geita RMC	1352	92
Mbeya RMC	1122	87
Dodoma RMC	778	79
Ilala DC	2878	105
Babati DC	942	82
Dodoma DC	921	82
Mbeya DC	347	58
Sengerema DC	878	80
Total		1344

Source: Auditors' Analysis based on list of court by the Judiciary of Tanzania, 2021

1.5.2 Methods for Data Collection

The Audit gathered audit evidence by using different methods namely, *documentary review* and *interviews* as explained here under:

i) Documents Review

Different documents and case files were reviewed in order to obtain information about timeliness of justice delivery. Some of the documents that were reviewed and the reasons for the reviews are explained in **Appendix 5** of this report.

ii) Interviews

Interviews were conducted to obtain more information and clarification on the information obtained through reviewed documents. The officials interviewed included; officials from Institutions such as the Ministry of Constitution and Legal Affairs, the Tanzania Police Force, National

⁵ For large number of sample size, 30% of the sample size was taken as Optimum Sample size.

Prosecutions Service, and the Judiciary. A list of persons met and interviewed is given as **Appendix 3**.

1.5.3 Data Analysis

Various methods were employed in analysing data depending on the nature of data and available evidence as explained here under;

Quantitative data was organized, summarised, and compiled using software for data analysis such as excel spread sheets. The analysed data was presented in different ways such as tables, graphs, charts, and percentage distribution.

Qualitative data were described, compared, and related so that they can be extracted and explained as findings. The analysis involved searching for categories such as events, descriptions, consistencies, or differences to develop theory from the gathered data.

1.6 Data Validation Process

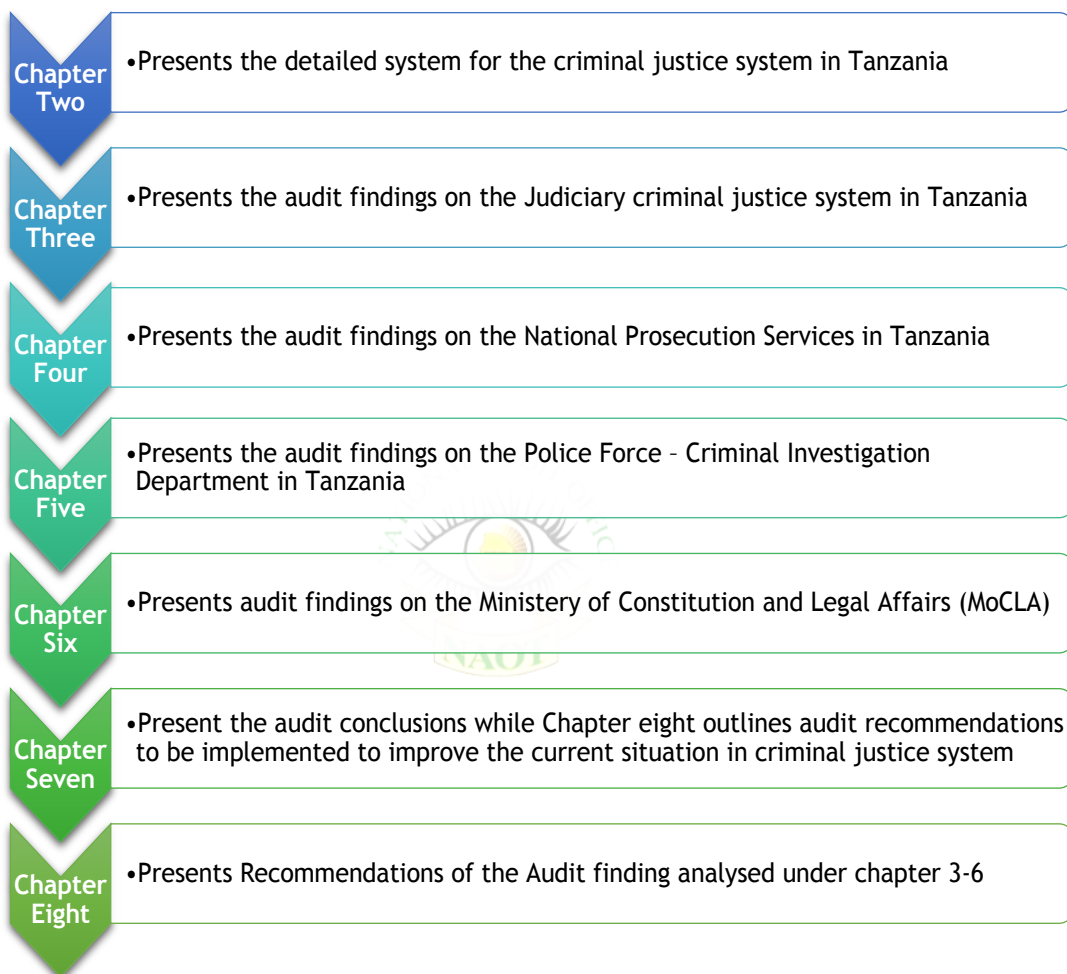
The management of the Judiciary of Tanzania, NPS, the Tanzania Police Force and MoCLA were given an opportunity to go through the draft audit report. Management confirmed the accuracy of the information presented in this report.

1.7 Standards Used for the Audit

The Audit was done in accordance with the International Standards for Supreme Audit Institutions (ISSAIs) on performance audit issued by the International Organization of Supreme Audit Institutions (INTOSAI). These standards require that the audit is planned and performed in order to obtain sufficient and appropriate evidence to provide a reasonable basis for the audit findings and conclusions based on the audit objectives.

1.8 Structure of the Report

The remaining chapters of this report were covered as presented in the chart below:



CHAPTER TWO

THE CRIMINAL JUSTICE SYSTEM IN TANZANIA

2.1 Introduction

This chapter describes the system involved in criminal justice in Tanzania. The chapter highlights the legal framework, governing policies, the processes involved, resources, and the responsibilities of key players in the criminal justice system.

2.2 Governing Policies and Legislation

The criminal justice system is mainly guided by the following legislation:

2.1.1 *Governing Legislation*

i) **The Constitution of the United Republic of Tanzania**

The Constitution of the United Republic of Tanzania of 1977 Cap 2 contains a strong foundation for the criminal justice system. Chapter Five of the Constitution establishes the Judiciary as an authority to adjudicate criminal cases and sets forth the provision of legal aid in criminal cases. The Constitution also prescribes the rights to presumption of innocence and fair trial.

ii) **Penal Code, Cap. 16 [R.E 2019]**

The Penal Code [Cap 16 R.E 2019], is the criminal law applicable only in mainland Tanzania. The Act identifies crimes and their punishment. The Penal Code provides general rules as to criminal responsibility. Also, it provides for liabilities attached to the offenses described by the Act.

iii) **Criminal Procedure Act, Cap. 20 [R.E 2019]**

The Criminal Procedure Act provides the procedures to be followed from the investigation of crimes to the conducting of criminal trials. The Act further discusses the roles, responsibilities, and powers of the key criminal

justice system actors i.e., Police, Judiciary, and the Prosecution. It fixes the time frames for the police to conduct investigations and how the set time frames can be extended.

iv) The Judiciary Administration (General) Regulations, 2021

The Judicial Administration (General) Regulations, 2021 is applied to the Judicial Service Commission and all employees in the service. It provides regulations for performance appraisals; code of conduct and ethics; and all general administrative provisions of the Judiciary.

v) Judiciary Administration Act, No. 4 of 2011 [Cap 237]

This Act provides for the administration of the Judiciary, the establishment of the Judiciary Service and establishment of the Judiciary Fund. The Act also establishes the office and functions of Court Administrator and the Chief Registrar.

vi) The National Prosecutions Service Act, [Cap. 430 R.E 2019]

The National Prosecutions Service Act consists of provisions for establishment of the National Prosecutions Service (NPS). It also provides for the organisations' management, monitoring, and supervision of prosecution. It further entails on the coordination of investigation with a view to promoting and enhancing dispensation of criminal justice.

vii) Police Force and Auxiliary Services Act, [Cap. 322 R.E 2002]

The Act provides for the powers and duties of the Police Force in the country. Among many other obligations and powers, the Police Force has an obligation of investigating crimes before prosecuting the offenders. The Criminal Investigation Department is required to investigate alleged matters to support the prosecution of the cases.

2.1.2 Strategies and Plans Guiding the Criminal Justice System

There are several strategies and plans that have been developed by the Judiciary of Tanzania to guide criminal justice in Tanzania. These strategies and plans include:

(i) The Second Five Year Development Plan (FYDP II), 2016/17 - 2020/21

The FYDP II has set reforms to facilitate government effectiveness by promoting effective rule of law through assurance of equal access to timely justice for all people. To achieve this the FYDP II has set measures to be taken such as improving the capacity and efficiency of institutions delivering justice through investing in human resource development and streamlining processes and procedures. It has also set measures in improving efficiency of adjudication of cases, court infrastructure, strengthening monitoring and evaluation of the judiciary etc. The plan has been translated and incorporated in the justice system institutions for better and efficient implementation.

(ii) Judiciary Strategic Plan 2020/21 - 2024/25

This is the second successive Strategic Plan since the Judiciary embarked on the reforms aimed at improving justice service delivery in 2010. It is built on the achievements and challenges recorded during the implementation of its predecessor, the 2015/16- 2019/20 Strategic Plan.

It also considers, the role played by stakeholders in justice service delivery in Tanzania. Furthermore, it explores new strategic areas that will stimulate improvements in justice services delivery in a bid to earn public trust and client expectations.

(iii) Judiciary Strategies on dealing with Delay of cases

The Judiciary of Tanzania had created a strategy on how to deal with filed cases. The case backlog was defined as a pending case before the Court for a longer period than the one prescribed in the directives for performance

improvement. The timeframes set for a case to be categorised as a backlog is as described in **Table 1.1** in Chapter One.

2.3 Roles and Responsibilities of Actors in Criminal Justice System

During this audit, four actors involved in the criminal justice system were reviewed. These actors included; the Ministry of Constitution and Legal Affairs (MoCLA), the Judiciary of Tanzania, the National Prosecutions Service (NPS), and the Police Force - Directorate of Criminal Investigation. The actors bear different functions in coordinating and facilitating the criminal justice system. Details on roles and responsibilities of each are as described here under:

2.3.1 The Ministry of Constitution and Legal Affairs (MoCLA)

The Ministry of Constitution and Legal Affairs (MoCLA) is an overseer of the legal system in the country. It is vested with the obligation of overseeing the functions of the justice systems. Specifically, the Ministry is responsible for overseeing the Judiciary of Tanzania and the National Prosecutions Service. It is also responsible for providing strategic policy guidance on Constitutional matters and legal affairs, linking the legal sector with other ministries and stakeholders.

In implementing this function, the Ministry aimed at attaining Efficient and Effective Constitutional and Legal Systems.

Furthermore, the Ministry has the obligation of monitoring the performance of the Judiciary to ensure that the justice system is effectively managed to support timely delivery of justice.

2.3.2 The Judiciary of Tanzania

The Judiciary of Tanzania operates under the Judiciary Administration Act No.4 of 2011, which guides the administration of judiciary and establishes the offices of Chief Court Administrator (CCA) who is the head of general administration and the Accounting Officer, and Chief Registrar who is responsible for the effective performance of the judicial functions.

The Judiciary consists of four tiers: the Court of Appeal, the High Court, Magistrates Courts (Resident Magistrates Courts and District Courts), and Primary Courts.

The head of the Judiciary is the Chief Justice (CJ). The day-to-day management of the Judiciary is vested with the Registrar of the Court of Appeal of Tanzania.

The Judiciary tier levels are further explained and elaborated below;

a) The Court of Appeal

The Court of Appeal of the United Republic of Tanzania was established by Article 117(1) of the Constitution of the United Republic of Tanzania of 1977. It is the highest Court in the Judiciary. It consists of the Chief Justice and other Justices of Appeal. The Court of Appeal of Tanzania is the Court of final appeal at the apex of the Judiciary in Tanzania. It has jurisdiction to hear appeals and revisions from the High Courts of the United Republic of Tanzania, the High Court of Zanzibar, and some specialized Tribunals like Tax Tribunals. Appeals are heard by three Judges sitting together as the bench of the Court of Appeal.

b) The High Court

The High Court of Tanzania is established under Article 108(1) of the Constitution of the United Republic of Tanzania, 1977. It has full and unlimited jurisdiction over all civil and criminal matters and is vested with the appellate power in regard to determining matters submitted to it from Subordinate Courts, (i.e., appeals from the Resident Magistrate Court or the District Court). A civil or criminal appeal to the High Court can be based on points of law, fact or both.

The High Court comprises of 16 zones. Each zonal High Court is staffed by Judges. The High Court also has four specialised divisions namely:

- *High Court Commercial Division;*
- *High Court Corruption and Economic Crimes Division;*
- *High Court Land Division; and*
- *High Court Labour Division.*

c) The Resident Magistrates' and District Courts

The Resident Magistrates' Courts and the District Courts have concurrent jurisdiction in most of the criminal matters. The Resident Magistrate Court is established by an order of the Chief Justice under Section 5 (1) of the Magistrates' Courts Act [Cap. 11 R.E 2019]. It exercises jurisdiction over the area specified by the Order establishing it. It has original jurisdiction in both civil and criminal matters. Currently, there are 29 Courts of Resident Magistrate. The Resident Magistrates' Courts are located in major towns, municipalities, and cities, which serve as the regional headquarters.

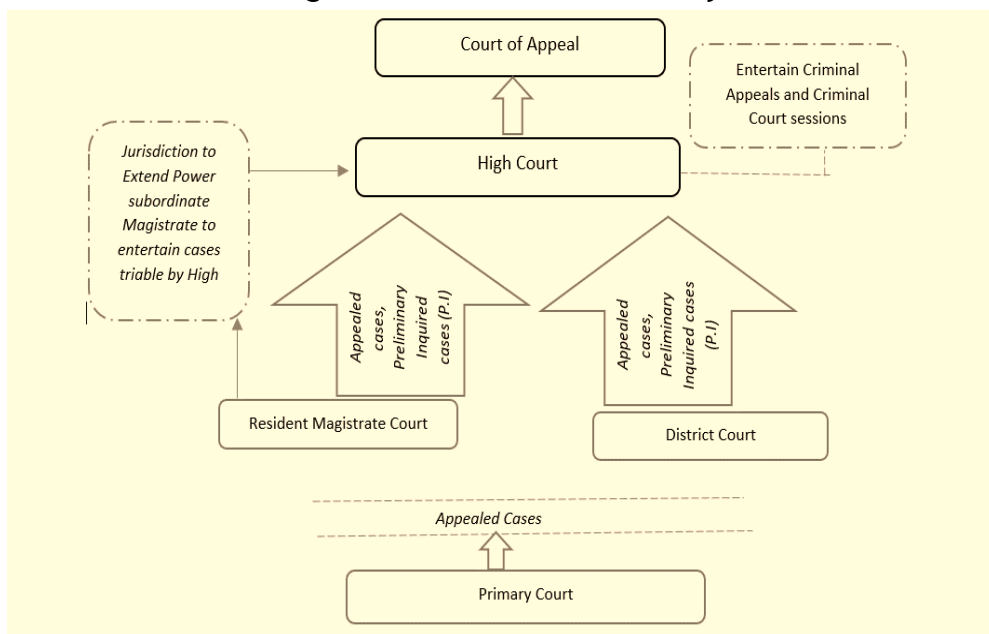
District Courts are established under Section 4(1) of the Magistrates' Courts Act, [Cap. 11 R.E 2019]. They exercise jurisdiction within the districts of their establishment or as may be extended by the Chief Justice. In addition to their original jurisdiction, they have both appellate and revision jurisdiction over the Primary Court. Currently, there are 117 District Courts.

d) The Primary Courts

This is the lowest Court in Tanzania's judicial hierarchy and the court where most average citizens are more likely to come into contact for the first time. The Primary Courts are the lowest in the hierarchy. They have jurisdiction in respect of both civil and criminal cases. State Attorneys and Advocates were not allowed to appear in the primary courts prior to 2021.

It, therefore, plays a crucial role in providing access to justice. Primary Courts are established within each district under section 3(1) of the Magistrates' Courts Act, [Cap. 11 R.E 2019]. They exercise jurisdiction within the districts of their establishment. Appeals and revisions from the primary courts go to the District Courts as it can be seen from Figure 2.1 below.

Figure 2.1: The Court Hierarchy



Source: *Constitution of United Republic of Tanzania, 1977*

2.3.3 The National Prosecutions Service (NPS)

The National Prosecutions Service was established as an independent and autonomous public office under National Prosecutions Services (Establishment) Order, 2018. The office is headed by the Director of Public Prosecutions (DPP) who plays a vital role in the administration of criminal justice.

According to Article 59B of the Constitution of the United Republic of Tanzania of 1977 (As amended from time to time), the DPP is the sole authority vested with powers and responsibilities to exercise control over the prosecution of all criminal matters in all Courts except for Court-Martial.

In this regard, the DPP has powers to institute, prosecute and supervise all criminal prosecutions in the country.

2.3.4 The Tanzania Police Force (Criminal Investigation Department (CID))

The Police Force in Tanzania is under the Ministry of Home Affairs and is led by the Inspector General of Police. The responsibilities of the Tanzania Police Force are given under Section 5 of the Police Force and Auxiliary Services Act [Cap. 322 R.E 2002]. These responsibilities include peacekeeping, protecting civilians and their property, detecting crime before being committed, arresting criminals, and bringing them to Court, and overseeing the implementation of laws and regulations of the country.

Through the Directorate of the Criminal Investigation, the Police Force is responsible for ensuring that all cases brought forward are thoroughly investigated with enough evidence before being filed to the relevant Court.

The Police Force also has an obligation of coordinating with other law enforcement and investigating institutions such as the Preventing and Combatting of Corruption Bureau (PCCB), Department of Immigration, Drug Control and Enforcement Authority amongst others.

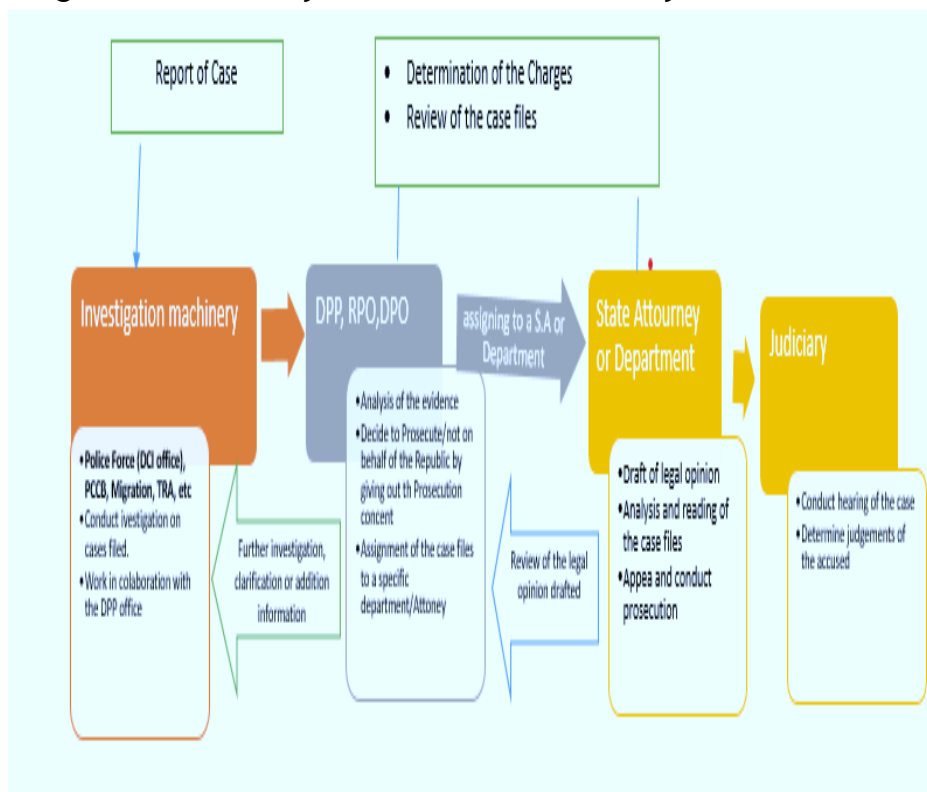
2.4 Criminal Justice in Tanzania

The entire criminal justice system is taken as a field of reference. The process is initiated when a person reports a crime or comes into conflict with the law, arrest, investigation, prosecution, criminal trial, sentencing, and punishment.

This encompasses three main phases: the enforcement (police), adjudication (Courts - which include magistrates/ judges, prosecutors, lawyers), and corrections (prisons, probation officers, and parole officers).

There are also instances where investigation bodies such as PCCB, TCRA, and others are involved in investigating specific cases which involve their core businesses. **Figure 2.2** below shows the summary of the relationship of key stakeholders in the management of the criminal justice system in Tanzania.

Figure 2.2: Summary of the Criminal Justice System in Tanzania



Source: Analysis of the Roles and Functions of Criminal Justice Sector

KEY: RPO - Regional Prosecution Officer, DPP - Director of Public Prosecution, SA -State Attorney

2.5 Human Resource and Financial Arrangement for the Criminal Justice System in Tanzania

2.5.1 Funding of Activities at the Ministry of Constitution and Legal Affairs

The Constitution and Justice Monitoring Division at the Ministry is responsible for overseeing Constitution implementation, justice monitoring, and human rights. **Table 2.1** hereunder shows the allocated budget for the division in five financial audited years.

Table 2.1: Budget for Monitoring the Justice delivery System

Financial Year	Approved Estimates (TZS in Millions)	Actual Release (TZS in Millions)	Percentage Released (%age)
2016/17	155.19	80.50	52
2017/18	166.48	146.15	88
2018/19	190.49	111.64	59
2019/20	181.33	130.93	72
2020/21	231.69	-	-

Source: Medium Expenditure Framework (MTEF) of the Ministry of Constitution and Legal Affairs

Table 2.1 shows that the percentage of a budget released versus the approved estimated budget was ranging from 48% to 12%.

2.5.2 Funding of activities at the Judiciary of Tanzania

The activities of the Judiciary of Tanzania are financed mainly by recurrent and development grants from the Treasury. The budgeted and actual released funds are as indicated in Table 2.2 below;

Table 2.2: Budgeted and Actual Released Funds (Billion TZs)⁶

Financial Year	Approved Estimates (TZS in Millions)	Actual Release (TZS in Millions)	Percentage Release (%age)
2016/17	-	-	-
2017/18	168,169,113,318.70	125,172,349,759.65	74
2018/19	147,545,855,160.72	130,844,705,636.76	89
2019/20	207,264,395,504.36	145,305,246,544.02	70

Source: Management Letter on the Financial Statements and Compliance Audit of Judiciary of Tanzania -Vote 40 for the Financial Year Ended 30th June, 2020

Table 2.2; shows the estimated budget against the actual released budget to support judiciary activities.

⁶ Recurrent and Development Grants

Division of Case Management

The disposal of criminal cases in the courts judicial system is managed under the Directorate of Case Management. Among its core functions include developing processes and systems to accelerate case disposition.

In implementing this objective, the Judiciary is equipped with human resources as indicated in table 2.3 below. The table shows the number of judicial and non-judicial officers operating in the judicial system.

Table 2.3: Number of Human Resources in the Judiciary of Tanzania

Cadre	Number of officials
Judges	100
Magistrates	1425
Court Administrators	50
Court Clerks	4510

Source: Judicial Staffing level, 2021

On the initiatives of reducing backlog of cases in the judicial system, the Judiciary obtained a total of TZS. **8,509,463,204.29/-** from the World Bank. The fund was meant to facilitate the reduction of the number of delayed cases in the judicial system. **Table 2.4** indicates the actuals received from the said fund in the audited years.

Table 2.4: Funds from the World Bank for Case Backlog Clearing

Financial Year	Actual Fund Release (Billion TZS)
2016/17	2,813,367,632.70
2017/18	4,472,004,133.59
2018/19	1,224,091,438.00

Source: Judiciary-Case Management Directory

Table 2.4, shows that, a total of **TZS 8,509,463,204.29/-** was released to the Judiciary by the World Bank as an initiative of backlog reduction in the justice system. The funds were released in three years between 2016/17-2018/19.

2.5.3 Resources for Police - Criminal Investigation Department

a) Human Resources - Criminal Investigators

The investigation function under the police force is managed by the Criminal Investigation Department. Despite having normal police training, the criminal investigators go through an additional course of “*basic training for criminal investigation*” to equip them with specific criminal investigation knowledge.

In the regions covered by this audit, the Police Force has a total number of 1696 investigators. **Table 2.5** shows the number of police criminal investigators allocated in the sampled judicial zones.

Table 2.5: Criminal investigators available in the selected Judicial Zones

Judicial Zone	No. of Regions covered	No. of Criminal Investigators
Dar-es-salaam	2	741
Mbeya	2	214
Arusha	2	194
Dodoma	1	219
Mwanza	2	328

Source: National Prosecutions Services, (as of 2022)

Table 2.5 shows the allocation of Criminal Investigators in the visited regions during the audit. Dar-Es-Salaam has 741 investigators which is the highest number and Arusha has the lowest number with 194 investigators.

b) Funding of Activities at the Police Force - CID

From the overall budget of the Police Force, the budgeted and actual released funds for the investigation processes are as indicated in **Table 2.6**.

Table 2.6: Funds for the Criminal Investigation Department (billion TZs)

Financial Year	Actual Budget (TZS)	APPROVED ESTIMATES (TZS)	Actual Release (TZS)	% age
2016/17	18,118,338,900.00	-	1,410,187,000.00	-
2017/18	14,952,132,496.00	1,997,030,000.00	1,246,733,512.00	62
2018/19	15,540,132,496.00	2,026,563,500.00	1,175,282,749.00	58
2019/20	7,506,063,776.00	1,026,563,500.00	1,039,728,815.00	101
2020/21	8,316,650,776.00	1,071,480,000.00	1,536,805,440.00	143

Source: Tanzania Police Force, 2021

Table 2.6, provides for funds released to the Criminal Investigation Department between 2016/17 -2020/21. The table further shows the budgeted amount, approved and actual release. There have been under released of the budget throughout the analysed years despite of the actual demand captured in the actual budget.

2.5.4 Human and Finance Resources at National Prosecutions Services

a) Human Resources

The National Prosecutions Service has extended its offices in all 16 Judicial Zones, where the prosecutors get to work hand in hand with the Judiciary to ensure the attainment of criminal justice. For NPS to implement its organizational structure and to perform its functions properly, it needed to have 5,890 staff by the year 2021/2022.

However, in 2021/2022, the NPS had 661 staff. To cover this gap, NPS is to recruit sufficient staff at a high pace. Table 2.7 indicated the allocation of the prosecutors in the sampled Judicial Zones.

Table 2.7: Prosecutors Available in the Selected Judicial Zones

Judicial Zone	No. of Regions covered	No. of Prosecutors
Dar-es-salaam	2	36
Mbeya	2	8
Arusha	2	13
Dodoma	1	20
Mwanza	2	9

Source: National Prosecutions Services, Case Management Division, 2021

Table 2.7, provides for allocation of the prosecutors in the judicial zones visited. From the table, Dar-Es-Salaam has 36 prosecutors which is the highest number compared to other zones visited. Mbeya has 8 prosecutors which is the least from the visited regions.

b) Funding of Activities at the National Prosecutions Service

The budgeted and actual released funds for the Prosecution Processes to be carried out are as indicated in **Table 2.8**.

Table 2.8: Funds for the National Prosecution Services (Billions TZS)

Financial Year	Budgeted Amount	Actual Amount Released	% age
2017/2018	29.30	5.40	19
2018/2019	32.50	6.00	19
2019/2020	34.50	6.70	19
2020/2021	37.20	12.00	32
2021/2022	44.30	12.00	27

Source: National Prosecutions Services, 2021

Table 2.8 shows the budgeted and actual amount released for the National Prosecution Service. On average there have been an actual release of TZS. 8.42 billion.

CHAPTER THREE

FINDINGS RELATED TO THE PERFORMANCE OF JUDICIARY OF TANZANIA

3.1 Introduction

This chapter presents the findings on the criminal justice system in Tanzania. The findings are based on existing processes and procedures for criminal case management at the Judiciary of Tanzania.

3.2 Performance of Filed Criminal Cases Vs Disposed Criminal Sessions

The Judiciary Strategic Plan of 2016/2017 to 2020/2021, provided an ambitious strategy of developing processes to accelerate the disposal of cases. The strategy included the introduction of controls for key case process such as case submissions, case filing, admission, and case assignments. The case assignment to trial Judge or Magistrate involved setting up case disposal or completion target.

Based on reviewed JSDS 2.0 the audit noted that, the Judiciary of Tanzania did not manage to timely achieve a 100% disposition of filed criminal case sessions as planned. As a result, the filed criminal sessions were not disposed of within the Judiciary of Tanzania described time target. Table 3.1 presents the time taken for completion of criminal sessions .

Based on the interviews with Judiciary Officials, non achievement of 100% disposition rate was caused by procedural requirement of scheduling criminal sessions. The procedure requires an approval of sessions calendar and place of sitting by the Chief Justice. Since the approval of sessions calendar and budget was not under the control of the individual court, there has been a delay and the criminal sessions were disposed beyond Judiciary of Tanzania stipulated time. The Audit did analyse the sampled cases to observe time taken in disposing criminal sessions as seen in **Table 3.1**.

Table 3.1: Time Taken for the Completion of Criminal Sessions

Time Range (In years)	Number of cases per each High Court				
	Dar Salaam	Es Arusha	Mwanza	Dodoma	Mbeya
0-2	117	75	93	119	63
3-4	50	88	259	141	67
5-6	101	65	188	154	83
7 and above	34	1	36	5	7

Source: JSDS 2.0 and Auditors' Analysis, 2021

Table 3.1 above shows the extent of time taken for the completion of each session. There were cases which took more than 7 years to completion. Since the registration of cases is a continuous process, every day there were new registered cases, the prolongation of holding criminal sessions will create the burden of case backlogs and affect the efficiency of the Justice system.

3.3 Inadequate Compliance to Performance Indicators of Cases Disposal

The Judiciary of Tanzania resolved that every Judge is required to dispose 220 cases in a year and 250 cases to be disposed by Magistrates from the resident magistrate courts and district courts.

The audit reviewed a list of cases from the Judiciary Case Management System (JSDS 2.0) and actual files in each Court. The results showed that none of the Magistrates and Judges in the visited courts managed to attain the set target of disposing 250 and 220 cases for Magistrates and Judges respectively. **Appendix 4** shows the table with performance of Magistrates in each visited region.

From all visited five Courts no Magistrates had reached the target of disposition of 250 cases. On average, only three Magistrates managed to reach above 100 in visited Resident Magistrate Courts.

Based on the reviewed Judiciary of Tanzania reports, the audit identified the following as factors for non-achievements of the set targets:

- a) The target set for Judges and Magistrates did not precisely specify criminal cases from other types of cases;

-
- b) The High Court did not effectively manage the criminal sessions (scheduling and disposition) ;
 - c) Judiciary of Tanzania did not adequately involve key stakeholders in strategising for disposal of criminal cases; and
 - d) Uneven distribution of cases (work load) among magistrates.

The details of each factor are described in subsequent subsections:

Through the interviews held with judiciary officials, it was noted that the target set required every Judge and Magistrate to dispose 220 and 250 cases respectively in a year. The target was agreed during the internal judicial meeting among the judiciary officials in the effort to increase the rate of case disposition. However, the review of Judiciary of Tanzania Strategic Plan showed an absence of legal instrument to enforce the set targets. As a result, the set target was never achieved, and the failure to achieve the target partly contributed to the accumulation of criminal cases disposed-off.

3.4 Ineffectiveness in Scheduling and Conducting Criminal Sessions

The spirit behind the 2016/17 to 2020/21 Strategic Plan of the Judiciary of Tanzania was to accelerate criminal justice delivery. With this ambition, it was expected that criminal sessions disposition rate would be increased as well. However, based on the interviews with Judiciary of Tanzania officials, it was found that, the scheduling and conducting of criminal sessions was based on discretionary power of the Chief Justice in calling for the criminal session as defined under the provision of Section 179 of the Criminal Procedure Act [Cap. 20 R.E. 2019]. Furthermore, for the Chief Justice to authorise any High Court to conduct criminal sessions, this procedure defeats the purpose of expediting disposition of criminal session.

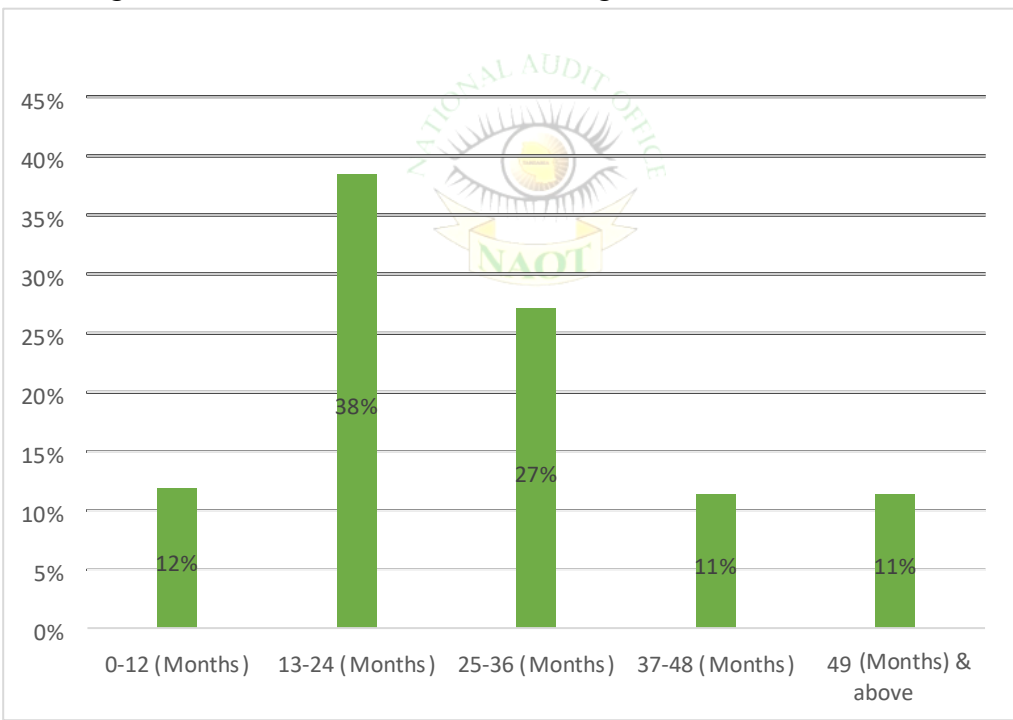
In the review of physical files, the Audit found that there was no file which was disposed within a single session service. Based on the analysis, filed High Court criminal cases and extended cases took two to three sessions to be disposed. **Figure 3.1** indicated that, some of the instituted criminal cases in High Court took up to 4 years before being called for the first trial session after plea taking.

The actual files reviewed showed that the only cases disposed in single sessions had the following conditions:

- a) Criminal cases which DPP had no interest and hence exercised his mandate under section 91 by entering nolle prosequi⁷;
- b) Criminal cases which the accused was discharged by order of the court;
- c) Criminal cases which the accused was committed to mental hospital; and
- d) Criminal cases where those accused entered a plea of guilty.

The Audit assessed the trend to which criminal case files were scheduled for the sessions, and the result is depicted in **Figure 3.1** below.

Figure 3.1: Time Taken for Scheduling first Criminal Session



Source: *JSDS 2.0 and Actual Criminal file and Auditors’ Analysis, 2021*

⁷ No interest to prosecute and continue with the case

From **Figure 3.1**, the audit noted that 39% of the reviewed criminal sessions took 13 to 24 months to be scheduled into first session, while 11% of criminal sessions took 49 months and above. Furthermore, the interviews with judicial officials revealed that, the case files were called for sessions on the basis of “first in first out system”. However, this method was not adequately implemented.

In this category of “first in first out system” the audit found 2 files that had been waiting for more than 10 years as shown in **Table 3.2**.

Table 3.2: Time taken for hearing of extended cases

Number of the case	Year to which the accused was detained	Time taken ⁸	Last order and date
Ext. CS No. 31/2014	2010	11	Trial adjourned until next session to be fixed by the deputy registrar 14.08.2019
Ext. CS No. 26/2018	2010	11	Hearing on going
Ext. CS No. 34/2019	2014	7	Plea taking adjourned till next session to be fixed by the Deputy Registrar 04.12.2020
Ext. CS No. 12/2018	2014	7	Hearing adjourned until next session to be fixed by the Deputy Registrar 31.07.2019
Ext. CS No. 35/2019	2014	7	Case adjourned until next session to be fixed by the Deputy Registrar 03.12.2019
Ext. CS No. 27/2019	2014	7	Case adjourned until next session to be fixed by the Deputy Registrar 03.12.2020
Ext. CS No. 28/2019	2015	6	Case adjourned until next session to be fixed by the Deputy Registrar 02.12.2020
Ext. CS No. 37/2019	2015	6	Plea taking is adjourned until next session to be fixed by the Deputy Registrar 04.12.2020
Ext. CS No. 93/2020	2015	6	Case adjourned until next session to be fixed by the Deputy Registrar 22.10.2020

Source: Auditors Analysis of the Actual files from Kisutu RM, 2021

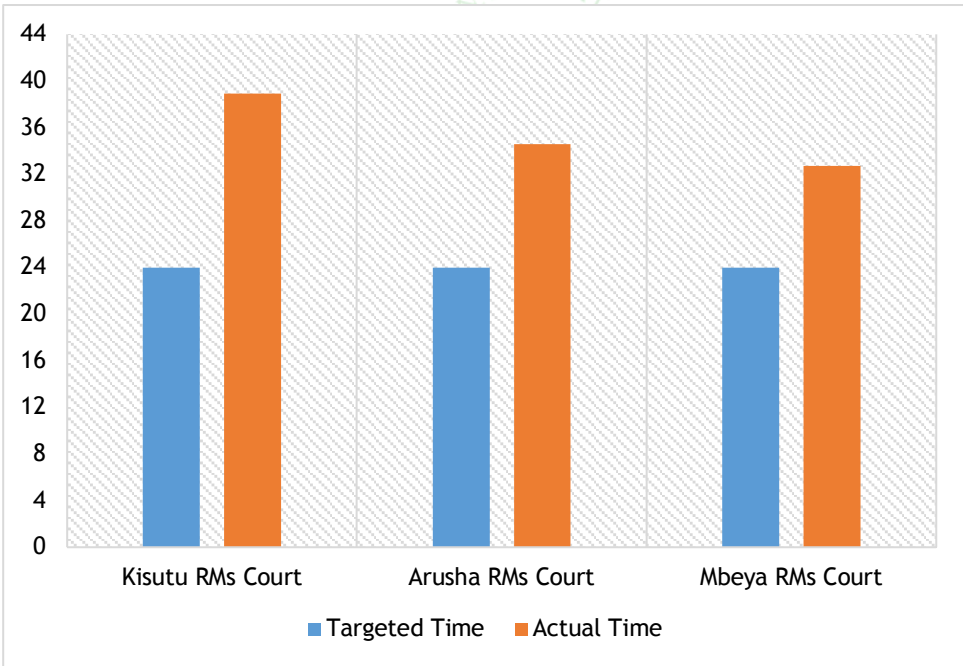
The time shown on **Table 3.2** counts from the time of filing the criminal Preliminary Inquiry (PI) at subordinate court to the time of being called to a first criminal session at the High Court. The Judiciary of Tanzania officials stated however that, time start to be counted in the High Court after the conclusion of criminal Preliminary Inquiry.

⁸ From the PI case filling to the conducting of this audit

Furthermore, the interviews with judicial officials revealed that, the case files were called for sessions on the basis of “first in first out system”. However, this method was not adequately implemented. Moreover, the Audit noted that, there were no documented timelines or established interval between one session and the other. This was due to the fact that, the administration and calling of criminal session was pegged under the discretion order of the Chief Justice.

While assessing the performance of this approach of extending cases to RMs, the audit reviewed the files of cases assigned to Magistrates at the Resident Magistrates with extended jurisdiction. The results showing the actual time taken against the targeted time to dispose the extended criminal cases are presented in Figure 3.2.

Figure 3.2: Actual Time Taken vs Targeted Time in Disposition of Extended Criminal Cases



Source: Auditors' Analysis from Actual Files, 2021

Figure 3.2, illustrates that, none of the cases which were extended from High Court were completed on the established targeted time. The minimum average time taken to completion of extended criminal cases was 32.7

months in Mbeya. This have resulted into accumulation of extended criminal sessions at subordinate courts and overstay of accused persons in the prison. Further, the interviewed judiciary officials revealed that extended criminal session is additional assignment for which Resident Magistrates' Court has to assign to its staff.

3.5 Inadequacy in Disposing Criminal Cases

Based on the Judiciary of Tanzania set standards, the waiting time for disposition of criminal cases for Resident Magistrates' Court and District Court was 12 months. According to Judiciary of Tanzania official, the time set was acceptable in disposing criminal original cases triable by subordinate courts.

Further, through review of Judiciary reports, the rate of disposition from Subordinate Courts for criminal appeals from Primary courts ranged between 95% and 100%. However, with reference to **Figure 3.2**, not all Resident Magistrates' Courts and District Courts managed to dispose criminal cases within the stipulated time of 12 months. This was due to the delay in clearance and disposition of criminal PI or committal proceedings.

Moreover, the reviewed files showed that, incomplete investigation as presented in chapter four has been the leading cause of the delays. Another factor for the delay in disposition of criminal cases is the unbalanced ratio between the Prosecutors per Magistrates. Based on the interviews with staff at the Resident Magistrates' and District Courts, the required ratio is one Magistrate for one Prosecutor. However, in all visited Resident Magistrates' and District Courts, there were more Magistrates than Prosecutors. As an example, at the time of this audit in August 2021, the Ilala District Court had twelve (12) Magistrates while Prosecutors were seven (7). This disparity affected timely disposal of criminal cases. The details of Magistrate/Prosecutor ratio is presented in chapter four of this report.

The interviews held with officials from Judiciary of Tanzania (JoT) and the NPS officials revealed that, another reason for delay of disposal of cases was inadequate handling of witnesses. There have been frequent adjournments of cases because of absence of witnesses before the Court. The audit noted that, it was the Court that summoned the witnesses and

paid all the costs required to ensure the witnesses appear before the Court on time. The review of sampled case files revealed that witnesses did not appear before the court as required, and one of the reasons was unreliable financing of the witnesses. The audit could not assess the financing performance for witnesses because there was no specific budget line for this activity. The financing was done at court level as part of the received other charges (OC) cost.

3.6 Inadequate involvement of Stakeholders in setting Disposition Targets

The Judiciary of Tanzania through the Strategic Corporate Plan of 2015/2016 to 2020/2021 planned to have a fully functional inter-agency collaboration with the DPP, PCCB, Police Force and Government Chemist Laboratory Authority (GCLA).

The review of the Judiciary of Tanzania annual performance reports showed that the Judiciary set a target of time limit of two years to dispose the criminal cases at the High Court, one year in Resident Magistrate Courts and District Courts. These targets include the target for each Judge and Magistrate to dispose about 220 and 250 cases in a year respectively.

However, our interviews with the National Prosecutions Services and the Director of Criminal Investigation revealed that in setting up targets of the judiciary time of case disposition, neither of the entities were involved by the Judiciary. Therefore, these targets were not integrated among the entities. There was no established Memorandums of Understanding among these key entities apart from each one implementing its legal requirements. **Table 3.3** shows the extent of stakeholders' involvement in setting up criminal cases disposition targets by the Judiciary of Tanzania.

Table 3.3: Stakeholders' involvement in Development of Criminal Cases Disposition Targets

Stakeholder	Involved/Not involved
NPS	Not involved
DCI	Not involved
PCCB	Not involved
GCLA	Not involved

Source: Auditors' Analysis from the interviews held with Stakeholders 2021

The responses reflected in **Table 3.3** is a proof that the Judiciary of Tanzania set these goals in isolation. Non-involvement of the NPS in setting up Judiciary of Tanzania criminal case disposition targets resulted in the failure of the State Attorneys/Public Prosecutors to catch up with the targets set in disposing criminal sessions. For example, with reference from **Table 4.3** in chapter four of this report, series of adjournment of criminal case for the reason of incomplete investigation, and involvement of State Attorneys in different criminal sessions are depicted therein. Therefore, criminal cases in subordinate courts could not proceed during the period of High Court criminal sessions. As a result, it defeated the purpose of time setting in disposition of criminal cases.

3.7 Inadequacy of Internal Controls in Criminal Trial

Review of the Judiciary of Tanzania case management documents showed that, the Judiciary of Tanzania has laid down internal controls with the aim of ensuring timely delivery of criminal justice. Such controls include; conducting of inspection, ensuring evenly distribution of workload among Judges and Magistrates, and conducting case flow management meetings. The case flow management meetings are independently funded by each Regional Magistrate Court (RMC) and District Court (DC).

The Audit found out that, similar to case management meetings, inspections were conducted, and reports submitted in each quarter of the year by RMs and District Courts in charge in their respective areas of administration. Inspection reports and case management meetings resolutions had recommendations to be worked upon aimed at timely dispositions of criminal cases.

Nonetheless, the audit noted recommendations that have not been worked upon leading to ineffective case management in reducing the backlog of criminal cases. The failure to implement recommendations particularly that of inadequate funding of extended criminal sessions, have contributed to delay of disposition of cases. This in turn, resulted in prolonged stay of the accused persons with non-bailable charges in the prisons. The time spent by accused persons in remand prison awaiting trial and Judgement at High Court of Tanzania is depicted in **Table 3.1** above.

It was further observed that the waiting time for trial did not start from when an accused person was arrested and awaiting determination of criminal Preliminary Inquiry (committal proceedings) in the subordinate Courts.

The analysis showed that despite an intention of committal proceedings to expedite disposition of criminal cases when committed to High Court, committal proceedings contributed to backlogs to subordinate courts that resulted into delays in disposition of the criminal cases.

The Audit noted that, inadequate achievement of the administrative court interventions were attributed by the following causes:

- Absence of instrument to enforce the agreed average case disposition target;
- The imbalance of the Judges and Magistrates-Prosecutors ratio; and
- The constraints associated with calling of witnesses: The audit noted that, the Judiciary had no control over the witness budget because the number and whereabouts of the witnesses were in contemplation of the NPS and not Judiciary.

On analysing the judiciary plans and budgets, it was observed that the witness budget has been overloaded over the years.

Notwithstanding, the NPS recited that despite being responsible to meet witness costs, it had no budget to pay witnesses.

This was because there was no specific budget set aside for financing witnesses. According to interviews with officials from Judiciary of Tanzania the witness budget was insufficient most of the time since the number of witnesses and their whereabouts was unknown, which also resulted to adjournment of cases.

3.8 Inadequate use of the Judiciary Case Management system (JSDS 2.0)

The JSDS 2.0 is the case management system developed to assist in registration, administration, and timely statistics generation. The aim of its

establishment was to assist and enhance efficiency of the judiciary undertakings. During the audit, the performance implementation of JSDS 2.0 was assessed. The result showed that, the system was inadequate in the daily activities of operation of the court as required.

The Judicature and Application of Laws (Electronic Filing) Cap 358, requires all official records of the Court to be presented in the electronic case file (ECF), proceedings on that case, together with any documents and exhibits filed under the conventional method. The Audit also, reviewed a letter with reference no.FA.32/344/01/27, in which the Chief Registrar was addressing the electronic filing of court cases to all court levels.

The review of JSDS 2.0 and case files showed that in all visited courts, (the High Courts, Residents Magistrate Courts and Districts Courts) the use of the system for documentation was at a low level. This was manifested by the existence of files which were not registered in the system. For example, out of the 304 reviewed case files in Mbeya and Dar es Salaam, the audit found that 49 files were not registered in JSDS 2.0. In Dar es Salaam a total of 32 cases were not registered while in Mbeya the unregistered cases were 17.

Meanwhile, the monitoring of the court performance was supposed to be made through this system JSDS 2.0 non-registration of 49 case files could lead into production of wrong reports on the status of caseloads. It would be difficult to track the progress of cases by decision makers and assign the cases to Judges and Magistrates. As shown in section 3.16 of this report, assignment of cases to Judges and Magistrates was not proportional; the information in the system was different from the data obtained in the hardcopy files.

Based on review of progress report and interviews held with Judiciary of Tanzania officials, several causes were linked to the insufficiency usage of the systems. Among the primary causes was the competence deficiency among the court clerks and other court officials in the use of the system.

Based on the interviews with Judiciary of Tanzania officials, the court clerks are required to enter and update judicial data on daily basis. The operation was guided by the Judiciary of Tanzania Case Management JSDS 2.0 user manual version 0.1. The user manual helps the court clerk to understand

better the functions and operations of system. However, through interviews in visited courts, the Audit noted that some court clerks were inadequately skilled to operate JSDS 2.0. Although the user manual was made available to court clerks, it was not adequately followed. The reviewed JSDS 2.0 Training Report 2018 showed that; the conducted training focused on providing sufficient skills on JSDS 2.0 to the selected system users.

These champions were also supposed to disseminate the acquired experience and knowledge to other fellow users and staff in their respective workstations. The in-house arranged local skills training, trained about 708 court staff.

However, the interview with the Judiciary of Tanzania officials had disclosed that reasons such as retirement, soon after the training, some staff retired and others were transferred to other departments, taking with them the critical skills. As a result of this the performance of the JSDS 2.0 system was affected.

The coming of new people who were not more conversant to the system affected the performance and operation of JSDS 2.0 in visited areas.

Table 3.4: Number of Trained Judicial Officials on JSDS 2.0

Judicial zone	No. of JSDS 2.0 trained officials
Mwanza (Mwanza and Geita)	15
Arusha (Arusha and Babati)	18
Dar-Es-salaam	18
Mbeya	10
Dodoma	7

Source: Consolidated Report on JSDS 2.02 JoT Training Phase I, 2018

Table 3.4 shows the officials trained in the training of trainers (JoT). However, the Audit revealed that, JSDS 2.0 trainings were conducted irregularly. Lack of frequent trainings to staff was caused by nonexistence of thorough analysis of the skills gap on JSDS 2.0 usage among Judiciary of Tanzania staff. The untrained staffs were the ones using JSDS 2.0 for daily update of court activities.

Another factor for the insufficient usage of the system was networks challenges. The enquiries from JSDS 2.0 users revealed that slow internet

connection also contributed to ineffective use of JSDS 2.0 system. The observation from interviewed NPS staff, court clerks, magistrates, and advocates, who were daily users of the dashboard, admitted that, the access to JSDS 2.0 system was limited. It was inaccessible because of the network failure; as a result, they were discouraged to use the system. As an alternative, due to this challenge users of JSDS 2.0 sometimes used the manual or physical documents rather than JSDS 2.0 system.

The Audit was interested to know the reasons for network inefficiency in the performance of the JDSD. The informants pointed out that JoT has not met all required infrastructure requirements to smoothly run JDSD whenever there was network outage. In addition to this, it was also noted that JoT had no centralized mechanism to remotely monitor and identify faults or performance problem of JDSD from all Courts. As a result, the use of JDSD was underutilised.

Apart from the network problems, the audit found that Judiciary of Tanzania lacked strong quality controls to ensure accurate data entry. This was because there were no clear outlines on approval process, where entered could be checked and approved for uploading and rechecked later to verify whether the uploaded information was correct. As a result, the use of JSDS 2.0 was not as effective as it was intended. The next section provides details of the quality controls findings.

3.9 Inadequate Quality Controls of Data entry

Based on the interviews with Judiciary of Tanzania officials, the court clerks were the ones responsible for entering and updating judicial data on a daily basis. The information entered in the dashboard included; case number, year of registration, parties (plaintiff and defendant names), plaintiff and defendant address, court of origin, value of the matter, type of case, date of filing and charge or claim(s).

Apart from assigning the courts clerks to enter the data in the system, there was no documented quality assurance procedures to check if the data entry work was done properly. The court clerks were not given a target to meet as a way to ensure that all required data are timely uploaded in the system. This is because, the target of the case disposal of Judiciary of Tanzania for

example the attainment of 220 cases per Judge or 250 cases per Magistrate did not count the time spent for other administrative activities. These court clerks and other administrative cadre were not given timeliness as compared to what was given to Magistrates and Judges. As a result, there were cases already completed but not uploaded in the system by the court clerks and the system still counts them as an on-going case. **Table 3.5**, provides example of decided cases that were not updated in the system.

Table 3.5: Example of Decided Case File Ages and Case Ages in JSDS 2.0

Case Number	Filing Date	Disposal Date	Case Age ⁹ (Days)	Case Age in JSDS 2.0 (Days)
CA No. 10/ 2018	07/02/2018	11/07/2018	152	1314
CA No. 34/2018	14/08/2018	15/11/2018	90	1126
CA No. 27/ 2020	25/06/2020	11/07/2018	16	445
CA No. 44/2018	27/08/2018	15/11/2018	78	1145
CC No. 205/2017	06/12/2017	22/05/2019	567	1456

Source: Auditors' Analysis and JSDS 2.0 as of September, 2021

From **Table 3.5**, it was observed that, the system did not show the date when case was decided so as to determine the actual case age. The case ages for decided cases were still counting in JSDS 2.0, therefore producing unrealistic number of days of case disposal. The inaccurate data displayed was caused by absence of data limitations. In addition to that, prolonged counting of case age in JSDS 2.0 could mislead the user. This information did not portray a true picture of the timeline taken to dispose cases for a particular court level.

Another reason for inadequate use of JSDS 2.0 system was the lack of proper follow up procedures. Based on interviews with Judiciary of Tanzania officials, the audit realized that lack of established follow-up procedures for errors were found at the court level. This is because there was no established dashboard or alerts to show error messages or inconsistent entries for the individual court in charge to see. As a result, there was inaccurate and incomplete data in JSDS 2.0 system. **Table 3.6** presents a sample data with date problems.

⁹ According to the physical file analysis

Table 3.6: Deviation of information between the Casefile and JSDS 2.0

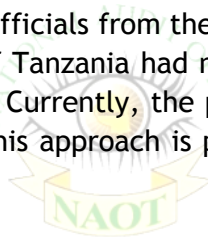
Case Number	Filing Date	The filing date in JSDS 2.0
Criminal Session No. 20/2017	29/11/2017	09/03/2017
Criminal Session No. 99/2017	15/09/2017	29/12/2017
Criminal Session No. 21/2018	18/11/2018	12/04/2018
Criminal Session No. 105/2018	15/10/2018	26/11/2018
Criminal Session No. 98/2018	19/09/2018	26/11/2018

Source: Auditors' Analysis and JSDS 2.0 as of September, 2021

Table 3.6 shows inconsistency of information between hard case files and soft case files in JSDS 2.0.

During the Audit, it was found that 34 case files out of 304 total reviewed files showed differences between the actual physical files and electronic information on JSDS 2.0.

Based on interviews held with Officials from the Judiciary of Tanzania, the audit revealed that Judiciary of Tanzania had not automated data entries for daily update of case status. Currently, the practice is manual entry of the data by the court clerks. This approach is prone to chances of human error in the information.



CHAPTER FOUR

FINDINGS RELATED TO THE PERFORMANCE OF NATIONAL PROSECUTIONS SERVICE

4.1 Introduction

This chapter provides findings related to performance of the National Prosecutions Service (NPS). These findings indicate performance problems in the criminal justice system with regards to the roles of NPS as indicated hereunder.

4.2 Inadequate Management of Case Files during the Investigation Process

The National Prosecutions Service has the mandate to either prosecute criminal cases or not, coordinate and supervise the investigation of criminal matters to ensure quality evidence is obtained to support prosecution of criminal proceedings.

However, based on 297 reviewed case files from NPS between 2016/17 and 2020/21 and interviews with NPS officials, there was inadequate coordination between State Attorneys and Police Investigators. About 78% of the 297 reviewed files were found to miss substantial attachments like police case files (PCF) with investigation diary and charge sheets. These were key documents which were required for prosecution. **Table 4.1** presents in detail the analysis of case files handling in each NPS office visited which shows that some reviewed case files were missing charge sheets, police case files and investigation diary.

Table 4.1: Case Files Handling Analysis One

Region	Total No. of Reviewed Case files	% of Files Missing Substantial Attachement		
		Investigation Diary	Charge Sheet	PCF was missing
Dar Es Salaam	110	29	10	12
Mbeya	54	28	11	13
Arusha	52	42	13	25
Dodoma	45	76	17	27
Mwanza	36	72	19	22
Total (%)	297	48.8	13	17

Source: Auditors' Analysis from the case files review, 2021

From **Table 4.1**, shows the result of quality of assessed files for which each individual file was missing some of the important items. The absence of investigation diary in the reviewed files was partly contributed to by poor documentation system among the police officers, and poor compliance on filling/updating the diary with information when going for investigation. Hence from **Table 4.1**, it was noted that Mwanza NPS case files handling was inadequate since, there was no any case file found to have the above substantial attachments compared to other NPS offices.

Furthermore, **Table 4.1** shows that about 13% of the reviewed files did not contain the charge sheet. This document was the foundation of the charges against an accused person with State Attorneys depending on the court file to extract the charge whenever it is needed. Based on interviews with the NPS officials, absence of charge sheet in the prosecution files was a result of poor documentation within the NPS systems.

In additional, **Table 4.1**, shows that, among the visited NPS offices, 48.8% of files had no investigation diaries. Investigation diary was the investigation journal which contains details of the level/progress of investigation conducted by the police. The diary also contains particulars such as the date on which the investigation began, places visited as a part of the investigation. The absence of investigation diary limits the State Attorney's understanding of the investigation progress and disabled him to offer recommendations on the investigation process.

Lastly, Table 4.1 discloses that there were prosecution case files lacking the Police Case File (PCF). This was the police report which provides accurate record information about investigation and evidence regarding the case. It was noted that in some instances, the State Attorneys attend Court sessions and proceedings without the police case files and as a result State Attorneys could not state the progress made on the case's investigation when needed by the court, hence adjournment of the case. It was clarified that since the police case file moves between NPS and police was the reason for why some of the case file missed the police case file and the attorneys sometimes attend trials without it.

However, Table 4.2 presents detailed analysis showing extent of compliance of files with key documents.

Table 4.2: Case Files Handling Analysis Two

Region	Reviewed Case files	Missing Two of Attachments	Missing All Attachment	Case files with all Attachments
Dar es Salaam	110	88	6	16
Mbeya	54	32	13	9
Arusha	52	27	17	8
Dodoma	45	28	12	5
Mwanza	36	18	18	0
Total	297	193	66	38

Source: Auditors' Analysis from the case files review, 2021

Table 4.2 shows that out of 297 reviewed files from NPS, 38 case files contained all attachments as analysed in Table 4.1. But also, 66 case files out of 297 were missing all attachments for prosecution process.

The Audit made analysis by listing all cases in our audit scope to see the frequency of case adjourned by High Court, Resident Magistrate's Court, and District Court. The results presented on Table 4.3 portray the worst case scenario in which the cases had the maximum number of adjournments and the best scenario in which the frequency of cases adjournments were minimum.

Table 4.3: Frequency of Case Adjournment

SN	Court	Highest Frequency of Case Adjournment	Lowest Frequency of Case Adjournment
Case adjournment frequency for High Courts			
1	Dodoma	30	2
2	Mwanza	30	2
3	Mbeya	35	2
4	Arusha	22	2
5	Dar Es Salaam	39	2
Average		31	2
Case adjournment frequency for Resident Magistrate Court			
1	Arusha RM	47	2
2	Kisutu RM	69	2
3	Mbeya RM	63	2
4	Geita RM	61	2
5	Dodoma RM	101	2
Average		68	2
Case adjournment frequency for District Court			
1	Babati	39	2
2	Ilala	67	2
3	Mbeya	20	2
4	Sengerema	51	2
5	Dodoma	65	2
Average		48	2

Source: Auditors' Analysis of JSDS 2.0

Table 4.3 shows that on average the highest frequency of case Adjournment was found in the Resident Magistrate's Courts, in which a case can be adjourned up to 68 times before its completion. These several adjournments were noted in committal proceedings. The least being the High Court for which the case was adjourned on average of 31 times before its completion. The extreme scenario was observed in Dodoma Resident Magistrate's Court in which the case was adjourned for 101 times. However, in all three Court levels visited, the lowest scenario of case adjournment was 2 times.

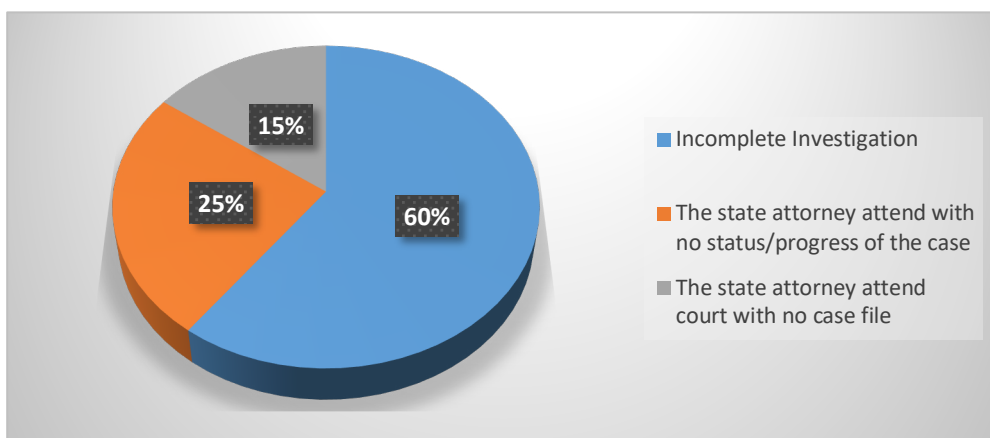
Based on the review of the Performance report of the NPS and the Judiciary of Tanzania the audit grouped three main key reasons that led to frequent adjournments in the visited courts. The first reason was an incomplete investigation. Based on auditors' analysis from the reviewed case files, about 60% of all adjourned cases were due to incomplete investigation.

Figure 4.1 provided the details of the status of investigation files without proper case recordings that sum up into an incomplete investigation.

The second reason for frequent adjournments in the visited courts was the inadequate update of the status/progress of the case by the State Attorneys. Based on auditors' analysis from the reviewed case files about 25% of adjourned cases were due to inadequate update of the status of the case. This was where the State Attorney appeared before the court without file showing the status/progress of the case. As a result, it caused unnecessary adjournment and for non-bailable offenses, the accused person remained in remand.

The third reason for frequent adjournment of cases in the visited courts was weak coordination within the NPS headquarters and regional offices. Based on auditors analysis from the reviewed case files this reason contributed to about 15% of the adjourned cases. In this scenario, based on the reviewed cases files the outlined reasons were that the Police cases files had been submitted to the DPP for scrutiny for consent. The audit noted GN. No. 496 of June, 2021 that delegated the powers of DDP to Regional or District Prosecution Officer (RPO) mandate to issue consent on his behalf. Therefore, the State Attorney who is at the regional office appeared before the Court without any update from the DPP's office. **Figure 4.1** depicts the reasons of case adjournment.

Figure 4.1: Reasons of Case Adjournment



Source: Auditors' Analysis from NPS Actual Case Files Review

Figure 4.1 shows the analysis of the common reasons of case adjournment which adds up to frequency adjournment of cases as observed from the reviewed files.

Upon revisit of Section 16(1) of National Prosecutions Service Act, [Cap. 430 R.E 2019], it was a role of NPS as Prosecutions Service to coordinate with Police force in the investigation activities. However, the reviewed progress report showed that, NPS did not fully get involved in investigation activities. Based on interviews with NPS officials, the NPS has limited human resources to cover investigation activities. In rare incidences NPS would get involved for the cases with special national interest. Because of this NPS would attend the regular Judiciary case flow management in which all these stakeholders present the challenges and the progress of the on-going cases. Based on the reviewed minutes of these meeting, NPS were frequently reminded to correspond with Police (Investigation Department) to fast-track investigation.

Based on review of the NPS files, it was found to be difficult to track the files movement between the NPS and the Police.

Table 4.4: Performance of Documentation of Case File Movement

Region	Case File Register	Document in each Stage of Movement	Computerized File Management
	Yes/No	Yes/No	Yes/No
Arusha	Yes	Yes	No
Dar Es Salaam	Yes	Yes	No
Dodoma	Yes	Yes	No
Mbeya	Yes	Yes	No
Mwanza	Yes	Yes	No

Source: Auditors' Analysis based of interview content done with NPS, 2021

Table 4.4, shows that, the NPS has a case file register. Also, there was document in each stage of case file movement. However, it has been difficult to find the hardcopy files because of improper arrangement in the registry. The documentation of files and other document within the NPS and Police department was not good. The audit sampled 1344 files for review at the NPS but only 297 files were available for scrutiny. This means that about 78% of files were not available or not found in the registries of either the

NPS or the Police. This was a general reflection of weak handling of documents at NPS.

Tracing of files was done manually and because of dealing with many cases this activity becomes tedious. To a large extent, this affected the smooth investigation progress during prosecution of the criminal cases, and it slowed down the case disposition rate.

4.3 Absence of Stipulated Prosecution Timeframe

According to Section 9 (1) of the National Prosecutions Service Act [Cap. 430 R.E 2019], the National Prosecutions Service has the mandate to either prosecute or not to prosecute any offence. It was expected that NPS would have stipulated time frame required for the Prosecution of the offences. This time could have been similar to the time set by the Judiciary of Tanzania for disposition of criminal cases.

Both the interviews with NPS officials and reviewed prosecution guidelines showed that, NPS has not set a time frame for prosecuting criminal cases. Review of actual prosecution files revealed that prosecutions had to encounter several adjournments as reflected in Table 4.3 before the judiciary decides to discharge the accused person. The discharge was either because the case had been adjourned beyond the described time limit¹⁰ or DPP had no interest to continue with the matter¹¹.

However, concerning the discharge of the accused person, the audit noted that the powers of RMs and District Court were only limited to cases of committal proceeding to which adjournment beyond 60 days did not result into discharge of the accused person.

Generally, through the interviews held with NPS Officials of the key justice stakeholders, it was noted that, inadequate strategies to minimize time for prosecution was caused also by lack of integration of common targets between JoT, Police Force, NPS and other Criminal Justice Stakeholders. The Audit did not find any mechanism or any agreed framework between these stakeholders, this weakens the coordination exercise. Thus, the absence of an enforceable tool with a stipulated timeline for the

¹⁰ under Section 225 of CPA

¹¹ DPP entered *nolle prosequi* under Section 91 of CPA

prosecution of criminal cases hindered the sense of accountability and responsibility. This eventually, contributed to delaying of criminal justice.

According to the NPS reviewed reports, the Audit noted that the NPS had insufficient number of Prosecutors with requisite expertise and experience to team up with other criminal justice stakeholders for effective case disposal.

4.4 Inadequate Use of Human Resources Available

The NPS is the only public prosecuting entity that controls and prosecutes criminal cases in the country. However, its staffing level was not reflecting government efforts to minimize delayed investigation process and reduce the problem of delayed justice delivery. Currently, the NPS has 661 staff instead of the analysed demand of 5890, which is equal to deficiency of 5229 State Attorneys.

The Audit acknowledge the existence of this challenge of insufficient number of State Attorneys compared to the number of cases they are assigned. Based on workload analysis compared to the number of Prosecutors, the audit noted that the available staff were allocated based on the number of cases in the specific court as indicated in **Table 4.5**.

Table 4.5: Distribution of Prosecutors in Selected Courts

Court	Average No. of Criminal Cases per Year	Available No. of Prosecutor	Average No. of Criminal Cases per Year per Prosecutor	Required No. of Prosecutors ¹²	Deficiency in Percent (%)
Mwanza H/Court	881	3	294	13	77
Mbeya H/Court	578	2	289	12	35
Mbeya RM/Court	480	4	120		
Mbeya D/Court	286	2	143		
Sengerema D/Court	319	2	160	6	67
Babati D/Court	435	4	109	6	33
Kisutu RM/Court	641	12	53	4	33
Ilala D/Court	919	13	71	3	23
Geita RM/Court	530	2	265	3	33
Dar es Salaam H/ Court	955	11	87	0	0
Arusha H/Court		7	0	0	0
Arusha RM/Court	649	2	325	0	0
Dodoma H/Court	612	10	61	0	0
Dodoma RM/Court	394	4	99	0	0
Dodoma D/Court	430	6	72	0	0

Source: Auditors' Analysis based on Approved Established Post, 2021

Table 4.5, Shows a significantly workload in each Court level. The table also shows the number of criminal cases handled by a prosecutor per year. Although, NPS has not established the required standards (of number of cases per prosecutor), in the High Court and Resident Magistrate's Courts the workload was relatively high. For example, in Mbeya High court one Prosecutor was supposed to handle an average of 289 criminal cases per year, while at Arusha Resident Magistrate's Court, one Prosecutor was required handle about 325 criminal cases per year. These averages do not

¹² Provided by the NPS-HQ during the audit

reflect positive effectiveness in the effort to expedite criminal cases disposal and reduce the problem of delayed justice delivery.

The Audit reviewed the final draft of the National Prosecutions Services Strategic Plan, 2020/21 to 2024/2025. It was noted that, on objective G of the Strategic Plan, the NPS had planned for recruitment of employee to fill the gap which had resulted from employees' turnover.

The reviewed NPS budgets showed that the NPS budgeted for employment of new staff. Based on interviews with the NPS officials, the NPS had attempted to ask for employment permit from the President's Office Public Service Management (PO-PSM) to employ more staff, with no success. However, the Audit did not find any reminder letter, or meeting done with PO-PSM as a part of showing active follow-up on this matter.

Lack of required human resources at the NPS affected the efficiency of criminal cases disposition. For example, based on the interview with officials from the NPS and the Judiciary, it was noted that, best practices required that one Prosecutor be assigned to one Judge or Magistrate.

The deficit of Prosecutors for each Court level presented in **Table 4.6** suggested that it would be difficult to attain the ratio of one Judge or Magistrate per Prosecutor. In some Courts, there were lack of State Attorneys hence prosecution was conducted by Police Prosecutors.

The Audit made an assessment to compare the ratio of the Prosecutors to Judges or Magistrates. The result is presented in **Table 4.6**.

Table 4.6: Number of Prosecutors vs Number of Judges/Magistrates

Court	No. of Prosecutor	No. of Judge and DR	No. of Magistrate	Shortage ¹³
Mwanza H/Court	3	9	0	13
Mbeya H/Court	2	5	0	12
Mbeya RM/Court	4	0	4	
Mbeya D/Court	2	0	2	
Sengerema D/Court	2	0	3	6
Babati D/Court	4	0	3	6
Kisutu RM/Court	12	0	12	4
Ilala D/Court	13	0	11	3
Geita RM/Court	2	0	2	3
Dar es Salaam H/ Court	11	16	0	0
Arusha H/Court	7	9	0	0
Arusha RM/Court	2	0	2	0
Dodoma H/Court	10	6	0	0
Dodoma RM/Court	4	0	2	0
Dodoma D/Court	6	0	3	0

Source: NPS- Regional Prosecution Staff establishment, 2022

Table 4.6, shows that Mwanza and Mbeya High Court Registries had deficits of 13 and 12 Prosecutors respectively to make the balanced ratio of Prosecutor per Judge. Dar es Salaam High Court; Arusha High Court; Dodoma High Court; Dodoma Resident Magistrate Court and Dodoma District Court were found to have no shortage of Prosecutors assigned per Judge or Magistrate respectively. The shortage number represented in the table represents the deficiency number of prosecutors regional wise.

In addition to that, during the interviews held with officials from the NPS, the Audit revealed that there was no benchmark and assessment on the number of case that a Prosecutor can handle within a year. Hence, the shortage that is presented above was based on opinions from the Regional Prosecution Officers regarding the workload on specific Courts.

Based on interviews with the NPS officials, in Courts with deficit number of State Attorneys, the prosecution was being conducted by Police Public

¹³ The Number Represented is the shortage of Prosecutors at Regional Level

Prosecutors (PP) for example in Sengerema DC, or otherwise one Prosecutor would be assigned to more than one Judge/Magistrate. This in general affected the efficiency of prosecution and case hearing processes.

In addition, it was observed that, when prosecutors were assigned High Court cases, by law they are required to appear in High Court. This led to adjournment of cases in subordinate courts which also adds up to backlog and delay of case disposition.

4.5 Inadequate Training Management and Capacity Building among Prosecutors

The advancement of science and technology which goes parallel with new crimes like cyber-crimes and online forgery crimes calls for capacitation of the prosecutors so as to assist in prosecution process. Prosecutors also need to be acquainted with the advancement of the technologies to effectively address all criminal cases accordingly regardless of their technological complexities.

The NPS through the Case Management Division are responsible to map out the existing gaps during the preparation of the training needs assessment. This also includes ensuring all the training and other skills development programs were implemented, and particularly training on legal practical matters and data management for effective prosecution.

Based on interviews with officials from the NPS, the Audit revealed that from 2018 to 2021 the NPS did not conduct training needs assessment. There was no documented database or document showing skills gap at the NPS that would help in planning, budgeting, and setting training priorities each year. Limited training and capacity building to the State Attorneys was also caused by inadequate number of prosecutors. As a result, it was difficult to release staff to attend these training due to the high workload prosecution assignments to the State Attorneys.

As a result, it has been difficult to assess the sustainability of the NPS concerning the performance of capacity of its staff base. Based on interviews with the NPS officials, for some of the trainings were conducted

arbitrarily, and the subject of training was planned and conducted according to the instruction of the financier of the training program. Lack of training needs analysis was partly because, the activity has not been given top priority in the case management division, and the division was inclined to other technical and administrative functions.



CHAPTER FIVE

FINDINGS RELATED TO THE PERFORMANCE OF DIRECTORATE OF CRIMINAL INVESTIGATION

5.1 Introduction

Investigation of cases is an essential stage conducted by the investigation machinery to build up a strong case. The Director of Criminal Investigation under the Police Force has the mandate to ensure that investigations of crimes are conducted properly. The observations made during the audit are presented in the proceeding sections.

5.2 Non-Compliance with the set Time Frame for Criminal Investigation

According to the Police Force and Auxiliary Service (Police General Order), 2021, a criminal investigation should be completed within one year for capital offenses and six months for other offenses.

However, based on the interviews with Police Investigators the Audit noted that, the set timeline was not realistic. Its implementation has been difficult partly because legal set times were not based on a well-established detailed study with an assessment of time taken for each activity in the investigation process.

The interviewed officials were not able to provide any document that explains how the timeframes were established. Given the fact that the nature of the crime differs, such as economic crimes, homicides and others, different timelines would have been set to corresponding types of crime.

Apart from the issues of unclear setting of timelines, the interviews held with the Investigators, showed other reasons for failure to abide by the set time frames for investigation. These included;

(i) Delays in obtaining results from Experts' Examination

According to the Investigation General Directives (IGD) of 2010, on planning for investigation, it required the plans to involve external agency for forensic examination and completeness of investigation. However, during the interviews with criminal investigation officials, the audit revealed that,

after conducting preliminary investigation at the crime scene, evidence was collected for further examination. It was mentioned that the Police use other entities to support the investigation and evidence collection. Among the entities mentioned were, the Government Chemist Laboratory Authority, mobile network companies, TRA and Financial Institutions (Banks).

Based on the interviews with Crime Investigation Officials and review of sample dispatch books, the Audit noted that, the Government Chemist Laboratory Authority, was one of the entities that delayed submitting results of the samples. The Auditors analysis based on reviewed registers showed that the average delay from the Government Chemist laboratory Authority was of up to 47 days.

Other important stakeholders who were identified to contribute to delays were the Mobile Network Operators. In cybercrimes cases, Mobile Network Operators took at least one month to provide results or data needed to support investigation. **Table 5.1** presents the average time used to wait for responses from the two actors.

Table 5.1: Timeline of Sample Testing to Results for Investigation

Region	Av. Delay from Gov. Chemist (Days)	Av. Delay from Network Companies (Days)
Arusha	49	45
Dar es Salaam	43	30
Dodoma	45	45
Mbeya	48	30
Mwanza	50	45
Average Total	47	30

Source: Register of Samples taken, Mbeya Region, 2021

From **Table 5.1**, it is shown that on average it took 47 days and 30 days to get the result from the Government Chemist Laboratory Authority and from Mobile Network Operators respectively. Even though, the average was 47 days. There were examples of extreme scenario of long delays. Table 5.2 shows an excerpt from Mbeya region office showing sample that took longer times above the average time.

Table 5.2: Sample analysis of the samples requested, and times taken beyond the average

Stakeholder	Name of the sample	Reference Latter	Date, Sample sent/taken	Date of received results	Days Spent
Govt Chemist	DNA investigation	KYL/CID/C.5/4/4/VOL.III/127	03/02/2020	18/05/2020	91
Govt. Chemist	Heroin	KYL/CID/C.5/4/4/VOL.VII/227	26/05/2021	22/09/2021	120
Forensic Bureau	Phone Examination	MBR/CID/FB/GEN/VOL.11/	21/05/2019	-	127
Bank	Account statement	KYL/CID/C.5/4/4/VOL.VII/120	06/01/2020	06/06/2020	150
MSD	Medicine Examination	KYL/CID/C.5/4/4/VOL.VIII/28	14/02/2020	28/08/2020	180
Govt Chemist	Kete 43 heroine	KYL/CID/C.5/4/4/VOL.III/141	24/12/2020	04/01/2021	303
Govt Chemist	Miscellaneous (different combination of samples)	MBI/CID/B.1/7/198-MBI/IR/298/2017	09/03/2017	26/06/2018	366

Source: Criminal Investigation Department -Mbeya Region, 2021

Table 5.2 shows samples taken by police force which required further analysis from the mentioned stake holders delayed for up to one year. This delay in releasing the test result contributes to the delay of finalisation of investigation.

Based on interviews, it was observed that the Directorate of Criminal investigation cannot compel or has no mandate to compel these external entities (experts) to release results earlier. The audit further noted that there was no outlined mechanism between the Police and supporting investigation stakeholders, which would have service as delivery agreements that could help these entities to give priority to police related assignments submitted to them.

Thus, inadequacy of timely completion of criminal investigation which leads to accumulation of delays in the provision of criminal justice. This is because without timely completed investigation there is no timely justice. But also, for non-bailable offenses, the accused person can be remanded for a very long time waiting for an investigation to be completed.

(ii) Delays associated with Geographical Location of Crime

Among the reasons for the delay in the investigation was the geographical location of the crime scenes from the police station. This was mostly due to remoteness of areas where crimes occur. Therefore, leading to delays in collecting the witness information, and taking samples for further investigation processing, hence contributing to the failure to abide to the investigation timeline set, and generally led to delay of case.

(iii) Inadequate Management of Human Resources to support the Investigation activity

According to the Investigation General Directives regarding Case Planning, the procedures of the investigation, should comply with the following requirements; (a) the availability of personnel to determine the type of investigation strategy to be used, e.g., surveillance; and (b) the amount of time that can be dedicated to a particular investigation should be estimated.

From the reviewed human resources reports, it was noted that there was a shortfall in allocation of human resources among police force in all visited regions. The allocation of personnel was expected to base on the workload, crime rate, population etc. However, the audit noted that the allocation of human resources did not consider the factors mentioned above. **Table 5.3**, reflects on allocation of the police investigators in the visited regions against the crime rate.

Table 5.3: Investigators and Crime Rate¹⁴

Regions	Standard Annual No. of crimes per investigator	Actual Annual No. of crimes per Investigator	% Difference
Dar-Es-Salaam	47	79	41
Dodoma	31	52	40
Mbeya	30	50	40
Mwanza	17	29	41
Arusha	26	44	41

Source: Auditors' Analysis and Police Established Approved Posts 2021

Table 5.3 shows the analysis between numbers of crime investigators in the regions against the required numbers. It further shows that the actual required number of investigators was lower by 40% hence leading to investigators handling an even larger number of cases than the planned per annum and in turn leading to a further delay on the investigation of cases.

The analysis further showed that Dar es Salaam has high number of investigators due to high crime rate than the other regions. Moreover, Dar es Salaam has more workload where a single crime investigator deals with an average of 79 crimes each year. While, Mwanza shows to have low workload where one crime investigator deals with an average of 29 crimes each year.

(iv) Insufficient Resources to Support Investigation

The Audit found out that there was inefficiency in the operations of the Directorate of Criminal Investigation to support investigation caused by insufficient resources. In each visited regional office, there were insufficient resources to support investigation i.e., Vehicles, Computers and Stationaries. To large extent this was contributed by inadequate disbursement of the budget. Table 5.4 shows the state of inadequate budget of the Criminal Investigation Department.

¹⁴ Analysis is made from the visited sampled regions

**Table 5.4: Relationship between Actual Budget and Approved Budget
(in Million TZS)**

Financial Year	Actual Budget (TZS)	Approved Budget Estimates (TZS)	Percentage of Approved Budget
2016/17	18.1	-	-
2017/18	15.0	2.0	13.3
2018/19	15.5	2.0	12.9
2019/20	7.5	1.0	13.3
2020/21	8.3	1.1	13.2

Source: MTEF of Tanzania Police Force, 2021

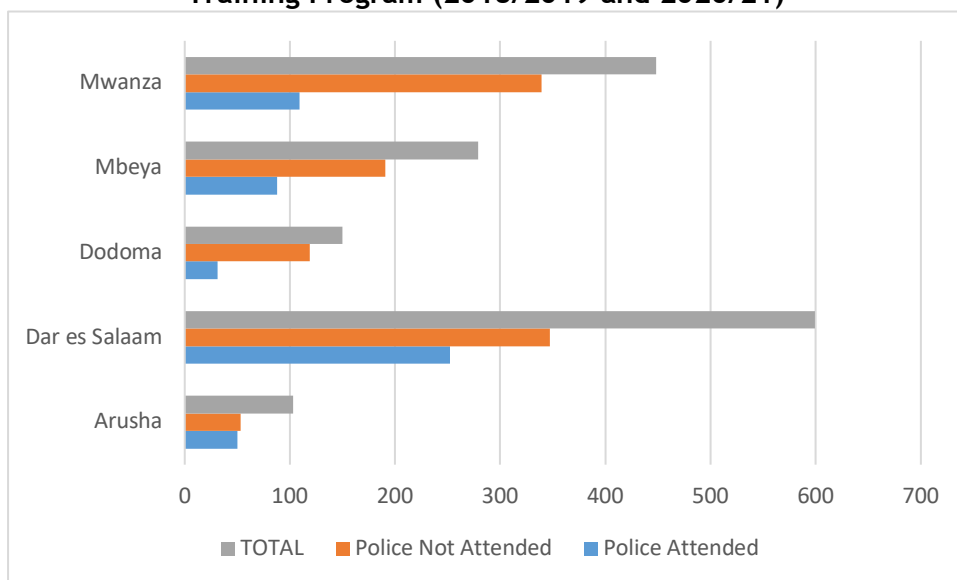
Table 5.4 indicates that the maximum percentage of the approved budget in four financial years to be close to 13.3%. As a result of this budget deficiencies the police investigators were limited in doing investigation activities. As a result, it affected the mobility of police investigators to distant and remote areas in their jurisdiction. For example, in Arusha, during the time of audit it was observed that they have only two patrol cars (but only one was functioning) for the whole region. Lack of facilities affected investigation activities by the Police as a result the Police could not timely get the necessary information.

5.3 Inadequate Capacity to Conduct Criminal Investigation

The Criminal Investigators were supposed to be proactively acquainted with the advancement of the technologies to effectively investigate all criminal cases accordingly regardless of their technological complexity. Based on the requirements outlined in the chapter 16 Investigation General Directives, the Directorate of Criminal investigation under the Police Force was supposed to create specialized sections staffed with investigators trained in all the facets of high tech cyber science.

The audit noted, that in the last five years criminal Investigators did not adequately attend further advanced and specialized training to intensify their investigation capacity. **Figure 5.1** shows the attendance of police investigators to subsequent training for capacity building.

Figure 5.1: Police Investigators Attended Subsequent Investigation Training Program (2018/2019 and 2020/21)



Source: Reports from the Directorate of Criminal Investigation, 2021

Figure 5.1 shows that the number of criminal investigators who have not attended subsequent investigation Training programs was higher than those who have attended. Dodoma and Mwanza regions had a relatively higher number of untrained police investigators than other regions.

On average, the Dar Es Salaam region is leading in sending its Police investigators to attend the basic training. Dar es Salaam had trained about 84 criminal investigators on the basic investigation training program each year. This is contrary to Dodoma region which send an average of only 10 staff each year. Each visited region, showed that Criminal Investigation Department has not conducted a training needs assessment to establish the knowledge gap. Absence of documented skills gap assessment had affected the Department in their annual planning, budgeting, and setting training priorities.

It was noted that all the trainings are coordinated from the police headquarters. Therefore, it was difficult to understand the reason for variations in terms of why some regions have more deficiency than others.

As a result, it has been difficult to assess the sustainability of Criminal Investigation Department concerning the staff performance capacity. Eventually, the department may incur more cost or take longer investigation time than expected as it may need to acquire external expertise services of criminal cases with emerging crimes such as cyber-crimes, tax crimes and human trafficking.



CHAPTER SIX

FINDINGS RELATED TO THE PERFORMANCE OF THE MINISTRY OF CONSTITUTIONAL AND LEGAL AFFAIRS

6.1 Introduction

This chapter presents findings from the Ministry of Constitution and Legal Affairs. The Audit observations focused on assessing the effectiveness of the MoCLA in conducting the monitoring and evaluation of the justice system. This was to ensure effective control of delays of cases in the country. Through the review of Ministry's reports, it was noted that there were efforts made towards ensuring processes for criminal justice delivery in the country are expedited.

The efforts included the institutionalization of the Office of the DPP from Attorney General's Chamber to formation of the National Prosecutions Service (NPS). NPS plays a vital role in the administration of criminal justice. It developed the e-justice in 2016 and justice sector information dashboard. However, there were noted areas for further improvement as presented in this chapter.

6.2 Inadequate Monitoring and Evaluation of Criminal Justice Sector Activities

According to the MoCLA's Strategic Plan 2016-2021 the Ministry was supposed to coordinate and monitor constitutional affairs, oversee the dispensation of justice, promote and protect human rights. The audit expected Constitution and Justice Monitoring Department of MoCLA to conduct regular monitoring activities to the Judiciary of Tanzania and the National Prosecutions Service.

The interview with Ministry officials, it was noted that function of monitoring justice delivery organs was not adequately conducted. The Ministry did not avail to the auditor a prepared Monitoring and Evaluation report within the scope of audited time (2016/17-2020/21). Upon inquiry through the interview with Ministry's officials, the audit compiled the following as the reasons for deficiency of the Ministry to conduct Monitoring and Evaluation functions.

a) Un-defined Monitoring and Evaluation of Key Performance Indicators

The audit noted that the Ministry of Constitution and Legal Affairs prepared the implementation reports for different conducted activities. However, upon review of the performance reports the audit noted that, the report lacked the content or assessment that shows how the established Key Performance Indicators were attained, or if the established targets were reached and what were the challenges and opportunities faced.

The reviewed implementation report of July - September 2020, showed that, the Ministry did not define the activities of M&E. The report has been counting the coordination of meetings as an M&E activity. However, the reviewed implementation report did not show whether the Ministry assessed its progress against its planned activities as part of monitoring. For the meetings conducted and reports submitted to auditors included the meeting with Permanent Secretaries and Head of Institutions in criminal justice system. The above meetings were conducted on 14th July 2020 and the meeting with Chief Administrators of Criminal Justice System institution held on 24th July 2020. According to the interview with the Ministry officials, the Audit noted that, the Ministry lacked a clear method or framework for conducting the monitoring and valuation of its undertakings.

As a result, the Ministry did not have the big picture of the progress in achieving its expected results. Also it denied the Ministry an opportunity to learn from the completed activities and challenges encountered during implementation.

b) Absence of Monitoring Plan

The monitoring plan was expected to show when and what was to be monitored and measured; methods for measurements, monitoring, analysis, and evaluation. Nonetheless, there was no specific plan for Monitoring and Evaluation of the justice administration activities. Because of the absence of monitoring plan, there was no assurance that the progress and performance will be followed on regular basis to allow for real-time, or an evidence-based decision-making.

c) Non-prioritization of the monitoring function

The Audit observed that there has been no prioritization of the monitoring function to justice administration. The review of Division of Constitution and Justice Monitoring (DCJM) action plan of 2019-2021 indicated that even though funds were allocated to the division, they were used in conducting other activities i.e., conducting stakeholders meetings and visits to criminal justice agencies. On the other hand, for the last five years the Ministry's budget has not been fully implemented. The review of the budget of disbursed amounts in all years covered by this Audit scope; revealed that the disbursement varied from 52% to 88% as indicated in **Table 6.1**.

Table 6.1: Disbursed amount for Monitoring the Justice Delivery System Department

Financial Year	Approved Estimates (TZS) in Millions	Actual Release (TZS) in Millions	Percentage Released (%)
2016/17	155.19	80.50	52
2017/18	166.48	146.15	88
2018/19	190.49	111.64	59
2019/20	181.33	130.93	72
2020/21	231.69	-	-

Source: MTEF of the Ministry of Constitutional and Legal Affairs

Table 6.1 shows the percentage of funds disbursed for Monitoring of the justice delivery system by the Ministry. The highest released amount was in 2017/18 where by 88% of the approved estimate was released. However, the M&E was not conducted in that financial year. Consequently, the Ministry could not effectively track, analyse, and report on the progress of the justice system in the country.

6.3 Inadequate Efforts Taken in Improving Efficiency in Cases Administration

The Ministry has the role to ensure the improvement of the criminal justice system (case administration) in the country. In the view of this, the Audit reviewed implementation report and noted that, the activities conducted by the MoCLA were conducting meetings between the Ministry and other justice stakeholders aimed at collecting opinions and challenges regarding the criminal justice system in the country.

Based on interviews with MoCLA officials, the audit discovered that the planning for activities such as the identification of stakeholders, frequency of the meetings, intended goals and targets was unclear. During the period under audit review, only three meetings were conducted by MoCLA. Further, audit review of implementation report noted that there was a single judicial activity conducted in Tanga from 21 to 24 October, 2020. Moreover, there was MoCLA ministerial visit conducted, to its criminal justice organs, which was conducted in the month of August, 2020 focusing on inspection of prisons in Shinyanga and Geita.

Based on the reviewed implementation report, the audit noted that the content of the meeting and visits undertaken did not improve the efficiency in case administration in the country. This was because issues raised in these meetings were not addressing cross-cutting and emerging problems that were facing all key justice stakeholders. Apart from reporting information from visited prisons, the report was silent on performance problems of other key entities such as the Judiciary and NPS.

The audit reviewed mission reports, and noted to contain proposed recommendations for improvement of raised issues particularly the prisons challenges that were not connected to Judiciary or NPS. The Audit did not find the established follow-up system for tracking the recommendations or identified challenges raised during these meetings.

Based on the interviews held with Ministry's officials, it was noted that, the Ministry has been sending a mission report together with a matrix showing name of a prison, challenge raised, and reason for the challenge and recommendations. As part of assessing the follow up mechanism, the audit reviewed several reports and submitted letters including the letter dated 23/10/2020 with reference no. CAB.150/266/01/54 addressed to DPP, letter with reference CAB.150/266/01/54 dated 23/10/2020 addressed to CID office and reference no. CAB.150/266/01/ dated 2/12/2020 addressed to the Chief Court Registrar.

However, none of these letters/recommendations were replied till the time of this audit. The observed reason was that Ministry have no means of following up the implementation of the recommendations. The observed reason for such weakness was also due to inadequate Human Resources;

whereby the responsible Department has only three staff equivalents to 21% of the required fourteen (14) staff as per MoCLA organization structure.

Consequently, the Ministry could not effectively measure and ensure the improvement level of criminal justice system, and assess the level of implementation of recommendations from the identified challenges.

6.4 Inadequate Coordination of Stakeholders

The Ministry of Constitutional and Legal Affairs was expected to have the means of coordinating its criminal justice organs to ensure timely criminal justice delivery.

During the interviews held with Ministry officials, it was revealed that the Ministry developed Justice Sector Information Dashboard for data management among all criminal justices stakeholders. The MoCLA, aimed to have the Justice Sector Information Dashboard with the focus of coordinating justice system delivery organs to expedite and improve quality, coordinated and systematic flow of information in delivery of criminal justice by 2020.

Based on interviews held with officials from the Ministry and review of different existing operation structures among the justice organs it was realized that the different organs have different investment levels, maturity levels and commitment to be integrated in the Justice Sector Information Dashboard. For example, the level of investment and maturity level of Judiciary of Tanzania was different from that of the Police Force. The existing judiciary infrastructures both physical and soft, timeline of case hearings, and trainings were found to be of advanced stage compared to other stakeholders like Police Force and NPS.

The MoCLA revealed that the Justice Sector Information Dashboard is not operating and that, different stakeholders were not integrated or coordinated to achieve the common goal of timely criminal justice delivery. The audit noted that the non-integration and inadequate coordination through the Justice Sector Information Dashboard was caused by incompleteness of a Unified Information Guideline which was intended to bring all criminal justices' stakeholders to the same level of executing their responsibilities.

As a result, the MoCLA could not coordinate the activities of criminal justice stakeholders until such time the MoCLA completes and puts into operation the Unified Information Guideline which would bring on board all other stakeholders through Justice Sector Information Dashboard.



CHAPTER SEVEN

AUDIT CONCLUSIONS

7.1 Introduction

This chapter draws the Audit conclusion based on the findings presented in the previous chapters. The conclusion is made in respect of the overall objective and specific objectives of the audit as presented in chapter one of this report.

7.2 General Conclusion

The Audit concluded that so far, there is no adequate unified attention devoted to test and deal with potential drawbacks of providing quicker but yet fair justice. All key justice stakeholders in Tanzania were found struggling to solve this challenge. This was an indication that, root causes of this problem have not been effectively addressed. This Audit has shown that to large extent the administration of justice in the country is disintegrating; the key stakeholders in the justice sector including the Judiciary, Police, Prosecution and Prison. The rest have no common commitment and investment in ensuring adequate control on delay of cases in the justice system delivery.

The Audit concludes that, the Judiciary and the Ministry of Constitution and Legal Affairs have not adequately managed to resolve the problem of delay in dealing with criminal cases in the justice system. The Audit acknowledges the effort made by the Judiciary in improving different processes such as the introduction of the JSDS 2.0 to assist and enhance efficiency of the Judiciary undertakings.

However, the Audit showed that the system was not fully used as intended, the uploaded data in the system did not meet the required quality and this was due to a number of reasons such as; competence deficiency among the court clerks and other court officials, undependable performance of networks and lack of required technical and infrastructure requirement to smoothly run JSDS 2.0, whenever there is a network outage.

The existing processes and procedures for case management at the Judiciary are not effectively implemented to save time in the administration of justice. Controls over key case processes such as case submissions, case filings, admissions, conducting of inspection, and case assignment does not help the realization of timely and expeditiously criminal justice delivery. On top of that, the administration of criminal sessions by the High Court was ineffective. These weaknesses have occasioned to accused persons overstay in remand prison while waiting for determination and conclusion of criminal proceedings.

Meanwhile, the prosecution procedures by the National Prosecutions Service (NPS) are not properly aligned with other actors to minimise the delay of cases in the justice system. This has, to large extent affected the common goals of reducing the waiting time of disposition of criminal cases.

7.3 Specific Conclusions

7.3.1 Process and Procedures for Case Management at the Judiciary

The Judiciary of Tanzania through the Case Management Department manages the flow of case disposal with some interventions conducted. But the pace of case disposition at High Court is small, compared with the queue of criminal cases filed yearly. The Judiciary has been conducting number of interventions to reduce backlog of cases. However, these efforts have not adequately involved other criminal justice stakeholders such as Police Force and NPS. Failure of the Judiciary to involve other key stakeholders in backlog management strategies have weakened the effort of the Judiciary to fight against backlog.

Up to the time of the audit, the High Court had filed cases which had been on waiting to be assigned for criminal sessions for three years. This is beyond the target of disposing cases in two years' time. This leads to backlog of cases and further delays in case disposal.

There is difference in data entry for files entered in JSDS 2.0 and the reviewed physical case files. This was due to ineffective data filling, inadequate controls of the system and insufficient training to the JSDS 2.0.

7.3.2 Prosecution Procedures by the National Prosecutions Service (NPS) for Timely Case Disposal

Unlike the Judiciary of Tanzania, the National Prosecutions Service has not stipulated timelines for the prosecution process. During the prosecution process, NPS relies on the Judiciary timeline. It has to be noted that State Attorneys are not accountable to timelines of the Judiciary.

The NPS has no annual case disposal target for individual prosecutors to measure the performance of prosecutors or State Attorneys. There is no specific number of cases to be disposed or met as an annual goal to enhance the motivation of timely prosecution. This attributes to the National Prosecutions Service's failure to self-evaluate its competency.

The ratio between Prosecutors and Judges/Magistrates is still at a low level. There are high differences between a number of prosecutors available compared to the number of Judges and Magistrates. Lack of proportionality of Judges-Prosecutor ratio leads to delay in disposition of cases especially during the High Court Sessions.

Despite the Government's effort to improve prosecutions service through the introduction of NPS in 2018; still the Director of Public Prosecutions continued to use Police Prosecutors. This is caused by the limited workforce and geographical coverage of the NPS. This negatively impacts the efforts of achieving a check and balance between the investigation and prosecution process.

7.3.3 The Police Force Capacity for timely Investigation to support Criminal Justice

The Police Force through Criminal Investigation Directorate is not achieving the intended goal of timely investigation due to its inability to complete investigations on time.

The police investigation relies on other stakeholders such as government chemists, doctors, and mobile phone companies. There is no enforcement tool to compel timely production of investigation results. This affects efficiency since there is no control on investigation time taken.

Investigators in the country have limited capacity which was due to low level of training and capacity building. Some of the little training offered to investigators are irrelevant to the actual needs. This is proved by the absence of needs assessment conducted to establish demands.

7.3.4 Monitoring and Evaluation of the Performance of Justice System

The Ministry has no performance indicators to assess entities involved in criminal justice delivery. The ministerial visits and reports are the ones used as means of monitoring and evaluating the performance of the justice delivery, which are not sustainable and reliable means of maintenance of efficiency in the justice system.

The Ministry has no means of conducting follow-ups for the recommendations and observations made during the ministerial visits. Therefore, they are unable to ascertain and measure the extent to which the recommendations made were implemented.

The Ministry has been conducting more of coordination function and abandoned the Monitoring function in its justice delivery organs. Therefore, the Ministry is unable to effectively track, analyse, and report on the progress of justice system in the country. This limited their capacity in providing proper recommendations, establishing interventions and strategies on improving the existing challenges. This, finally leads to limited public trust in the legal system.

CHAPTER EIGHT

AUDIT RECOMMENDATIONS

8.1 Introduction

This chapter provides recommendations based on the findings presented from chapter three to six of this report. The recommendations are to be addressed by three entities that were audited and covered during the audit.

The National Audit Office believes that these recommendations if fully implemented will improve the performance of the Ministry of Constitution and Legal Affairs, the Judiciary, the National Prosecutions Services and the Police in the provision and administration of criminal justice in the country.

8.2 Recommendations to the Ministry of Constitution and Legal Affairs (MoCLA)

The Ministry of Constitution and Legal Affairs should;

1. Improve its planning and implementations of the monitoring and Evaluation of the monitoring justice delivery. This should include the development of plans, framework for conducting the Monitoring and Evaluation of its undertakings and improving the human resource base of the Division of Constitution and Justice Monitoring;
2. Develop a follow-up system for tracking the recommendations or identified challenges raised during the mission meetings done as part of ministerial effort to assist the Judiciary of Tanzania, NPS and other stakeholders in improving efficiency in cases administration
3. This could be through accelerating the completing the ongoing project on integrated data management system for the criminal justice system (e-justice); Enhance its coordination in term of developing a combined investment effort, financing opportunities, and capacity building to justice delivery entities towards achieving timely justice delivery.

8.3 Recommendations to the Judiciary of Tanzania

The Judiciary should:

1. Re-evaluate methods for distribution of workload and setting a case completion target for Judges and Magistrates and ensure that the performance of Judges and Magistrates are assessed based on the type of cases handled by each magistrate i.e. civil or criminal matter.
2. Undertake to review procedural and statutory requirement for scheduling and conducting of criminal sessions and develop a more viable criminal session scheduling procedure.
3. Undertake to review the viability of statutory requirement of committal proceedings in subordinate courts.
4. Conduct skills gap analysis among Judiciary of Tanzania staff to facilitate planning for capacity building in term of administration and use JSDS 2.0.
5. Establish the internal control to ensure that the data entry and data uploaded in the JSDS 2.0 system meets the required quality

8.4 Recommendations to the National Prosecutions Service

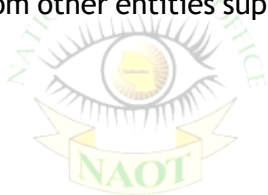
The National Prosecutions service should:

1. Establish a control mechanism to ensure that all State Attorneys are well prepared and informed on the specific cases before Court appearance. This is proposed in order to reduce the frequency of unnecessary adjournment of cases;
2. Develop guidelines, procedures, or any other enforceable instrument to governing NPS in setting annual target of case dispositions per State Attorney; and
3. Conduct a training needs assessment to establish the skills gap at the NPS that would help in planning, budgeting, and setting training priorities each year.

8.5 Recommendations to the Tanzania Police Force (Criminal Investigation)

The police force should:

1. Conduct training needs assessment for the investigators, to ensure that the knowledge gap is known, and all the training and other skills development programmes are implemented;
2. Ensure the allocation of personnel is based on the workload, crime rate, and population to minimize the delay of investigation activities ; and
3. Conduct an intensive awareness programme to rural communities and urban centres on basic procedures of dealing and reporting crime in their areas.
4. Develop mechanism for enforcing/guiding timely producing of investigation results from other entities supporting investigation and collection of evidence.



REFERENCES

- 1 The Constitution of the United Republic Tanzania of 1977 (as amended from time to time)
- 2 The Criminal Procedure Act, [Cap. 20 R.E 2019]
- 3 The Judicature and Application of Laws (Electronic Filing) Cap 358
- 4 The Judiciary Administration Act, No. 4 of 2011 [Cap 237]
- 6 The Magistrates' Courts Act [Cap 11 R.E 2019]
- 7 The National Prosecutions Service Act, [Cap. 430 R.E 2019]
- 8 The Penal Code [Cap 16 R.E 2019]
- 9 The Police Force and Auxiliary Services Act, [Cap. 322 R.E 2002]
- 10 The Judiciary Administration (General) Regulations, GN. 1 of 2021
- 11 Department of Constitution and Justice Monitoring Action Plan of 2019-2021
- 12 Judiciary of Tanzania (2020), Comprehensive Performance Report for the Judicial Function
- 13 Judiciary of Tanzania, Judiciary Strategic Plan 2015/16 - 2019/20
- 14 Judiciary of Tanzania, Judiciary Strategic Plan 2020/21 - 2024/25
- 15 Judiciary Statistical Dashboard System User Access Rights Guide Version 1.0, 2019
- 16 Judiciary Statistical Dashboard System, Introduction Paper (2014)
- 17 Ministry of Constitutional and Legal Affairs, Budget for FY 2016/17 to 2020/21
- 19 Ministry of Constitutional and Legal Affairs, Strategic Plan 2016-2021
- 20 National Prosecution Service (2020), Final Draft Strategic Plan 2020/21 - 2024/25
- 21 NPS Budget, MTEF for the Financial Year 2018/19 to 2020/21

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- 22 Police Budget, MTEF for the Financial Year 2018/19 to 2020/21
 - 23 President's Office-Public Service Management and Good Governance (2017) e-Government Guidelines
 - 24 Tanzania Police Force (2011), Investigation General Directive for Investigators in Tanzania





Appendix 1: Responses from the Audited Entities

This part provides details on Management response from the audited entities namely, the MoCLA, Judiciary of Tanzania, NPS and Tanzania Police Force.

Appendix 1(a): Response from the Ministry of Constitutional and Legal Affairs

A. General Comments

Ministry of Constitutional and Legal Affairs is, among others, mandated to ensure that the criminal justice system in the country is well coordinated and is transformed into an effective system that works for timely justice service delivery. The implementation of this mandate is guided by national such as The Tanzania Development Vision 2025, the Five-Year National Development Plan and the CCM Election Manifesto 2020; International policies, such as the Sustainable development Goals the Africa Development Agenda, 2063; and the Ministry's strategic Plan.

B. Recommendations to MoCLA

SN	Recommendation	Comments	Planned Actions	Implementation Timelines
1.	Improve its planning and implementations of the monitoring and Evaluation of the monitoring justice delivery. This should include the development of plans, framework for conducting the Monitoring and Evaluation of its undertakings and improving the human resource base of the Division of Constitution and Justice Monitoring	The Ministry is committed to ensuring that Tanzania criminal justice system is well coordinated and delivers equitable and timely justice for all citizens; During the Financial Year 2020/2021, The Ministry conducted a criminal Justice stakeholders' forum to holistically	Development of Ministerial Monitoring and evaluation guideline as well as Annual Monitoring Plan. Launch and implement the developed Criminal Justice Transformation Programme Increasing number of staff to improve efficiency	2022-2023 2021/22-2025/26 2022-2023

SN	Recommendation	Comments	Planned Actions	Implementation Timelines
		<p>deliberate on issues that were impediment to timely delivery of criminal justice in Tanzania. Following the recommendations of forum, the Ministry prepared a proposal for some amendments to a number of legislations so as to strengthen the criminal justice system. Several legislations including the National Prosecution services Act, the Criminal prosecutions act, and Economic Crimes Act, just mention a few, were amended.</p> <p>The Ministry in collaboration with all stakeholders has so far developed a programme for</p>		

SN	Recommendation	Comments	Planned Actions	Implementation Timelines
		Criminal Justice system transformation in Tanzania that has been tabled before the IMTC;		
2.	<p>Develop a follow-up system for tracking the recommendations or identified challenges raised during the mission meetings done as part of ministerial effort to assist the Judiciary of Tanzania, NPS and other stakeholders in improving efficiency in cases administration</p> <p>This could be through accelerating the completing the ongoing project on integrated data management system for the criminal justice system (e-justice)</p>	The comment is noted, the Management is committed to address the challenges	<p>Stakeholder's meetings to be conducted for improvement purpose</p> <p>Development of a system for Institutions Integration for information sharing</p>	<p>2022-2023</p> <p>2022-2023</p>
3.	Enhance its coordination in term of developing a combined investment effort, financing opportunities, and capacity building to justice delivery entities towards achieving timely justice delivery	The comment is noted	The Ministry will coordinate combined investment efforts with other justice delivery institutions in order to achieve timely justice	2022-23

SN	Recommendation	Comments	Planned Actions	Implementation Timelines
			delivery to the general public	



Appendix 1(b): Response from the Management Judiciary of Tanzania

A. General Comments

The Judiciary of Tanzania is an autonomous organ with final authority in the interpretation of the law and dispensation of justice. In discharging its constitutional mandate, the Judiciary has to dispense justice expeditiously. Recommendations raised are meant to expedite criminal justice delivery in the country. The Judiciary thus takes the recommendations seriously and is committed to implement them.

C. Recommendations to the Judiciary of Tanzania

S N	Recommendations	Comments	Planned Actions	Implementation Timelines
1.	Re-evaluate methods for distribution of workload and setting a case completion target for Judges and Magistrates and ensure that the performance of Judges and Magistrates are assessed based on the type of cases handled by each magistrate i.e. civil or criminal matter	Noted, however some courts have no cases of some categories. For example, specified divisions entertain cases of only one type. It may be challenging to set case target basing on case categories.	The judiciary will undertake a simple study to evaluate whether the performance target set are yet viable and review them where necessary. The reviewed case threshold will be based on case categories where necessary. Introduce automated case assignment to eliminate human errors or bias in distribution of workload among Judges and Magistrates.	By January 2023
2.	Undertake to review procedural and statutory requirement for scheduling and conducting of criminal sessions and develop a	Noted. However, the procedure for sitting and transacting High Court sessions is largely provided for by the	The Judiciary will conduct the study in looking at the best way in implementing this recommendation and the study	By December 2022

S N	Recommendations	Comments	Planned Actions	Implementation Timelines
	more viable criminal session scheduling procedure	Criminal Procedure Act, section 179 (1) of the CPA inclusive. Departure from this procedure requires amendment of the CPA which is outside the domain of the Judiciary. Further the Chief Justice issued circular No. 3/2018 on publication of annual Calendar of court business and preparation of cause list to supplement the CPA.	findings will inform the Judiciary on the best way forward including recommending for the amendment of the law to the MOCLA (if necessary).	
3.	Undertake to review the viability of statutory requirement of committal proceedings in subordinate courts	Noted. However, requirement for committal proceedings is provided by the law, the Criminal Procedure Implementation of this recommendation entails the amendment of the CPA which is within the mandate of the Parliament.	The Judiciary will conduct a study to see the viability of the committal proceedings and the procedure thereto and recommend to the MOCLA for amendment of the CPA in line with the study recommendation .	By December 2022
4.	Conduct skills gap analysis among Judiciary of	Noted	The Judiciary will identify all areas of training	By July 2022

S N	Recommendations	Comments	Planned Actions	Implementati on Timelines
	Tanzania staff to facilitate planning for capacity building in term of administration and use JSDS 2.0		needed for both internal and external users with a view to easing access to justice. Then, conduct training on identified areas.	
5.	Establish the internal control to ensure that the data entry and data uploaded in the JSDS 2.0 system meets the required quality	Noted	The Judiciary has developed a new case management system that addresses both functional and non-functional requirement. The new case management application systems is now being used by a group of selected users from 6 pilot courts with all court levels and stakeholders.	By May 2022

Appendix 1(c): Response from the Management of National Prosecution Service

A. General Comments

Prosecution is the core function of the Office of National Prosecutions Services, in order to reduce frequency of unnecessary adjournment, daily professional capacity building is necessary as mundus operanda employed by criminals is pegged advanced use of technological loopholes which are evolving over time.

B. Specific Recommendation to the National Prosecutions Services

SN	Recommendation	Comments	Planned Actions	Implementation Timelines
1.	Establish a control mechanism to ensure that all State Attorneys are well prepared and informed on the specific cases before Court appearance. This is proposed in order to reduce the frequency of unnecessary adjournment of cases	NPS has already taken preliminary initiatives to develop guidelines to reduce the frequency of unnecessary adjournments. Further, DPP has re-issued directives to ensure cases are filed only when investigation is complete to avoid unnecessary adjournments	<ul style="list-style-type: none"> • Regular profession trainings • In house trainings • Regular inspections to ensure compliance with GN. No. 296/2012 • Roll out of Case Management Information System which, among other things will indicate backlog cases on real time basis • Prosecutors and investigators joint workshops on investigative issues 	Roll out of Case management Information System is currently underway. Implementation of other interventions is subject to management approval and availability of resources By 2025
2.	Develop guidelines, procedures, or any other enforceable instrument to	The activity will be included in the next	<ul style="list-style-type: none"> • Development of Guidelines on Inspection and Monitoring of 	Subject to management approval and availability of resources

SN	Recommendation	Comments	Planned Actions	Implementation Timelines
	governing NPS in setting annual target of case dispositions per State Attorney	financial year 2022/2023	Quality Assurance Develop manual for basic criminal case investigation and coordination on selected offences <ul style="list-style-type: none"> • Mainstreaming of Standard Operating Procedures on different thematic areas • Establishment of Prosecution control procedures 	By 2025
3.	Conduct a training needs assessment to establish the skills gap at the NPS that would help in planning, budgeting, and setting training priorities each year	This activity will be conducted during next financial year-2022/2023	<ul style="list-style-type: none"> • Interviewing key stake holders • Group discussion • Preparation of training needs assessment 	2 nd Quarter of 2022/2023 financial year.

Appendix 1(d): Response from the Management of Tanzania Police Force (Criminal Investigation Department)

A. General Comments

Criminal Investigation Department's main goal remains to protect people and properties from all unlawful acts by preventing, detecting and combating crime in order to maintain law and order in the United Republic of Tanzania. The first and second specific comments are implementable subject to available budget and employment decisions.

B. Recommendation to the Tanzania Police Force

SN	Recommendation	Comments	Planned Actions	Implementation Timelines
1.	Conduct training needs assessment for the investigators, to ensure that the knowledge gap is known, and all the training and other skills development programmes are implemented	Accepted for action. An attempt was made in 2018 to conduct training needs assessment for investigators in three regions. However, Budget constraint is the main hindrance for further training needs assessment and other skills development programmes.	i. There is ongoing in-service training programme for investigators in every region annually. ii. However, training needs assessment for investigators will be conducted subject to the availability of enough budget allocation. iii. We will budget for it the next financial year.	Financial year 2022/2023
2.	Ensure the allocation of personnel is based on the workload, crime rate, and population to minimize the	Accepted for action. However, number of investigators (employees) is lesser	Administrative steps will be taken to request employment of more personnel, the outcome subject to	Financial year 2022/2023

SN	Recommendation	Comments	Planned Actions	Implementation Timelines
	delay of investigation activities	compared to the current population and crime. Deployment of personnel to a particular locality may be effected depending on incidents attracting immediate Police attention.	approval by President's Office, Public Service Management.	
3.	Conduct an intensive awareness programme to rural communities and urban centres on basic procedures of dealing and reporting crime in their areas	Well noted. This is the programme under implementation currently, where its emphasis started more than ten years ago.	To continue supervising awareness programmes to rural communities and urban centres on basic procedures of dealing and reporting crimes in their areas.	Financial year 2021/2022

Appendix 2: The Audit questions and Sub-Questions

Audit Question 1	Does the existing process and procedures for Case Management at Judiciary of Tanzania allow for reduction of cases waiting time?
<i>Sub-Question 1.1</i>	<i>Does Judiciary of Tanzania (Judiciary of Tanzania) administrative¹⁵ processes efficiently operated to enhance timely criminal justice delivery?</i>
<i>Sub-Question 1.2</i>	<i>Has Judiciary of Tanzania set waiting time for cases based on proper references and benchmark?</i>
<i>Sub-Question 1.3</i>	<i>Has Judiciary of Tanzania established internal controls to ensure that all officers of the Court comply fully with the set waiting time?</i>
<i>Sub-Question 1.4</i>	<i>To what extent Judiciary of Tanzania ensure evenly distribution of the workload among officers of the Court?</i>
<i>Sub-Question 1.5</i>	<i>Does Judiciary of Tanzania ensure that performance of Judges or Magistrates is based on a SMART performance indicator?</i>
<i>Sub-Question 1.6</i>	<i>Has Judiciary of Tanzania adequately involved key stakeholders in the development of time management tools in the Judiciary?</i>
<i>Sub-Question 1.7</i>	<i>Does Judiciary of Tanzania adequately assess the required resources including human resource, equipment, and money to facilitate timely criminal hearing?</i>
<i>Sub-Question 1.8</i>	<i>Does the Judiciary coordinate with Prison Service to ensure availability of remands to support timely case hearing?</i>
Audit Question 2	Performance of the Statistical Dashboard System
<i>Sub-Question 2.1</i>	<i>Has Judiciary of Tanzania established proper procedures to ensure that data in JSDS 2.0 are accurate and meet the quality standards? Is there written documentation of these procedures?</i>
<i>Sub-Question 2.2</i>	<i>Does the system have any controls to ensure the data are entered accurately?</i>
<i>Sub-Question 2.3</i>	<i>Does the Judiciary of Tanzania ensure officers of the court and other users of JSDS 2.0 use the information from database during their daily activities?</i>
<i>Sub-Question 2.4</i>	<i>Does quality of the data, specify its completeness and accuracy? Are there any data limitations, such as data elements that are often incomplete or incorrect?</i>
<i>Sub-Question 2.5</i>	<i>Does Judiciary of Tanzania periodically update information in the database?</i>
Audit Question 3	Do the prosecution procedures by the National Prosecutions Service (NPS) properly align with other

¹⁵ (Filing a suit, assignment of case judges and Hr, etc)

	actors to minimizing delay of cases in the justice system?
<i>Sub-Question 3.1</i>	<i>Has NPS developed appropriate strategies or plans to minimize time for prosecution of cases with intention to minimizing delay of cases in the justice system?-</i>
<i>Sub-Question 3.2</i>	<i>To what extent the NPS coordination mechanism support effective sharing of information to minimizing delay of cases in the justice system?</i>
<i>Sub-Question 3.3</i>	<i>Has NPS set a standardized time for prosecution cases?</i>
<i>Sub-Question 3.4</i>	<i>Has NPS allocated and distributed prosecutors based on demand, risk and workload across regions and districts?</i>
<i>Sub-Question 3.5</i>	<i>Has NPS allocated and distributed funds for prosecution activities according to needs and ensure that they are adequately spent?</i>
<i>Sub-Question 3.6</i>	<i>Has NPS capacitate its Attorneys in conducting Prosecution?</i>
Audit Question 4	Does the Police force have capacity to perform its role in support of timely criminal justice delivery?
<i>Sub-Question 4.1</i>	<i>Has Police force developed appropriate strategies or plans to minimize time spent to conduct investigation on cases filed?</i>
<i>Sub-Question 4.2</i>	<i>Has Police force set a standardized time for criminal investigation? To what extent Police comply with the established time?</i>
<i>Sub-Question 4.3</i>	<i>Does Police force ensure that resources (investigators, vehicles, funds) are allocated and distributed based on demand, risk, and workload?</i>
Audit Question 5	Does MoCLA adequately monitor and evaluates the performance of Justice system to ensure it is effective in control of delay of cases?
<i>Sub-Question 5.1</i>	<i>Does the Ministry effectively conduct M&E to judiciary and other agencies to ensure timely delivery of justice?</i>
<i>Sub-Question 5.2</i>	<i>Have MoCLA taken appropriate actions to assist the Judiciary of Tanzania, NPS and other related agencies on improving efficiency in cases administration?</i>
<i>Sub-Question 5.3</i>	<i>Does the monitoring system at MoCLA allow for assessing performance of timely delivery of justice?</i>
<i>Sub-Question 5.4</i>	<i>To what extent does the Ministry coordinate the stakeholders under the justice system to ensure there is a uniform goal and means of timely justice delivery?</i>

Appendix 3: Officials Interviewed during the Audit

Interviewee	Reasons
MoCLA - Director of Constitution and Justice Monitoring	<ul style="list-style-type: none"> To assess performance in monitoring by the Ministry to ensure timely criminal justice within stakeholders. To identify key performance indicators of criminal justice stakeholders in monitoring and evaluation activities. To assess the adequacy of existing monitoring mechanisms.
Judiciary of Tanzania - Hon. Judge Incharge - Deputy Court Registrars - Hon. Resident Magistrate In charges - Court Administrators	<ul style="list-style-type: none"> To seek clarification on the delays in disposition of criminal sessions To assess performance in disposition of criminal cases with involvement of other stakeholders. To assess performance on criminal session scheduling with First in First out system. To evaluate utilization of witness budget on criminal sessions. To seek clarification on the delays in disposition of criminal sessions. To assess performance on case disposition workload among Resident Magistrates. To get clarification on matters arising in subordinate courts inspection activities. To assess performance on extended jurisdiction criminal sessions. To assess the performance in utilization of budget of witness in criminal cases disposal. To assess adequacy of performance of court against the available resources.
National Prosecution Services - Regional Prosecution Officers - Prosecution Attorney Incharges - State attorneys	<ul style="list-style-type: none"> To assess strategies put in place to align with timely criminal justice in prosecution. To evaluate the workload in prosecution of case against the available human resource per court.

Interviewee	Reasons
Tanzania Police - Director of Criminal Investigations - Regional Crime Officers - OC-CID Officer commanding Crime Investigation District - Deputy Commissioner of Police (DCP)	<ul style="list-style-type: none"> • To assess the adequately timely complete investigations of crimes • The seek clarification on delays of criminal investigations. • To understand crime rates and general Criminal investigation procedure.



Appendix 4: The performance of Magistrates

No. of Magistrates	Kisumu RM			Arusha RM			Dodoma RM			Mbeya RM			Geita RM		
	0-100	101-200	201-250	0-100	101-200	201-250	0-100	101-200	201-250	0-100	101-200	201-250	0-100	101-200	201-250
YEAR 2015/16	35			13			10			2			2		
YEAR 2016/17	23	1		20			12			5			2		
YEAR 2017/18	20			15	2		12	1		10			2		
YEAR 2018/19	33			22	3		15	1		14	1		1	1	
YEAR 2019/20	22	1		16	1		14			10	2	1	1		1
YEAR 2020/21	3			15	2		9			6			1		

Source: JSDS 2.0 and Actual Criminal file and Auditors' Analysis 2021

Appendix 5; List of Document Reviewed

Name of the Documents	Reasons for the Review
Ministry of Constitutional and Legal Affairs	
MoCLA performance report from 2015/16 - 2019/20	To extract data on the annual Performance of MoCLA with regards to timely delivery of justice.
Policy, Acts and Regulation that fall within the Audit period	To examine the laws, regulations, and standards governing provision of criminal justice in the country. This will be important in assessing the system that governs the provision of criminal justice in Tanzania. Moreover, the laws, policy, and strategic plans will be used as the source of criteria during planning for the main study.
Budget documents from MoCLA and the Expenditure Report	To examine effectiveness of the financing mechanism for Criminal justice delivery such as the trends of revenue and expenditures, efficiency, equity and reliability of the allocated funds.
MoCLA's Annual reports (2015/16-2019/20 Monitoring and Evaluation	To assess the monitoring and evaluation activities conducted within the audit period
The Ministry of Constitutional and Legal Affairs Strategic Plan 2016 to 2021	To examine the set strategic objectives, targets and indicators with regards to timely access of justice.
Judiciary of Tanzania	
Function Strategic Plan, Acts and Regulation that fall within the mandate of the Audit period	To examine the set strategic objectives, targets and indicators with regards to timely access of justice.
Judiciary Comprehensive Performance Report from 2015/16 - 2019/20	To extract data on the annual Performance of JoT with regards to timely delivery of justice.
Budget documents from MoCLA and Judiciary	To examine effectiveness of the financing mechanism for Criminal justice delivery such as the trends of revenue and expenditures, efficiency, equity, and reliability of the allocated funds.
CAG's financial Audit Reports for JoT, NPS, and Police Force	To get clarity and understanding of the challenges, strength, weaknesses raised during financial and compliance audits with regards to the timely delivery of justice

Name of the Documents	Reasons for the Review
Sampled Case files	To review the case progress and reasons for delay at both police level, prosecution level and court level
National Prosecution Service	
Strategic Plan, Acts and Regulation that fall within the mandate of the Audit period	To examine the set strategic objectives, targets, and indicators with regards to timely access of justice.
NPS Performance Report from 2015/16 - 2019/20	To extract data on the annual Performance of NPS with regards to timely delivery of justice.
Budget Documents from NPS Regional Offices	To examine effectiveness of the financing mechanism for Criminal justice delivery such as the trends of revenue and expenditures, efficiency, equity and reliability of the allocated funds.
NPS Training Reports	To review the extent the State Attorneys and the Police Force are capacitated in the justice delivery process
Sampled Case files	To review the case progress and reasons for delay at both police level, prosecution level and court level
Tanzania Police Force	
Strategic Plan, Acts and Regulation that fall within the mandate of the Audit period	To examine the set strategic objectives, targets and indicators with regards to timely completion of investigation.
Police Performance Report from 2015/16 - 2019/20	To extract data on the annual Performance of Police with regards to timely delivery of justice.
Budget Documents from RCO Regional Offices	To examine effectiveness of the financing mechanism for Criminal justice delivery such as the trends of revenue and expenditures, efficiency, equity, and reliability of the allocated funds.
Investigation Training Reports	To review the extent the Investigation Police Force are capacitated in the justice delivery process
Sampled Case files	To review the case progress and reasons for delay at both police level, prosecution level and court level