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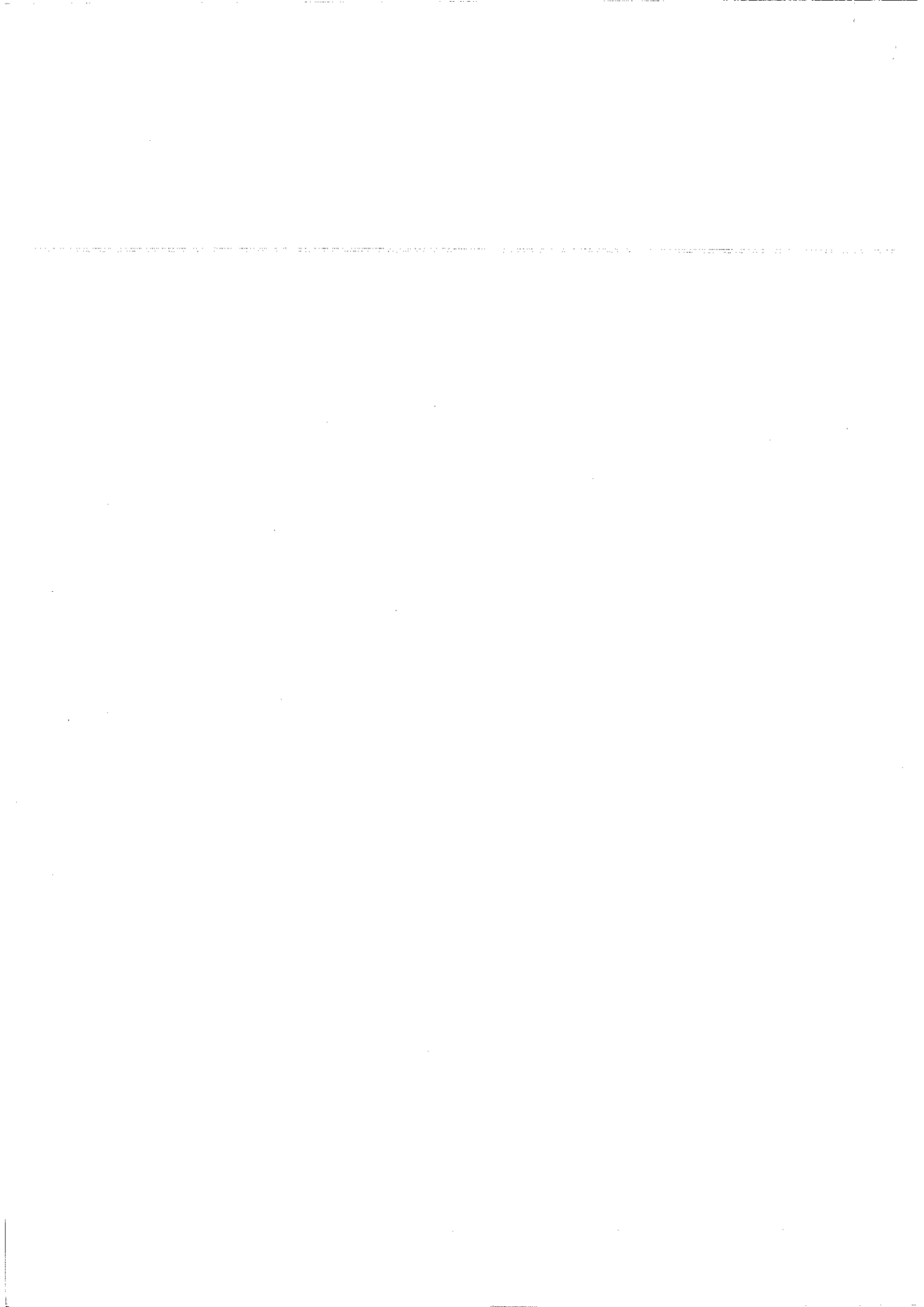on

The Governance, Justice, Law and Order
Sector (GJLOS) Policy

OFFICE OF THE ATTORNEY-GENERAL AND
DEPARTMENT OF JUSTICE

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Sessional Paper No. 4 of 2014

on

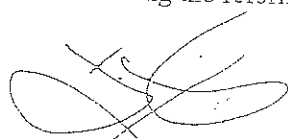The Governance, Justice, Law and Order
Sector (GJLOS) Policy

Foreword

Democracy, political modernization, economic growth, protection of human rights - these are among the over arching national objectives attributive to, and also resulting from "good governance, justice and the rule of law". Conversely, weak institutions in the rule of law, inefficient justice system and the lack of good governance on the other hand lead to an opposite trajectory, posing major threats to social order and retarding economic development.

Unlike some few decades back when good governance justice and rule of law hardly made mention in development debates, policymakers across the world are today seeking ways to variously strengthen this sector as the leader in establishing conducive investment environment for a thriving private sector. Thus in the last three decades, there has been some paradigm shift towards a new reform agenda — the so called *"second-generation reforms"*— which typically prioritize good governance and legal reforms.

The case of Kenya's history is no different from what was happening elsewhere in developing nations. Kenya first prioritized investment in what economist have termed as the *"productive sector"* and conversely, justice, legal system and rule of law institutions were grossly underfunded. But even with a reversal of policy, and with the sector gaining some prominence, there has been realization that extra resources alone were no panacea to the multitude of challenges facing the sector in its efforts to improve services to the people.

GJLOS sector policy offers an effort towards redressing some of these major challenges by creating an overarching framework to guide planning, investment and reform agenda in the sector in a concerted manner. It is a ground breaking document from the point of view that there has been no other sector before this—in our country —that has developed a similar policy. The document is also a response to lessons learnt during the life of the first five-year to GJLOS reform program that ended in December 2009. While recommending for continuation of the sector-wide reforms the independent summative evaluation to this program had further observed a need for policy which was recommended as an important prerequisite towards fastening the reform pace and effect.

Prof. Githu Muigai, FCIArb, SC, MP
ATTORNEY-GENERAL

iii

Preface

Since creation of the GJLOS sector as one of the nine Budgeting sectors under the Medium Term Expenditure Framework (MTEF) in 2007, it has continued to expand particularly after the promulgation of the new constitution in 2010. New institutions have taken their place in the sector while some few others have been re-established. Today, the sector has over 40 Ministerial Departmental Agencies (MDAs) making it by far the largest sector in terms of participating Ministries and independent institutions. The sector also occupies the centre stage for law and order and security which according to a recent sector's survey findings are the most essential 'services' that the state provides to the public. This goes some way to illustrate the complexity of GJLOS sector and also its centrality in service delivery.

Under the Economic Recovery Strategy for Wealth and Employment Creation (ERSWEC) of 2003-2007, GJLOS sector reform was initiated as a fundamental ingredient towards the country's development. The political pillar for Vision 2030 espouses "a political system that is issue based, people-centred, results-oriented, and accountable to the public". Besides, the sector's reforms are then considered to be instrumental towards improvement of environment for doing business. Political pillar flagship projects that are executed through GJLOS reforms include Constitutional implementation; Judicial and legal reforms; Security and policing reform. This in turn is envisioned as a key stimulant to private sector vibrancy contributing to growth and to poverty reduction. It is further espoused to contribute to enhanced enjoyment of individual human rights as envisaged in the constitution.

Even as there have been commendable achievements for GJLOS reforms, since its launch in 2003, there has been a general realization that the fast evolving demands on the sector had reached a threshold where committed policy, and political leadership, were to be harnessed in order to move forward with commitment and with deep sense of purpose in the reform process. This policy is therefore a response to this need. The policy was developed through a thoroughly and comprehensively participative process that ensured deep insight and interrogation of matters affecting this sector. This also guaranteed that there is ownership by stakeholders on all sides.

As part of the build-up to this policy, some major national-wide surveys were conducted to offer baseline and to advise policy development. Two supply-side surveys on Administration Data and on Policy Law and Regulation were carried out. A further study on the sector's Infrastructure Capacity endowment and needs

was also concluded. These studies were useful in identifying gaps, inconsistencies, contradictions and thus reform priorities to be addressed under the second phase of reforms.

Specific objectives of the policy are first to align institutional policies and strategies with the political pillar of Vision 2030 and the new constitution; and thereby to align inter- and intra-sectoral resourcing. It therefore essentially leads to policy thinking while informing programming, planning and budgeting. By this policy, GJLOS now become a policy-led sector that has logical Linkages horizontally and vertically.

TABLE OF CONTENTS

viii

List of Abbreviations

ADR	-	Alternative Dispute Resolution
CIC	-	Commission on the Implementation of the Constitution
ERS	-	Economic Recovery Strategy for Wealth and Employment Creation
GJLOS-RP	-	Governance, Justice, Law and Order Sector Reform Programme
GoK	-	Government of Kenya
ICT	-	Information and Communication Technology
MTEF	-	Medium-Term Expenditure Framework
MTS	-	Medium-Term Strategy
NARC	-	National Alliance Rainbow Coalition
NCIC	-	National Cohesion and Integration Commission
NIMES	-	National Integrated Monitoring and Evaluation System
NSIS	-	National Security Intelligence Service
NSA(s)	-	Non-State Actor(s)
PRSP	-	Poverty Reduction Strategy Paper
PS	-	Permanent Secretary
PSRP	-	Public Sector Reform Programme
STPP	-	Short-Term Priorities Programme
TJRC	-	Truth, Justice and Reconciliation Commission
VDS	-	Vision 2030 Delivery Secretariat

Executive Summary

GJLOS sector policy performs a number of primary objectives.

First, it creates harmonisation, alignment, coordination, and anchorage within the sector (between different GJLOS institutions) and between the GJLOS and the national policies and political landscape

Secondly it will guide review and implementation of existing policies and programmes, and promote coherence among all existing policies and programmes in the sector; as a single, sector-level policy, it does not duplicate or replicate existing policies or programmes;

The fourth objective is that it seeks to promote an integrated approach to implementation of reforms by assisting institutions to move away from narrow and lone-ranger thinking to sector-wide approaches, in order to address problems in a systematic manner ; and

Lastly, it seeks to enhance sustainability of GJLOS reforms by grounding them on an accepted policy framework.

By design, this sector policy, therefore contributes directly to sector-specific overarching priorities that are tied to a defined set of targeted sector policy outcomes. In essence, the policy is further intended to bolsters potential partnership between government, the private sector, local non-government organizations, and overseas development agencies all of which have been instrumental to its formulation.

The policy design process was a highly interactive one engaging various stakeholders at various levels in the sector, as well as the Private Sector, Civil Society Organizations and the general public. It has been further advised by a number of national-wide baseline surveys which ensures that the policy responds to the latest relevant data.

The policy document begins with an introduction that builds a context on why a sector policy is necessary, and the country's history on governance justice and rule of law reforms, right from independence. It further offers a situation analysis of the governance, justice, law and order sector, as one whose main issues of concern include the need to develop a strong foundation for the rule of law, a culture of human rights and social justice, and participatory democracy.

These three issues are then addressed under the second part of the document under corresponding themes, first of which is *"a Renewal of Constitutionalism, Human Rights*

xi

and Justice." This theme prioritizes policies and legislation to implement the requirements of the Constitution, and to enhance access to justice, which it proposes to be critical for the institutionalisation of a culture of constitutionalism and respect for human rights.

The second theme is "*Issue-Based and Participatory Democratic Processes,*" which deals with establishing democratic structures, public education, institutionalising oversight mechanisms, and instilling a culture of democratic and accountable governance. The third and last theme is then "*People-Centred, Result-Based and Accountable Service Delivery,*" which elaborates the need for transforming service delivery through values and professionalism, and integrated approaches to policing, criminal justice delivery and peace building.

The last part of the document on policy delivery examines co-ordination and collaboration within the sector which is observed to be very key yet has been a major challenge. The leading obstacle is observed to be cultural and structural. Institutions, tended to be inward-looking and self-centered - often, they to work for self-preservation. To address these challenges, the policy proposes a structured institutional framework for coordination and in terms of process identifies some three interrelated approaches to promote collaboration and coordination in the sector. The first is executive direction that is offered by government's approval of this policy. The second approach is the reinforcing of a resource-based incentive structure (coordination from a point of resources) – which again this policy offers; and third is institutional commitment to sector-wide processes that is necessary for policy implementation effectiveness.

The document ends by empathizing extra resourcing for the sector and also need for establishing an effective monitoring and evaluation that will be key to ensuring implementation of this policy.

I.   INTRODUCTION

1. BACKGROUND TO THE POLICY PAPER

1. The development of a policy on the Governance, Justice, Law and Order Sector (GJLOS) in Kenya is based on the recognition that past attempts to improve governance, justice, law and order have not fully succeeded in improving the sector. However, the Government of Kenya (GoK) continues to recognise the importance of improved governance in national development. Indeed, both Vision 2030 and the 2010 Constitution of Kenya reflect this linkage.

2. Vision 2030 has identified a set of governance principles to guide efforts in the sector and ensure continued gains. The political pillar specifically identifies six strategic areas through which the political governance system will be transformed. These strategic areas are: rule of law; electoral and political processes; democracy and public participation; transparency and accountability; public administration and service delivery; and security, peace-building and conflict management.

3. Article 10(2) of the Constitution identifies the national values and principles of good governance to guide state and public officers, institutions and, indeed, everyone whenever they are interpreting or applying the Constitution, enacting, applying or interpreting any law, or even making or implementing public policy. The national values and principles of governance include:

   (a) Patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people

   (b) Human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised

   (c) Good governance, integrity, transparency and accountability

   (d) Sustainable development.

4. Although there have been efforts to improve the sector, there has been no comprehensive policy framework to guide these efforts. Lack of a comprehensive policy has had the effect of hindering full realization of sector objectives and constraining optimal utilisation of resources within the sector. And given the large array of institutions in the sector, alignment and harmonisation of efforts has been difficult. This policy framework, therefore, aims at addressing these challenges. The framework recognises the significance of the Constitution and Vision 2030 in terms of giving directions in the sector. In this regard, the framework outlines the landmark pillars and the key points on which the sector policy will be anchored.

1.1 Government Commitment to Governance, Justice, Law and Order Reforms

5. Efforts to improve this sector have a long history. *Sessional Paper Number 10 of 1965 on African Socialism and its Application to Planning*, developed after independence in 1963, recognised democracy and mutual social responsibility as key aspects of African Socialism. The space for democratic governance, enjoyment of rights, access to justice, and law and order, however, significantly contracted after the first few years of independence. The centralisation of power, repression under single party regime, and human rights abuses increased. Demands for fundamental reforms resulted in the re-introduction of multi-party democracy in 1991, but political pluralism did not deepen democratic governance. Multi-party democracy rested on a constitutional and legal structure that retained the single party political culture. This included domination of other institutions by the executive, and exclusion of citizens from participation in decision-making.

6. The government made several attempts to address emergent challenges. From as early as 1982, the government established the Kenya Law Reform Commission. This was done during the one party regime and, therefore, the dominance of the ruling party and the executive over other institutions limited the Commission's impact. Furthermore, laws enacted at the time sought to entrench this dominance and ended up weakening governance, justice and legal sector institutions. This shortcoming had consequences even for the economy. The economy grew at an average of about 4 per cent in the 1980s but state capacity to deliver services declined considerably. Later in the period, the government introduced Structural Adjustment Programmes (SAPs) to promote growth.

7. Alongside economic reforms, demand for political reforms occasioned establishment of special Task Forces and Commissions of Inquiry to address some of the problems in the governance and justice sector. In 1992, the government established 15 task force groups to update laws around governance, justice and public order. Laws relating to women, public order and security, and children, among others, were reviewed. In 1998, the government established a Judicial Committee to study and make recommendations on the administration of justice. Also in 1998, a Legal Sector Reform Coordinating Committee was established, with the mandate to undertake a review of the sector and make the necessary recommendations. In 2000, and out of this experience, a Legal Sector Reform Programme was launched.

8. Importantly, Kenya's Poverty Reduction Strategy Paper (PRSP) in the 2001-2002 period identified interventions in public safety, law and order, national security and public administration as critical to poverty reduction. However, there was no systematic implementation of PRSP-related governance interventions. It, therefore, had limited impact. Indeed, public safety, criminal justice system and public administration, among other governance and justice-related institutions, remained under-resourced. Institutions in the sector themselves lacked the necessary capacity to undertake the required reforms.

9. After the December 2002 General Election, a new government came to power and formulated a comprehensive policy strategy, known as the Economic Recovery Strategy for Wealth and Employment Creation (ERS), to promote economic recovery. The strategy recognised the centrality of governance, justice and legal sector reforms to support economic recovery. This set the pace for governance and justice reforms. Notable in this regard was the review of the Expanded Legal Sector Reform framework, with the participation of stakeholders. Through this new effort, the government established a comprehensive governance and justice programme, the Governance, Justice, Law and Order Sector (GJLOS) Reform Programme (RP), to put into effect the governance component of the ERS. The programme evolved to embrace broader governance and justice reforms. It also responded to the strong demands on the government to undertake democracy, human rights, good governance, and criminal justice reforms.

10. The GJLOS-RP sought to reform institutions by strengthening their capacity and initiating culture change with a view to enhancing service delivery. At the same time, the programme sought to enhance sector coordination and build public confidence in institutions in the sector. Through the programme, the government introduced and/or revised legislation to support approaches to improve access to justice in particular, and governance, in general.

11. The current development blueprint is Vision 2030, which recognises the importance of governance in moving Kenya into the future. Vision 2030 specifically identifies the strategic areas through which the system of political governance will be transformed. In line with this policy thinking, the Government's initiatives in the sector aim at building a just, inclusive, secure, and a human rights-respecting state and society, guided by the values of good governance, transparency, integrity, and accountability. Also, the Government acknowledges that sharing and devolution of power are important values of

5

national development. These values are also anchored on the Constitution. The Government, therefore, will promote the practice of good governance, transparency and accountability at the level of both national and devolved governments.

1.2 The Purposes and Objectives of the GJLOS Policy

12. The GJLO sector is fairly large. It is a multi-actor sector governed by many existing policies, laws and administrative circulars. Individual GJLOS institutions work within this dense policy and legal framework, which has generally created incoherence and constrained effective collaboration within the sector. The sector comprises institutions with linkages to the Office of the President, Office of the Vice President and the Ministry of Home Affairs, the State Law Office, the National Assembly, and a number of semi-autonomous state institutions and commissions.

13. The creation of the Governance, Justice, Law and Order Sector was rationalised on the basis of the recognition of the inter-linkages of the mandates of the GJLOS institutions. Yet, these institutions comprise a large array of policies and laws that address specific contexts rather than GJLOS as a sector. This has made a strong case for a policy framework that would make the governance, justice and legal reforms' context predictable and coordinated. But it is recognised that sustainable and better impact cannot be achieved without alignment, harmonisation and coordination of the sector and its institutions.

14. This GJLOS Policy will guide decisions and achieve certain outcomes in the sector. It will be the basis for specific policies, regulations and even requirements for organizational behaviour in the sector. While the Policy Paper, of necessity, includes the government's intentions and statements in relation to the sector, it is much wider: it provides direction in terms of programmatic action needed to achieve the required policy outcomes.

15. The Policy Paper anchors governance, justice, and law and order reforms on a broader national development and political context, particularly Kenya's Vision 2030 and, most importantly, the 2010 Constitution of the Republic of Kenya. It incorporates key policy options the sector will pursue in order to deepen sector reforms in line with national values and principles of governance espoused in the Constitution. It also defines and facilitates how institutions in the sector

6

complement one another. It creates opportunities for better and sustained impact of reforms in the sector as well as economic growth. Indeed, the linkage between governance and economic growth are evident from implementation of the ERS from 2003 to 2007.

16. The vision of this Policy Paper is a 'just, inclusive, accountable, participatory, democratic and human rights-respecting state and society'. This vision reflects the provisions and the spirit of the Constitution of Kenya. It also reflects the government's commitment in Vision 2030 to build a 'democratic system that is issue-based, people-centred, result-oriented and accountable to the public'. The vision also draws from the need to address the many challenges to the improvement of the sector in spite of past reform efforts. The Policy Paper, thus, provides a basis for addressing these challenges in a coherent and sustainable manner so as to build a secure, just and democratic system for the prosperity of all Kenyans.

17. The key objectives of the GJLOS Policy are to:

   ○ Guide the operation of the GJLOS within the context of, and identify priorities to further the values and principles espoused in, the new Constitution (constitutional relevance objective)

   ○ Align the GJLOS reform process with Vision 2030, the Constitution and the national development policies in general (integrationist objective - policy)

   ○ Provide a common framework for harmonization, alignment, and coordination as well as sharing of values within the sector and between the sector and national policy processes (integrationist objective - administrative)

   ○ Provide a singular frame of reference for all GJLOS institutions and to benchmark and anchor the reform processes in the sector on a common and coherent framework (custodial and standards objective).

18. On the basis of these objectives, the Policy will perform four primary roles:

   ○ Create harmonisation, alignment, coordination, and anchorage within the sector (between different GJLOS institutions) and between the GJLOS and the national policy/political landscape

○ Guide review and implementation of existing policies and programmes, and promote coherence among all existing policies and programmes in the sector; as a single, sector-level policy, it does not duplicate or replicate existing policies or programmes

○ Promote an integrated approach to the implementation of reforms by assisting institutions to move away from narrow and lone-ranger thinking to sector-wide approaches in order to address problems in a systematic manner

○ Enhance sustainability of GJLOS reforms by grounding them on an accepted policy framework.

1.3   GJLOS: A Situation Analysis

19. GJLOS is structured around thematic areas, which are anchored on the Vision 2030 priority areas for governance, justice and legal reforms. The situation analyses undertaken under each of the themes reveals a number of policy issues that are addressed by the Policy Paper. The themes are *Rule of law and administration of justice, Security, safety and cohesion, Public administration and service delivery, Integrity, transparency and accountability, Democracy and public participation, Human rights and social security,* and *Sector co-ordination, collaboration and resourcing.*

Rule of Law and Administration of Justice

20. A major challenge experienced in promoting the rule of law and administration of justice is the limited compliance with the law. The explanations for this include citizens' lack of or limited knowledge of the law. Also the law is not easily accessible to citizens both physically and in terms of language. Bureaucracy or red tape, inefficiency, arbitrariness and bias or discrimination in the application of the law, corruption, and the failure to hold people accountable or impunity combine to undermine the rule of law.

21. There are several challenges around access to justice that require policy attention. The first of these is inadequate public awareness and knowledge of the laws, judicial institutions and procedures. Related to this is inadequate public participation in the governance of the Judiciary and judicial processes. Second is inadequate recognition and use of Alternative Dispute Resolution (ADR) and traditional justice mechanisms in dealing with disputes. This is

attributable to inadequacy of knowledge of these mechanisms among judicial and other personnel. Third is absence of a balance between 'hard reforms' (infrastructure and facilities) and 'soft reforms' (laws, thinking and attitudes, and practices). Final is the limited or inadequate capacity, particularly in infrastructure, facilities and human resources, including the necessary knowledge and skills.

22. These challenges have meant a deepening of a poor culture of the rule of law. The challenges, and, in particular, citizens' knowledge of the law, have limited citizens' capacity to demand effective application of the rule of law and to hold people accountable. In turn, this failure has meant increased difficulties in protection of vulnerable groups and the marginalized. It has meant constrained access to justice by the poor and the vulnerable groups, and the ordinary citizens in general.

Security, Safety and Cohesion

23. The last two decades have witnessed a rise in insecurity and crimes. Violent crimes such as armed robberies in urban areas and varying forms of banditry in rural areas are notable in this respect. However, besides the police, no other institution is involved in tracking crime trends. Data by other institutions is not systematised. Thus lack of accurate and reliable data and information on insecurity and crime prevents development of a clear picture on insecurity and crime in general. Significant also is that high youth unemployment and general economic and social inequalities are some of the main drivers of crime. In rural areas, resource-based conflicts and cattle rustling in pastoralist areas of the country remain a security challenge. Environmental challenges brought about by global warming have also meant increased communal conflicts over resources, including those over access to, and control of, land resources.

24. The country has also witnessed increased influx of immigrants and refugees from neighbouring countries. This increased movement of persons has led to a rise in transnational crimes and present security challenges to the immigration and other security agencies. Furthermore, growth of militant groups in the Horn of Africa makes Kenya vulnerable to terrorist violence, having suffered several attacks in the past.

25. Ongoing policing reforms are a response to this combination of security and safety challenges. The performance of key security actors, among others, the

police, the prisons, the provincial administration as well as other institutions such as the probation and after-care, the immigration and registration services, in dealing with problems of insecurity, has consistently been noted as poor, and the actors considered unaccountable. Inadequate resources, infrastructure and training, and low levels of remuneration for the officers in the security sector have been major impediments to the delivery of services. This has encouraged corruption among the officers and lowered morale. Although community policing has been adopted as a policy by the Kenyan police, there are still limited meaningful partnerships with communities and incorporation of the private sector.

Public Administration and Service Delivery

26. The government has been implementing the Public Sector Reform Programme (PSRP), which emphasizes restoration of efficiency and effectiveness in the delivery of public services. Some of the challenges to the success of the reform measures are the slow pace in introducing performance management techniques and tools, and restructuring, right-sizing, pay reform and predictable budgets. Equally challenging is the resistance of some sectors of the civil service to neo-managerial strategies for improving service delivery.

27. The structure of government under the Constitution poses new challenges in the delivery of services and reforms from the national to the county government. The Constitution has delineated the functions of the national and county governments. This implies a need to support creation of new structures to effectively address the key principles of service delivery at all levels of government. A number of legislation will also be required to address issues of staffing, recruitment, salaries, and pensions at national and county levels.

Integrity, Transparency and Accountability

28. Problems of lack of transparency and accountability and deepening impunity have persisted despite the numerous legal and institutional reforms already undertaken. The key reforms undertaken by the government include a law on declaration of assets, rules on conflict of interest, readily accessible and transparent procurement rules, a constitutionally-entrenched Bill of Rights, protection for whistle blowers, and various administrative anti-corruption initiatives. Poor checks and institutional weaknesses generally combine with politics of patronage, negative ethnicity, nepotism and general disrespect for the rule of law to promote a culture of impunity in which public officers are not accountable for their actions.

29. There are various problems around realisation of an effective accountability system in Kenya. These include lack of effective public participation in decision-making processes; ineffective watchdog/oversight institutions; inaccessibility of leaders to citizens; poor information flow between the government and citizens; an apathetic public; low responsiveness and enforcement, and duplication of roles, especially in anti-corruption efforts. These challenges are compounded by inadequate adoption of an information and communication technology culture, yet such adoption would increase transparency in the conduct of public affairs and improve on the delivery of services.

30. The weak transparency and accountability culture has had one important consequence. It has led to low ethical thresholds and a poor appreciation of national values. In many instances, people have institutionalised corrupt practices in a manner that has taken the form of a culture. Clearly, laws on their own cannot effectively ensure transparency and accountability in public affairs, especially when there is a low threshold of ethical accountability.

Democracy and Public Participation

31. The key features of a democracy are present in Kenya – regular, periodic and competitive elections based of universal franchise; many political parties; a free and vibrant media; and functional state institutions, among others. However, the country's democratic roots and culture are yet to firm up and solidify. Institutions remain weak and personalised, rights are sometimes abrogated, accountability mechanisms are inadequate, and electoral contests are shaped by ethnicity and patronage. The Executive has tended to dominate over other governance institutions, including the Judiciary and Parliament. The Judiciary has been weak and lacking the independence that is required for the delivery of justice. This has stifled conditions for democratic governance. Further, ethnic divisions have reproduced fragmented national visions of democracy. A poor sense of nationhood and national identity has weakened the very foundation of a democratic society. Strong ethnic identities, especially in the electoral process, weaken the national identity; they undermine the enjoyment of rights and the rule of law. The constitutionally-guaranteed rights of movement and association are constantly violated during electoral competitions through violent conflicts.

32. Promotion of effective public participation faces several interrelated challenges that the government needs to address. One is the need to ensure

those on the 'supply side', those required to implement participation and provide services, embrace this new value and principle of governance. This requires state officers and the citizens in general to change their thinking, attitudes, and practices. Two, is the challenge of embedding citizens' participation as a right and ensuring that the public effectively participates. For democracy to thrive and public participation to be meaningful, extensive and informed civic education is necessary. Final, is the challenge of integrating participation in policy formulation, legislation, decision-making processes, and monitoring and evaluation. This may also be seen as the challenge of encouraging and responding to the 'demand side'.

Human Rights and Social Security

33. Human rights have not been effectively mainstreamed within the programmes of the various government departments. The main human rights issues range from the failure by some of the institutions to appreciate the value of human rights, to internal weaknesses in the institutions that are meant to deliver justice and protect human rights. Besides, political and civil rights have gained more attention than other rights. This has resulted in inadequate attention to social and economic rights. The challenges in the water, environment, land, education, and health sectors, among others, still require concerted efforts in order to align the sectors with the provisions of the Constitution and Vision 2030. The Human-Immuno-deficiency Virus/Acquired Immune-deficiency Syndrome (HIV/AIDS) pandemic is also compounding some of these challenges in the society in general. Policy and legal frameworks in these sectors have implications for governance and justice but are yet to be interlinked with policies on governance and justice. Poverty remains a major impediment to the realisation of rights and social justice in general. About 46 per cent of Kenyans live below the international poverty line.

34. While substantial attention has been placed on poverty alleviation, the gap between the poor and the rich is unacceptably wide. Gender and general social inequalities remain unaddressed alongside this growing income gap. These disparities are even more pronounced in incomes and access to education, health and land, as well as to basic needs, including clean water, housing and sanitation.

35. Rising impunity and, particularly, the extent to which people commit crimes and are not held accountable, has had huge negative consequences for human

rights in the country. Manifestations of impunity and general poor non-adherence to the rule of law are visible in corruption and human rights violations like torture, ethnic profiling and extra-judicial executions. The post-election violence in 2008 exposed not just ethnic cleavages in Kenyan society, but also the fragile human rights situation and deep-seated impunity.

Sector Coordination, Collaboration and Resourcing

36. Collaboration and coordination within the sector and between it and others has met with challenges. First, collaboration within the sector has been inadequate. This has meant limited synergy among institutions connected to judicial services: the police, the State Law Office, and the probation and prisons services. Second, there has been no policy framework to guide the sector institutions. This has, in some cases, led to duplication of efforts and lack of coherence in decisions. There are also poor linkages to reforms other sectors, such as those in the public sector and public financial management, which could have leveraged the GJLOS results. Weak integration and insufficient alignment with government planning, and budgeting and reporting processes, particularly the Medium Term Expenditure Framework (MTEF), has reduced the impact of the sector reforms.

1.4 GJLOS Policy Themes

37. The analyses of the situation in the governance, justice, law and order sector highlights a number of issues that should concern policy to improve the sector. These include the need to develop a strong foundation for the rule of law, a culture of human rights and social justice, and participatory democracy. These issues are addressed within three main themes. These are:

- *A Renewal of Constitutionalism, Human Rights and Justice*, which addresses policy and legal frameworks, enhancing access to justice and institutionalizing and mainstreaming human rights

- *Issue-Based and Participatory Democratic Processes*, which deals with establishing democratic structures, public education, institutionalising oversight mechanisms, and instilling a culture of democratic and accountable governance

- *People-Centred, Result-Based and Accountable Service Delivery*, which discusses transforming service delivery through values and professionalism,

and integrated approaches to policing, criminal justice delivery and peace building.

38. The priorities upon which these themes are based have been arrived at through analyses of problems facing the sector and institutions therein. Data and information generated through review of studies on the sector, research and evaluation reports, as well interviews with different stakeholders at the national and county-level have provided comprehensive understanding of the sector problems.

39. The priorities have also been identified on the basis of suitability, feasibility, acceptability and the potential for a positive cost-benefit 'ratio' and potential for positive change within the sector and the country in general. Importantly, these priorities reflect the spirit of the Constitution of Kenya 2010 and Vision 2030. They have been selected on the basis of the extent to which they facilitate meeting the aspirations and values espoused in the Constitution and effectively address the challenges facing the sector.

GJLOS and the Constitutional Values and Principles

40. The themes of the policy priorities are based on, firstly, the key constitutional values and principles that affect the various institutions in the sector, and secondly, their cross-cutting and cascading nature, in the sense that they apply to all government institutions at national as well as county levels. Because of the broad nature of the sector, general inter-linkages between sub-sectors, and policy issues identified, overlaps of the themes are inevitable. For this reason, policy issues around criminal justice are spelt out under service delivery issues. This thematization is intended to give effect to the purpose of this Policy as a sectoral, rather than an institution-based, policy, while at the same time providing guidance and flexibility to sector institutions to design policies and programmes within the policy parameters.

41. The Constitution provides GJLOS with a strong anchor and affirms and expands the objectives of the sector. It has raised the benchmarks of public service, which will require GJLOS to be people-centred, strike the right equilibrium between demand by citizens and supply by government institutions, and adopt international best practices, and norms and principles in international law. This Policy Paper, therefore, recognizes the need to base GJLOS policy on a strong constitutional foundation. The Policy Paper also

seeks to deepen the values and principles of good governance espoused in the Constitution, which include integrity, transparency and accountability, and democracy as well as people's participation. It also recognizes sharing and devolution of power as important principles to guide operation of state institutions in the delivery of services and in the practice of governance.

42. The 2010 Constitution has created two important levels of government - the national and county levels. Whereas it retains a presidential system, it has, nonetheless, dispersed power vertically to the devolved units in the counties, and horizontally to the other arms of government and independent institutions and commissions. This new structure of power has far-reaching implications for GJLOS, particularly within the context of the devolved governments. The devolved governments are the units for service delivery and local governance. Besides, there are provisions on security (with strong civilian oversight) and human rights (which are expanded considerably), and for a Judiciary that has been greatly reorganized. How GJLOS 'services' will be delivered at the county level by either government – as guided by constitutional mandates – will be one of the new issues the sector will have to grapple with, and in a manner that avoids conflict and asymmetries of standards.

43. The 2010 Constitution has also altered the structure and practice of governance in a significant way. Sovereignty is now vested in the people and this power is exercised at the national and the county levels through elected representatives. This essentially means that decision-making must be consultative or involve people directly or indirectly, and at all times as specifically demanded by the Constitution. Public consultation on issues of governance is no longer voluntary but mandatory.

44. This Part of the Policy Paper has traced the development the reforms in, and provided a situation analysis of, the GJLO sector. The second part, Part II, discusses the policy priorities within each of the three policy themes identified above. The final Part, Part III, deals with policy delivery issues. The first issue is that of 'Optimal Sector Coordination and Resourcing', which proposes coherent coordination and harmonized financing mechanisms, and also addresses capacity building and utilization of e-government for effective collaboration. The second issue addresses the sector reviews through monitoring and evaluation, to ensure that concrete results are being achieved in the sector, and that the sharing and learning by sector agencies from the various interventions that will implement the sector policy priorities is being realized.
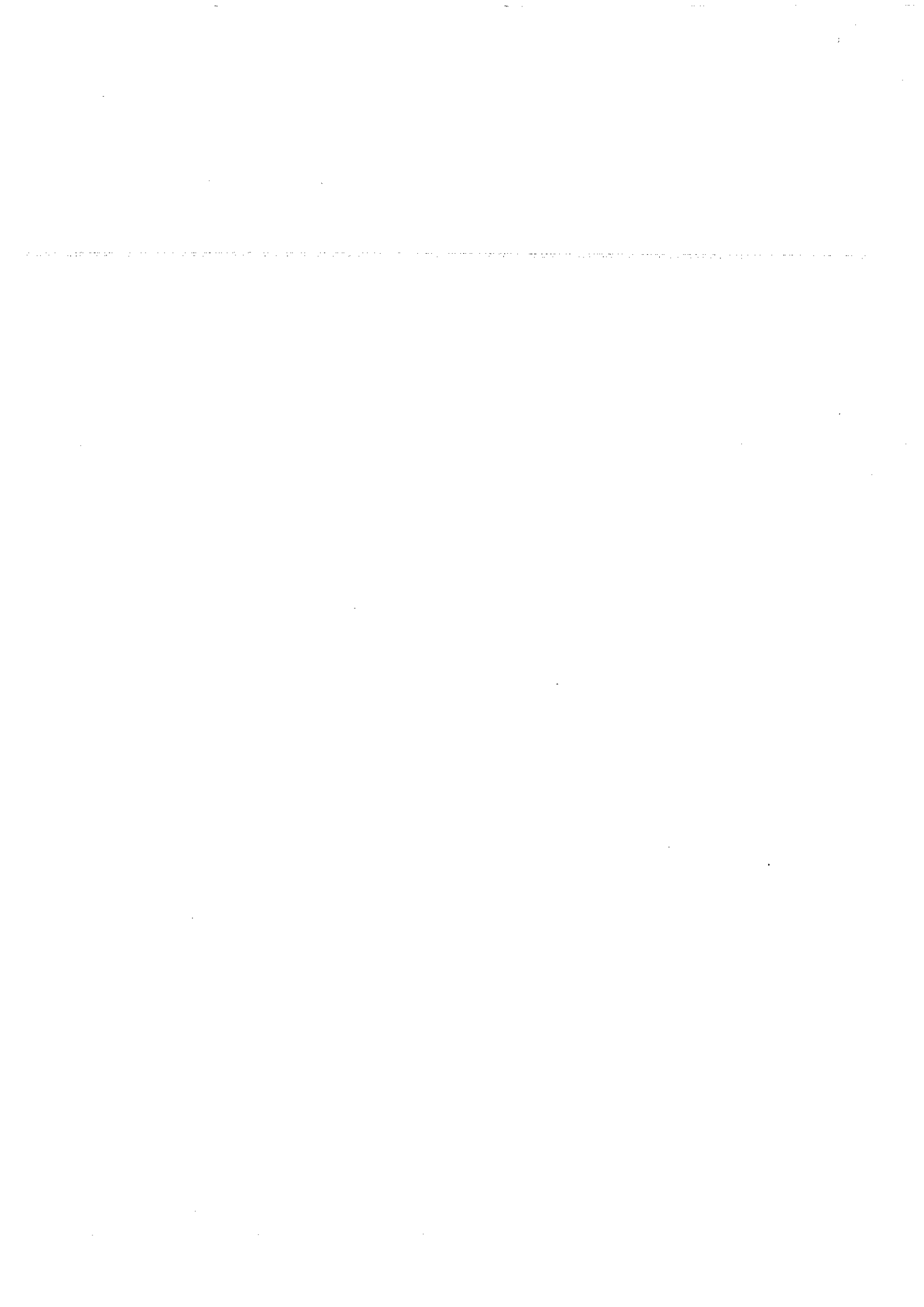
II. POLICY PRIORITIES

2. A RENEWAL OF CONSTITUTIONALISM, HUMAN RIGHTS AND JUSTICE

45. The rule of law, human rights, administration of justice and access to justice have been major themes in the Governance, Justice, Law and Order Sector. The sector's priorities within these themes include adherence to constitutionalism and the rule of law, which - with respect to the citizens - also presupposes accessibility of the Constitution and other laws. Accessibility of the law, both physically and in terms of content and language, improved access to justice, especially for the poor, marginalised and vulnerable, and strong legal and justice regimes are crucial for strengthening the culture of constitutionalism and the rule of law.

46. The priorities for this thematic area, thus, are policies and legislation to implement the requirements of the Constitution, and to enhance access to justice. These will be critical for the institutionalisation of a culture of constitutionalism and respect for human rights.

2.1 Policy and Legal Frameworks

47. The Constitution provides for new institutions, as well as opportunities to create mechanisms to enhance governance, respect for human rights and access to justice. Through the Kenya Law Reform Commission (KLRC), the Attorney General, and the relevant institutions, government Ministries and departments, policies and laws will be developed to provide legislative and institutional frameworks for implementation of the Constitution and other proposals for change. The Constitution provides for a set of laws that the Legislature must pass to implement its requirements. There are also clear timeframes within which such legislation should be passed. Taking into account the requirements of the Constitution and the new overall governance structure, policies and legal frameworks will be developed in regard to the areas of human rights, devolution of service delivery, access to justice, community policing, probation, sentencing and punishment, electoral system and leadership and national integrity system. These policies will interlink with policies and legislation promoting rights of the minority, vulnerable and marginalised groups as provided in the Constitution. Similarly, land rights and sustainable environmental conservation are critical for promotion of governance and justice. Policies formulated to promote constitutionalism,

19

human rights and justice, will draw from and/or inform development of policies on land rights and environmental conservation.

2.2 Enhancing Access to Justice

48. Improving access to justice is one of the constitutional principles governing the judicial system. It requires that the judicial system be more cheaply, easily and efficiently available to citizens. It also requires that judicial institutions be more user-friendly, and that alternative forms of justice be established. In addition, improved access to justice requires that a comprehensive national legal aid and education programme be instituted, and criminal judicial processes move away from imprisonment and embrace alternative forms of 'punishment', and restorative justice.

49. Enhancing access to justice begins with increasing the level of public knowledge of the Constitution in particular, the law generally, and the institutions for the administration of justice. A civic education programme will be designed to achieve this objective and, at the same time, increase public knowledge of the constitution, policies and relevant laws around administration of justice. Such knowledge will be crucial in building the capacity of citizens to demand adherence to the rule of law. It will also improve on the state's capacity to respond to citizens' demand to deepen the rule of law and constitutionalism in general.

50. Enhancing access to justice will also require expansion of judicial and quasi-judicial institutions and avenues available to the public. This means not only increasing the number and capacity of these institutions, but also improving proximity. Finally, enhancing access to justice will require that challenges relating to the environment and procedures in, and the costs of going through, the judicial and quasi-judicial institutions be addressed. It will also require that decisions emanating from these institutions be respected and implemented.

2.3 Institutionalising and Mainstreaming of Human Rights

51. Human rights-based approaches and accountability systems and procedures will be developed for utilisation by all authorities which have some role in the promotion and protection human rights. The procedures will be developed in line with human rights policies, and will be crucial in ensuring that institutions in other sectors also observe their human rights obligations. Positive action such as targeting support for skills development for traditionally under-represented groups, or affirmative action to discriminate in favour of certain groups, particularly women and other marginalized groups, will be enhanced and the institutions in charge of taking these forward strengthened to negotiate for resources and effectively monitor progress.

52. The Kenya National Human Rights and Equality Commission and other relevant bodies will provide effective remedies for human rights violations, especially in terms of investigation, review of complaints, and establishing mediation and referral systems. The government will also support development of administrative regulations, procedures and plans of operation of the institutions with human rights duties to ensure that they are able to prevent, investigate and punish any human rights violation resulting from acts of violence or crime, or from the action or omission of state agents and non-state actors. The judicial system will be strengthened to enforce respect for human rights and ensure their justiciability. The system will also be strengthened to provide compensation for abuse of rights. Its capacity will be improved to facilitate the making of binding decisions on cases and imposing enforceable remedies and sanctions. In addition, courts will be sensitised to uphold the spirit and intent of the Bill of Rights. Regular reports will be made by the state to the international and regional human rights organs and institutions designed to promote these rights, including treaty-monitoring bodies and special mechanisms.

3. ISSUE-BASED AND PARTICIPATORY DEMOCRATIC PROCESSES

53. Democracy is the most popular form of government. It promotes the rule of law, equality, popular participation, and citizen empowerment. A properly functional democracy guarantees government accountability and expects citizen responsibility. While Kenya has made significant steps in its democratic evolution, the country's democracy still remains fragile. The democratic gains made so far need rapid consolidation if the country's path to political stability and developmental transformation is to be realised. Kenya is a multiparty democratic state and that democracy and participation of the people is one of the national values and principles of governance espoused by the Constitution.

3.1 Establishing Democratic Structures

54. To effectively entrench the values of the Constitution with respect to democracy and participation, the government will provide resources to strengthen institutions of democratic governance and people's participation. In this respect, the government will continue facilitating reforms in Parliament and build its capacity to implement the legislative functions under the Constitution. Similarly, the government will support enforcement of the Political Parties Act so as to build political parties as strong institutions. The government will also support measures to ensure that political parties are internally democratic and that they espouse the values of the Constitution. Adapting to, and living by, the articles of Chapter Six on leadership and integrity will be required of all institutions in this respect.

55. The government recognises that an equitable, competitive, fair, stable, and functional electoral system is important for democracy to thrive, and that the delivery of a successful electoral system that inspires confidence is also heavily dependent on many institutions. The government will, therefore, address the electoral process in a systemic fashion – as an issue in respect of which a host of many GJLOS institutions are significant players. These include the Independent Boundaries and Electoral Commission, the National Registration Bureau, the Kenya Anti-Corruption Commission, the Judiciary, and the Kenya Police Service. The government will convene structured formal discussions with these institutions with a view to creating modalities

of institutionalising their work for the benefit of better electoral processes in the country.

3.2 Public Education

56. A factor that contributes to lack of adherence to the law and the inability to pursue rights is the inadequacy of knowledge of the law in general and the Constitution in particular. Public education will increase the capacity of citizens to understand legal requirements and how to adhere to them, as well as to pursue their rights whenever these are infringed upon. It will also enable the citizens to monitor performance of law enforcement institutions. Besides, it is a constitutional requirement for the public to participate in policy formulation, legislation and decision-making. In this respect, the government will facilitate formulation of a public participation policy and support establishment of effective mechanisms for participation. The public will be educated on how to effectively participate in decision-making and the avenues available to effect this important constitutional requirement.

57. There are many avenues for public education. Already, there are a number of programmes established by civil society organisations (CSOs). Besides, the government has in place a pilot programme for public legal aid and awareness/education. Legal education will be incorporated in the school curriculum so as to inculcate in the citizenry – at a young age - respect for the law, as well as a culture of respect for human rights. The pilot National Legal Aid (and Awareness) Programme (NALAEP) will be evaluated, lessons learnt and the programme rolled out, after policy and legal frameworks have been put in place. Emphasis in this programme will be on awareness, with legal aid, advice and representation being, essentially, support planks for pursuing rights and imposing responsibilities. Educational content will also include the constitutional requirements and spaces for, and mechanisms of, public participation.

58. Further, the government will establish a civic awareness programme based on a curriculum developed and supervised by a multiple-stakeholder organ to ensure independence and completeness of perspectives. A process and framework of engagement with Non State Actors (NSAs) will be clearly defined for the NSAs to effectively participate in civic awareness programmes under this policy. This will help to create symmetry of expectations and

23

actions of various GJLOS institutions. This framework will also help to resolve the dilemma of collaboration and oversight that has confronted previous NSAs-GoK relations in GJLOS.

3.3 Institutionalising Oversight Mechanisms

59. For sector reforms to succeed, there should be a continuing evaluation of policy implementation with the aim of helping agencies, such as the Judiciary and the police, to achieve inter-institutional coherence. This means that policy planning and review should be institutionalised as ongoing processes. When established, oversight bodies such as the Independent Police Oversight Authority and court user committees will be provided with adequate resources to ensure they are effective. Civil society groups are critical in ensuring that oversight is effective. Consequently, training of and support to these groups on best practices in using such oversight mechanisms will be provided.

60. In addition, relevant parliamentary committees at both national and county levels will be strengthened to enable them to exercise effective oversight of sector institutions. Such strengthening may be indirect and may involve supporting the groups that provide information to these parliamentary committees.

3.4 Instilling a Culture of Democratic and Accountable Governance

61. A notable problem in the country is impunity at all levels. Lack of accountability and, specifically, failure of persons —especially public officers - to take responsibility for their actions, has contributed to this culture of impunity. There is also failure to faithfully apply the law equally to all persons. These developments have undermined the framework for a solid democratic culture. Holding people to account remains problematic. Social-political divisions have made it difficult to effectively develop approaches that can lead to the society demanding accountability in an effective manner. Indeed, one of the challenges for both state and non-state actors involved in the sector is how to influence public opinion to support governance approaches which are more democratic and rights-respecting. In this respect, the government will engage with sector institutions, civil society groups, the private sector as well as the media to develop and support initiatives to shape public discourse on democratic governance.

24

4. PEOPLE CENTRED, RESULT-BASED AND ACCOUNTABLE SERVICE DELIVERY

62. Despite the numerous institutional and legal reforms undertaken by the Government, governance and service delivery continues to be an issue of serious concern in the public sector. Transparency and accountability are critical for ensuring that services are delivered and resources are managed for the benefit of the entire citizenry. There are various problems still facing realisation of an effective accountability system in Kenya. These include lack of effective public participation in decision-making processes; weak watchdog/oversight institutions; poor information flow; low levels of government responsiveness and enforcement; and duplication of roles, especially in anti-corruption efforts. The value of transparency has also not been adequately embraced in the public sector. The law on access to information will enable both the government and the public to access vital information for the sector.

4.1 Transforming Service Delivery through Values and Professionalism

63. Transforming GJLOS institutions will involve two interrelated approaches: reform of the rules and legislation (formal component); and improving the service delivery culture (informal component). The government recognises that the rhetoric of mandates and mission statements is not sufficient for changing the service delivery culture. Therefore, attention will be paid to management practices such as feedback from users of services, the development of indicators of good performance, evaluating rank-and-file, and the development of a meritocratic system of rewards to reinforce good performance. The managerial culture of the sector agencies must also be changed to encourage and allow innovation among officers.

64. The government recognises the linkage between the lack of adequate capacities within sector agencies and the broad expertise deficit in the country. While quick wins in the form of training in appropriate skills will be central to the success of policy reforms, the sustainability of the reform agenda will be ensured by the availability of infrastructure, expertise and knowledge to support the reforms.

65. Comprehensive and integrated data management systems and population databases will be developed for the sector agencies to undertake real-time monitoring and management of sector activities and services. Information and Communication Technology (ICT) infrastructure will also be developed to promote efficiency and transparency: e-government will be embedded in all activities and departments in the sector.

4.2 Integrated Approaches to Policing

66. Police reforms are critical for the sector. These reforms will ensure that state security actors appreciate the roles of a multiplicity of actors in security work. Approaches such as the adoption of community policing will be accompanied by the development of indicators for evaluating their operationalisation at local levels. Security personnel will be provided with the resources and skills necessary for policing.

67. Police reforms will pilot integrated community security action plans that will bring together different actors in the community to plan and carry out policing functions. Such an approach will move Kenya towards making more use of functional local security governance budgets as opposed to institutionally focused budgets. Such a change in planning, financing and implementation of security governance will not only introduce new efficiencies in the management of security but also fundamentally restructure how private security actors relate with their public counterparts. Policy reforms will, therefore, also focus more on encouraging public-private security partnerships, which bring together the technical competencies of security agencies and the technological expertise of the private sector.

4.3 Integrated Approaches to Criminal Justice Delivery

68. There is currently a large case backlog in the Kenyan judiciary as well as a shortage of professional staff. However, the government recognises that a fair, speedy, and efficient dispensation of criminal justice by the various stakeholders or agencies in a coordinated and concerted manner is critical. Effective and efficient administration of criminal justice will be achieved through the following initiatives:

26

- Skilful and speedy investigation and prosecution of criminal cases

- Prompt production of remand prisoners in and before courts from prisons or from police cells/stations to enable their cases to be heard with dispatch

- Discouragement and removal of frequent applications for adjournments either by the prosecution or by the accused or their lawyers

- In defended criminal cases, requiring advocates to take their instructions from their clients in full and in good time and to appear in court prepared to proceed with their cases

- Efficient case management by all courts and adjudicating authorities in civil and criminal matters as required by the new rules developed by the Rules Committee of the High Court, which will enable parties to track the progress of their cases through the justice system

- Introduction of electronic systems in case management and information provision and exchange.

69. Building more prisons to correspond with the number of courts and police stations that have come up since independence and improving the available physical facilities is also a priority for the government. An integrated institutional scheme for rehabilitation and reintegration of offenders as well as enhanced victim remedy and reconciliation will be implemented. Integration will be achieved by adopting a tripartite approach - justice for the victim, justice for the offender and preservation of the interests of the society. Drawing upon the traditional acceptance of reconciliation as the aim of the traditional criminal justice system, it is now imperative that the victim must become a party in the criminal process; he or she will be a full participant at both the pre-trial, trial and the sentencing stages of the judicial process.

4.4 Integrated Peace Building Initiatives

70. The work of the National Cohesion and Integration Commission (NCIC) on promoting national unity and social integration will benefit from stronger institutional and operational linkages with other bodies including the National Security Intelligence Service (NSIS) and the Kenya Police, and

27

devolved institutions at the county level. National cohesion and peace building work will also be strengthened through the institutional and operational relationships existing between the NCIC and the National Steering Committee on Peace Building and Conflict Management and the department of National Cohesion as well as the strengthening of local peace committees and mechanisms.

III. POLICY DELIVERY

29

5. OPTIMAL SECTOR COORDINATION, COLLABORATION AND RESOURCING

71. Co-ordination and collaboration within the sector remains a major challenge. Yet effective co-ordination and collaboration is essential for the performance of the sector institutions and programmes. It is essential for: (a) the generation of sector priorities, (b) planning and budgeting, (c) monitoring and evaluation to establish whether targets are being met by all actors, (d) reporting, (e) internal (among GJLOS institutions) and external (non-GJLOS institutions and the public) accountability, and (f) optimal utilization of synergies amongst sector institutions and sector coherence in general. Establishing efficient mechanisms for co-ordination and collaboration will, inevitably, improve sector performance.

72. The difficulty in coordination and collaboration within the GJLO sector is both cultural and structural. Institutions, behaviourally, tend to be inward-looking and self-centred. Often, they to work for self-preservation. Because of this aspiration, they are usually reluctant to give up power or even entertain discussions on loss of control. Structurally, constitutional offices or institutions such as the Judiciary and Parliament are often too keen to guard their constitutional independence. Any initiatives that they perceive as creeping into their autonomous space, or tending to imbalance the separation of powers, however well-meaning, are rarely viewed kindly.

73. For these reasons, three interrelated approaches will be used to promote collaboration and coordination in the sector. The first is executive direction (coordination from a point of direction by the executive arm). Specifically, the government will demand that all institutions adhere to a clearly formulated coordination policy. The second approach is the creation of a resource-based incentive structure (coordination from a point of resources). The third is voluntary submission of the GJLOS institutions to coordination if persuaded of the need and importance of this (coordination from a point of commitment).

74. This Policy Paper underlines the need to combine and apply these three elements to ensure that there is effective and meaningful coordination and collaboration. In the first instance, the government will demonstrate strong political commitment and leadership at the highest level. Steady political

pronouncements from this level and continuous demand for progress and effective coordination will be key. This commitment will be required to allay the fears of those keen to preserve the status quo because of apprehension of loss of power.

75. As part of the coordination and collaboration agenda, the government has recognized GJLOS as a full-fledged sector. Institutions in the sector will also be required to similarly recognize themselves as being in the sector. Consequently, they will be required to view their work plans in a systemic rather than departmental fashion. They will be required to demonstrate how they evolve synergies.

76. Sector programmes need a huge amount of resources. There have been complaints of overall inadequacy of funding, inequity in the allocation of funds to sector priorities, and challenges in accessing the funds once allocated. Thus, more resources need to be generated and better mechanisms established for allocation and access. Once generated, these resources must then be equitably allocated according to objectively-established priorities. It is also important to note that in some cases, the absorption capacity of GJLOS-RP institutions has been low due to institutional inefficiencies, giving rise to ineffective performance or non-performance of some of the programme components. Mechanisms for more stringent and objective prioritization, equitable allocation of resources and constant monitoring will be put in place to address this challenge.

5.1 Coherent Coordination Mechanisms

77. The rationale for coordination will be the results focus. The coordination function will address four key dimensions, with a lead agency playing the main management role.

5.1.1 The Lead Agency

78. An accountable lead agency from the sector will manage the sectoral coordinating arrangements and structures, which will be used as platforms for agreeing and reviewing sectoral targets, mobilising resources, coordinating multi-sectoral partnerships in the pursuit of agreed results, and consulting with a wider group of stakeholders. The lead agency will be appointed through the normal government processes of allocation of ministerial responsibilities by the Executive, pending which the Ministry of

Justice, National Cohesion and Constitutional Affairs will undertake the role of the lead agency as a transitional measure. Formal specification of the management and decision-making role of the lead agency will be set out in a government circular that will bind each participating agency and which will be used to encourage the delivery of concrete results and establish accountability, and for the agencies to work collectively to achieve shared objectives.

79. Institutionalisation of coordination shall be achieved through a dedicated secretariat and designated technical capacity within the lead agency that will inter alia:

- Establish contact and linkages with relevant sector agencies, and identify, and inform and follow-up on, the participation of GJLO sector representatives in key sector meetings and activities

- Organise GJLOS coordination fora and participate in all levels of coordination

- Develop modalities of communication and feedback and follow-up of decisions and commitments made during various coordination fora, indicating major challenges, lessons learned and proposed solutions to improve future linkages and activities

- Extract, prioritise and sequence reform priorities from the GJLOS MTEF and facilitate the implementation and reporting of results.

5.1.2 Horizontal Coordination

80. Horizontal coordination to achieve results will be carried out through high-level political and policy committees, and working groups drawn from the three thematic areas of the policy framework. The structure will be as summarized below.

- There will be representation of the sector Cabinet Secretaries, Speakers of Parliament and the Chief Justice in the National Economic and Social Council, as the main decision-making hierarchy and partnership for achieving the sector Vision 2030 results. The Task Force on Devolved Government also proposed that, at county level, a sub-committee be formed of the proposed Council of County Governors and Speakers that

will be responsible for governance issues and that will also elect representatives to the NESC.

- A Sector Policy Committee comprising the accounting officers of the Judiciary, Parliament and participating ministries, chairs of independent commissions and representatives of County Governors is also proposed. It will report to, support and receive direction from Cabinet Secretaries. Its role will be communicating, coordinating and agreeing on top-level strategy between agencies. The committee will meet approximately three times each year and the chair will be occupied by the lead agency. It is also proposed to have a GJLOS county coordinating committee made up of relevant county executive committee representatives from various counties, who will elect representatives to the Sector Policy Committee.

- A Sector Technical Working Group will be the hub of the sector coordination, meeting monthly and comprising of heads of government departments and agencies with responsibilities for day-to-day sector management. The chair may rotate among sector institutions. Linkages with the Vision 2030s VDS and other sector reforms will be at this level by way of a standing invitation to relevant officers. The group can set up Thematic Working Groups, with the participation from Non-state Actors and private society, to assist its activity. At the county level, it is proposed that there be GJLOS working groups in each county with members drawn from constituencies in the county, who will elect representatives to the Sector Working group.

5.1.3 Vertical Coordination

81.   National sectoral targets and priorities will need to be translated into county targets and priorities and, in some cases, there will also be devolved responsibilities in the sector. Strong coordination between the above mentioned structures at both national and county governments is, therefore, important in order to achieve national results. This will be achieved through reporting and consultation between the different structures at both national and county governments and also the involvement of county level structures in the national level co-ordinaton structures as illustrated in the figure below. Tools that will be applied in this regard will include the use of funding mechanisms, codes of conduct and performance monitoring.

Figure 1: GJLOS Horizontal and Vertical Coordination

Vertical Coordination

Horizontal Coordination
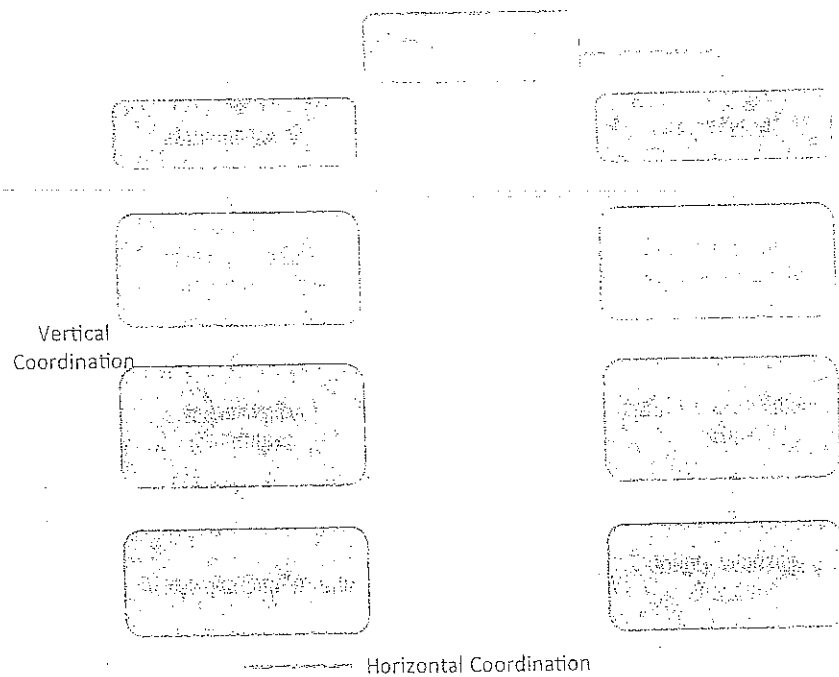
5.1.4 Inter-Sectoral Level

82. Policies in the GJLOS sector will impact on, and will also be impacted upon by, policies and agencies in other sectors. The coordination at sectoral level will be by linkages made by the lead agency's secretariat with other similar sectoral secretariats, with a view to informing on, creating synergies with and giving visibility to each other's sector policies and reforms. In addition, these linkages will input into the horizontal coordination structures at political and policy levels as a way to address any policy issues arising at inter-sectoral level.

5.2. Capacity Building

83. Virtually all the sector institutions have acknowledged capacity challenges, and this is compounded by the devolved structure of government in the 2010 Constitution. These include inadequate infrastructure, facilities and equipment – including information and communication technology (ICT) - and inadequate qualified, knowledgeable and skilled personnel. Enhancing these will increase their efficiency and effectiveness in the discharge of their mandates and service delivery, as well as contribute to reduction of the backlog of cases in courts and the congestion in prisons and related institutions. Particular focus will be given to new institutions created under the Constitution.

84. Budgetary and human resources to institutions and activities will be increased to address the increased demand for services at both the national and county levels. The sector will also invest in building the substantive capacities of institutions. The substantive aspects will include improving policing and crime prevention methods, enhancing the legislative drafting capacity, and strengthening the parliamentary budget office, and the processes of the Judiciary and Parliament, among others.

5.3 Harmonised Financing Procedures

85. The harmonisation of government and external funding and procurement mechanisms and procedures will be achieved in two ways. The first option will be the use of government systems and procedures in their entirety for both government and external funds (in which case external funding will be by way of budget support). The second option will be the use of framework contracts or financing agreements between development partners and the Ministry of Finance in case of earmarked financing. This will facilitate the capture and knowledge of external resources within government accounting systems, and also alignment in the planning and budgeting processes.

86. Allocations will be made directly to sectoral agencies after agreement on the sectoral priorities under the Medium Term Expenditure Framework (MTEF) mechanism, with allocation for coordination expenditure being made to the lead agency. The key components of the MTEF include the definition of a global resource envelop, determination of inter-sectoral allocations based on core functions and proposals of intra-sectoral allocations based on

36

outcomes, activities, outputs and operational efficiency. The actual allocation by sector institutions to sector priorities will need to be closely monitored by the lead agency and also addressed through performance contracting.

5.4   Utilising E-Government for Effective Collaboration

87.   Past experiences of collaboration through thematic working groups registered some successes, and this has been retained as both a coordination and collaboration mechanism. This will be augmented by robust delivery partnerships between government, non-government, community and business sectors at the national and county levels. This will involve the development of a range of close working partnerships to achieve sector goals by using direct funding mechanisms such as Public Private Partnerships and other implementation tools.

88.   Collaboration will also be achieved through e-government strategies, at both national and county levels. The increased performance and availability at reduced cost of high-density storage technology needs to be utilised to make public administration in the sector more efficient. The pursuit of democratic governance will also be fostered with access to a much greater diversity of communication sources and network designs, which can also be used to support local grassroots participation. E-government will promote collaboration and good governance in three basic ways:

- Increasing transparency, information-flow, and accountability.
- Facilitating accurate decision-making and public participation.
- Enhancing the efficient delivery of public goods and services.

6. SECTOR REVIEWS

89. Regular sector reviews will facilitate effective routine managerial control as well as more strategic assessment of benefits and impact. In addition, particular emphasis will be laid on lesson-learning and dissemination of the sector experiences. Reviews through monitoring and evaluations will, therefore, be multipurpose: in addition to providing information for impact assessment, they will also provide the material from which lessons can be learned, policy analyses developed and improvements made.

6.1 Monitoring and Evaluation

90. Monitoring and Evaluation of GJLOS policy will be undertaken through the National Integrated Monitoring and Evaluation System (NIMES) programme of the government to ensure that the policy is fully integrated into government development and resourcing framework. Individual institutions will be encouraged to develop their own indicators in line with the NIMES framework and the sector policy.

91. The monitoring will be at two levels: at the operational level within each implementing agency to facilitate management and collaboration, and at the strategic level to facilitate and inform sector reforms and the next phase of programme development and management.

6.1.1 Operational Level

92. Implementing agencies will be required to provide appropriate, timely and sufficient information about strategies and activities, and which information will serve several purposes - as a management tool; as a databank to inform decisions at the operational level; to keep stakeholders informed and facilitate synergies and collaboration, and to underpin strategic-level monitoring.

6.1.2. Strategic Level

93. Strategic-level monitoring will be the responsibility of the lead agency and will also facilitate the information dissemination and knowledge management role that the lead agency will perform. The lead agency will undertake the following strategic monitoring activities:

- Establish baseline information both as a tool to facilitate targeting interventions under each policy priority, and as a fixed point from which agreed key indicators can be tracked.

- Systematically collect a range of data at fixed intervals to document changes in the sector.

- Undertake special analyses as necessary to explore changes in particular agreed key indicators.

- Disseminate and publish monitoring information in appropriate formats to implementing agencies, sector structures, development partners, and other key stakeholders to facilitate lesson-learning and contribute to dialogue.

6.2 External Evaluation

94. Professional monitoring firms that will be competitively sourced will carry out external evaluations of sector policies and interventions. The evaluations will attain two outcomes: establish impact at the policy objectives level (the 'result' axis), and provide assurance that sector programmes are being carried out effectively and to appropriate quality standards (the 'effectiveness' axis).

95. Progress and sector reports will be discussed at review meetings with implementing agencies. Annual joint review multi-stakeholder meetings will measure progress and impact of the policy delivery, and make recommendations as to modifications in the design and/or implementation of phases of the GJLOS programmes as may be necessary.

39