
**ETHIOPIAN LAWYERS ASSOCIATION
AND
ETHIOPIAN YOUNG LAWYERS ASSOCIATION**

**Assessment of
Ethiopia's Justice Sector
Reform Components in GTP I
and GTP II**

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ACRONYMS

ADR	Alternative Dispute Resolution
CJSRP	Comprehensive Justice System Reform Program
FDRE	Federal Democratic Republic of Ethiopia
GTP	Growth and Transformation Plan
HoPR	House of Peoples Representatives
JSRP	Justice System Reform Program
JOPTC	Justice Organ Professionals Training Center
JLSRI	Justice and Legal System Research Institute

Executive Summary

Justice system reform is underway in Ethiopia since 2002. According to the 2005 Comprehensive Justice System Reform Program (CJSRP), the components of the reform include lawmaking, the judiciary, law enforcement, legal education and research, and [legal information]. Although the initial phase of the reform was very ambitious with exemplary levels of zeal, budgetary allocation and commitment, it had the downsides of aspiring too much in a short time. This seems to have been followed by the *fragmentation* of the various components of justice sector reform accompanied by inadequate grassroots empowerment (in decision making and resource management) thereby causing unused budget, and equally inadequate empowerment at the centres of coordination and harmonization.

Once again there is the current tendency to subsume the justice sector within the Good Governance Reform cluster. The gaps caused by steadily changing institutional arrangements and challenges in the transfer of institutional memory in the process have made a steady justice sector reform difficult. As a result, keeping up the momentum of the reform through incremental steady developments and standing over the shoulders of earlier achievements has encountered challenges. About a page and a half is devoted to the justice sector in Section 7.1.4 of GTP II (December 2015)), as compared to the three pages in GTP I, Section 7.3. The latter had distinct headings for strategic directions, goals, main targets and implementation strategies.

The *first* component in Ethiopia's justice sector reform relates to *Lawmaking and revision* which constitutes the initial phase of the justice system loop. Lawmaking requires capacity building in drafting at all levels based on a holistic approach which integrates the tasks of lawmaking and revision with adequate research on problems, inquiry into potential solutions (which may include non-legislative options), inquiry into policy alternatives, examining the pros and cons of each policy option, determining the most equitable, effective and efficient policy option and thereupon determine policies and draft bills.

The challenges (in this component) that existed at the kick-start of Ethiopia's justice sector reform in 2002 are still prevalent, if not worse. This can be realized in the level of fragmentation of laws, the multiplicity of sources of bills, and lack of coherence in various laws which should have been streamlined. As the sources of bills increase in number, various executive organs tend to attribute their performance gaps to proclamations, regulations and directives, in effect proposing and drafting bills, thereby causing the proliferation of laws that aggravate rather than solve problems. The recent initiative that requires all draft laws to be streamlined and harmonized by the Ministry of Justice is commendable. However, such streamlining envisages an *administrative procedure law* which regulates the scope of drafting and regulatory roles of executive organs. The gap in administrative procedure law which is yet a draft since 2004 is expected to be addressed during the GTP II period.

The *second* component of justice sector reform is *the judiciary*. Efficient, effective, predictable and accessible judicial system is inevitable to render the economic, social and governance fabrics of a country functional. Three core problems were identified in the 2005 *Comprehensive Justice System Reform Program* in relation with the justice sector including the judiciary. These problems are (a) gaps in accessibility and responsiveness to the needs of the poor, (b) the need for “serious steps to tackle corruption, abuse of power and political interference in the administration of justice”, and (c) “inadequate funding of the justice institutions” which “aggravates most deficiencies of the administration of justice”. In light of series of workshops and research findings, the judiciary is still in the midst of these gaps. The 2005 CJSRP had recommendations toward addressing these challenges and gaps. In the course of implementing GTP II, there is, *inter alia*, the need for enhanced judicial independence and higher remuneration and benefits to attract and retain judges with higher levels of competence and integrity with a view to attaining the vision of courts to “attain high level of public confidence” and the mission of “rendering judicial services which ensures rule of law”.

The 2005 Comprehensive Justice System Reform Program (CJSRP) states low public perception regarding the independence of the judiciary and the gaps in the transparency of “the process of selection and promotion of judges” and their performance evaluation which, according to CJRSP, “lacks inputs from other legal professions”. For example, a decade after pursuits of reform based on the 2005 CJRSP, there are still gaps in the justice sector, *inter alia*, relating to efficient, effective and predictable contract enforcement which is one of the crucial institutional factors in economic development. These challenges coupled with incidences of corruption and the gaps in the efficiency of court procedures need to be addressed to make courts business friendly. The challenges in the various institutions of the justice sector have been noted in the *Joined-up Justice Sector Forum* held at Hawassa on Nov. 9 and 10, 2015.

It is commendable that the remarks which express the intention for research and implementation of ‘developmental judicial policy’ in the earlier Draft GTP II (April 2015 version) has not reappeared in GTP II. The concept of democratic developmental state does not envisage any form of intervention in the independence of the judiciary in the name of ‘developmental state judicial policy’, and such judicial policy goes against the good practices of democratic developmental states such as Botswana. The risk of such ‘policy’ is that it offers discretion to office holders to intervene in the independence of the judiciary in violation of the FDRE Constitution.

The concerns related with good governance stated in the preceding paragraphs apply *mutatis mutandis* for law enforcement organs which constitute the *third* component of justice sector reform. The criminal justice process involves (a) interrogation of accused persons by the police (b) investigation by the public prosecutor which institutes charge, and (c) enforcement of committal for trial or enforcement of sentences by prison administrations. As these three organs enforce the law, their success or failure is not measured by the number of convictions or case attritions, but by the level of their professionalism and integrity in the course of fair, competent,

responsible, effective and efficient performance in accordance with the law. Ultimately, the level of public confidence in their quality services proves their performance. GTP II does not include express reference to reform targets for the police and prison administration. The concerns regarding the fragmentation of laws apply for the fragmentation of criminal justice institutions as well. A case in point is the need for a General Public Prosecutor Office that harmonizes all prosecutor offices. This is envisaged in the Good Governance Reform Cluster's list of projects for the GTP II period. The target that aims at the amendment of regulations for the administration of federal prosecutors in GTP II is expected to enable the establishment of *General Prosecutor's Office*.

In the domain of civil justice, law enforcement involves many institutions of the executive. Even though they are outside the ambit of the justice sector, their administrative tribunals address issues of justice. Due attention should have been given to the susceptibility of administrative tribunals to arbitrary decisions in implementing the laws and regulations in litigations to which their institutions are parties. Cases in point are administrative tribunals that deal with urban land expropriation, eviction and compensation in which the tribunals established under the administrative authorities (that are parties in the litigation) are empowered to adjudicate and decide cases. This calls for participation of stakeholders in such administrative tribunals as in the good practices in Tax Appeal Commissions and envisages judicial review of final administrative tribunal decisions. Civil justice also requires safeguards against arbitrary rulemaking. This requires the enactment of *administrative procedure law* so that administrative authorities cannot intervene in the lawmaking function of the legislature other than enacting enabling regulations and directives that implement the primary laws enacted by the legislature.

The *fourth* component of the justice system, i.e. *legal education* is the human resource base of all the components. This component further includes *training* and *research*. While legal education is offered by law schools, training and research further involve specifically designated institutions, i.e. Justice Organ Professionals Training Center, JOPTC (and regional centers) and the Justice and Legal System Research Institute (JLSRI). The expansion pursuits of law schools (including graduate programmes) and achievements in this regard are commendable. However, it is the quality, standards and learning outcomes that are decisive. This requires the reinvigoration of the legal education reform programme which was in full swing from 2006 to 2009 until its momentum gradually declined mainly owing to rearrangements of institutional structures in charge of coordinating the reform. At present, nearly all elements of the reform that were yet unaccomplished are shelved other than the sustained implementation of exit exams.

GTP II omits the issue of legal education. Incidental mention to legal education was made in the earlier April 2015 version of Draft GTP II which had stated the need to change the neo-liberal curriculum. This pledge for curriculum change is omitted in GTP II. Neo-liberalism is a policy of extreme market deregulation, and it is already sidelined in many countries after 'years of blossom' known as the 'Washington-Consensus' of the late 1980s and early 1990s. Law curriculum which is based on ideology cannot be effective in preparing law graduates with

analytic skills, diversified perspectives, competence, integrity and responsibility. This is because any ideological patronage in legal education corrodes the key competence of being objective, analytic and critical; it merely facilitates the graduation of paralegal clerks rather than lawyers. Effective legal education empowers and nurtures students with the cognitive, affective and behavioural competence and integrity in analysis, synthesis, evaluation and problem solving.

This should not, however, be misinterpreted as ‘legal education for its sake’. Law curricula are expected to give due attention not only to ‘black letter law’ but also to the ‘*law in action*’ or the ‘*law in context*’. This approach is articulated in Ethiopia’s 2002 Policy Document titled ‘Capacity Building Strategy and Programs’. It notes the significant role of lawyers in economic development and states that legal education should not only focus on letters of the law but should also consider the law in the context of principles and objectives of economic development. In other words, legal education curriculum cannot be labelled as ‘neo-liberal’ or ‘developmental’. What development pursuits require from legal education curricula is due attention to the *law in action*, by including relevant courses and incorporating elements (and readings) in courses (that are underway) in order to enrich the scope, depth, context and contents of the curriculum.

The four components of justice sector reform highlighted above are based on the classification used in the 2005 *Comprehensive Justice System Reform Program*. However, the **fifth** component which was identified in the 2005 CJSRP as ‘information flow within and outside the justice system’ (i.e. *legal information*) can be broadly reformulated as *Access to justice*. In addition to legal information *access to justice*, in this study, includes other elements, i.e. the Bar (advocates), legal aid, alternative dispute resolution schemes (ADR) and traditional systems that are in conformity with FDRE Constitution. The various elements of access to justice evoke the issue of public participation and the role of civil society organizations because these factors not only enhance legal information, the Bar, legal aid, ADR and the recognition of traditional systems, but they also serve as instruments of oversight and feedback. GTP II does not state the role of civil society organizations in enhancing access to justice. However, it is appreciable in including targets that relate to the Bar.

The **sixth** indicator of justice sector reform used in this study is *Good Governance* which is an *enabler* in all pursuits related to the five components of the justice system reform stated above. Good practices in developmental states show the need for merit-based job placements and promotions at every unit in all components of the justice sector. This further envisages resources (financial, physical, technological, and informational), processes, organization and leadership. Justice sector reform requires holistic reference to the roots of weak governance and due attention to the way forward in all components of the justice sector. Moreover, *Good Governance* calls for grassroots empowerment in decision making and resource management in the context of *effective harmonization* among organs and institutions of the justice sector. It further envisages broad-based participation including enhanced involvement of civil society organizations. In the absence of such measures, aspirations and pledges for justice system reform may eventually end up in *promise fatigue* and justice sector *regression*.

Introduction

1.1 Background: Components of the Justice Sector

The justice sector is among the institutional preconditions for pursuits of development. The effectiveness of Growth and Transformation Plans require a predictable, coherent, efficient, effective and accessible justice system which, *inter alia*, ensures contract enforcement, property rights (that are clearly defined, secure and easily transferable), access to justice and a normative and institutional setting that facilitates the economic, social, environmental, cultural and political avenues of development in the context of *good governance*. “An efficient legal and judicial system which delivers quick and quality justice reinforces the confidence of people in the rule of law, facilitates investment and production of wealth, enables better distributive justice, promotes basic human rights and enhances accountability and democratic governance”.¹

Institutions define and implement the rights, claims, duties, restraints and sanctions in the course of multifaceted dynamic engagements of economic actors, regulatory organs and the society at large. In addition to the formal justice system, informal institutions such as traditional systems that are in conformity with the FDRE Constitution, trust, work culture, shared values, etc. are also important in development pursuits. Yet, the themes of this study focus on the formal justice system which is among the core institutional elements relevant to all endeavours of development. The components of the justice system involve regulatory frameworks, the institutions involved, and their processes and procedures of operation. They are among the factors that can facilitate or hamper equity, efficiency and effectiveness in all pursuits of sustainable development.

The 2005 Comprehensive Justice System Reform Program (CJSRP)² states the following *four* core components and a *fifth* crosscutting component of comprehensive Justice Sector Reform:

- a) lawmaking and revision;
- b) the judiciary;
- c) law enforcement (prosecution, the police and the penitentiary system);
- d) legal education and research; and
- e) information flow within and outside the justice system.

¹ Report and Recommendations of the Working Group for Department of Justice for the 12th Five-Year Plan (2012-2017), Department of Justice, Ministry of Law and Justice, Government of India, September 2011.

² Ministry of Capacity Building, Justice System Reform Program Office (2005), *Comprehensive Justice System Reform Program Baseline Study Report*, February 2005.

This assessment generally adopts the taxonomy used in the 2005 CJSRP regarding the *four core components* of Ethiopia’s justice system. It further includes *access to justice* as a cross-cutting component of the justice system and *good governance* as a crosscutting *enabler*. The crosscutting component identified in the 2005 CJSRP, i.e. *justice system information* relates to access to legal information on laws, judicial decisions, inter-sector information exchange in the justice sector, etc, and can be one of the themes under *access to justice*. The other five elements of *access to justice* in this assessment are the Bar (i.e. practicing lawyers), legal aid, alternative dispute resolution (ADR), recognition of traditional systems that are in conformity with the FDRE Constitution, and the role of civil societies in access to justice and justice system oversight.

The assessment will examine the attention given in Draft GTP II to the following six indicators (which include five *components* and one cross-cutting *enabler* in Ethiopia’s justice sector):

- (a) institutions, processes and procedures in lawmaking and revision;
- (b) the judiciary;
- (c) law enforcement with particular reference to the police, public prosecutor services, and prisons;
- (d) legal education and legal research;
- (e) access to justice which includes legal information, the Bar, legal aid, alternative dispute resolution, traditional systems that are in conformity with the FDRE Constitution, and the engagement of the legal profession and civil societies; and
- (f) good governance in the justice sector.

The five components of Ethiopia’s justice sector and the sixth crosscutting *enabler*, i.e. good governance determine the extent to which the justice sector can positively contribute toward the achievements envisaged in Ethiopia’s Growth and Transformation Plan II (2015/16 – 2019/20).

1.2 Research Questions

- i. To what extent does Ethiopia’s Second Growth and Transformation Plan (GTP II, 2015/16 – 2019/20) assess the achievements and challenges in the justice sector during GTP I,³ based on the strategic directions, objectives, targets and implementation strategies stated in Section 7.3 of GTP I (2010/11 – 2014/15)?
- ii. Whether adequate coverage is given to justice sector reform in GTP II (2015/16 – 2019/20) commensurate with the targets of GTP I that have not yet been fully achieved, or that are inherently continuous engagements?
- iii. Whether strategic plans of the justice sector and institutions in the sector adequately address the planning and implementation aspects of justice sector reform?

³ GTP I, *infra* note 29, pp. 101 – 104.

- iv. Whether the statement that was made in the earlier Draft GTP II (April 2015, version, p. 173)⁴ which indicated the need for ‘research and implementation of a judicial policy in tune with the concept of the developmental state’ was consistent with various provisions of the FDRE Constitution such as Article 79(3) which provides: “Judges shall exercise their functions in full independence and shall be directed solely by law;” and,
- v. Whether the nature and *modus operandi* of the justice sector in ‘democratic developmental states’ (such as Botswana) or during the experiments of ‘developmental states’ in the 1960s and early 1970s (in South Korea, Singapore and Taiwan) negate the independence of the judiciary enshrined in the Constitution of the Federal Democratic Republic of Ethiopia?

1.3 Objectives

This study addresses the five research questions to examine components of the justice sector in GTP II in the context of sustainable development, rule of law, good governance and democratisation as enshrined in the FDRE Constitution.

- i. As stated in the ToR of this study: “One of the strategic pillars of GTP II is mentioned as ‘Building capacity and deepen good governance’⁵ The overall objective of this [study] is to reflect on the justice sector components of GTP II, assess the significance of [their] ... interventions, [and] identify gaps”⁶ , challenges and prospects in the context of the Justice System Reform Program which is underway since 2002.
- ii. The assessment examines four strategic plans that are selected for the purpose of this study, i.e. the strategic plan of the justice sector during GTP I, the strategic plan of the Good Governance Reform Cluster for the GTP II period, the strategic plan of the Ministry of Justice during GTP I and the strategic plan of federal courts for the GTP II period. The study examines these documents to assess the extent to which they are reflected in GTP II in light of the Justice System Reform Program (JSRP) which is underway since 2002,⁷ and particularly since the 2005 *Comprehensive Justice System Reform Program*.
- iii. The study further briefly inquires into the nature and *independence* of the judiciary in developmental states.

⁴ Federal Democratic Republic of Ethiopia, The Second Growth and Transformation Plan (2015/16 – 2019/20), April 2015, Unpublished, Amharic version, Draft, *infra* note 43, p. 173. It reads “... በልማታዊ መንግሥት ጽንሰ ሐሰብ የተቃኘ የዳኝነት ተቋም ለመፍጠርና የዳኝነት ፖሊሲ ለመቅረጽ የሚያስችል ጥናት ተካሂዶ ተግባራዊ ይደረጋል።”

⁵ Overall performance of GTP Achievements, Challenges & the Way Forward, 30 April 2015, Addis Ababa, [cited in the ToR, *infra* note 6].

⁶ Terms of Reference for Short-term Expert Mission, 15 October 2015, p. 3.

⁷ Justice System Reform Program, Ministry of Capacity Building, Addis Ababa, April 2002.

1.4 Research Methodology

The study addresses the research questions stated above. The second, third, sixth and seventh sections of the study address the first two research questions. The fourth section assesses the third research question. Section 5 deals with the fourth and fifth research questions. Section six uses the components of Ethiopia's Justice System reform as indicators, followed by the seventh section that highlights the potential contributions of civil society organizations in this regard. The last section forwards conclusions and recommendations. The study is mainly diagnostic, qualitative and descriptive. The assessment is made through desk review of laws as primary sources, policy documents, strategic plans, relevant literature and interviews. Panel discussion was made, and various comments and feedback obtained from the discussion are incorporated in the study.

Ethiopia’s Post-2002 Justice System Reform Pursuits under JSRP and GTP I

2.1 Justice Sector Reform Initiatives and Challenges, 2002-2005

Ethiopia’s Justice System Reform Program (JSRP) “was established in 2002, under the authority of the Ministry of Capacity Building, to assess the performance of the various institutions of justice and to propose appropriate reforms”.⁸ As Ato Tefera Waluwa, former Minister of Capacity Building noted (during his opening statement to the Workshop on Ethiopia’s Justice System Reform conducted in May 2002), “only with the existence and full enforcement of a fair justice system can development be achieved”.⁹ He stated that the Ethiopian government has initiated justice system reform program which, *inter alia*, has the objective “[t]o enable organs of the justice system to be learning institutions that can develop the necessary changes proactively” so that they can be responsive “to the needs of the public” and become “effective institutions that can contribute fully to what is expected of them to achieve good governance and justice in the true sense”.¹⁰

The presentations at the workshop included:

- “Justice System Reform Program: Preliminary Reform Profile, Program Contents and Objectives”¹¹ which indicates major problems of the justice system, the impact of inefficiency in the justice system, measures taken and the need for a Comprehensive Justice System Reform Program (CJSRP), program objective, components and outputs, and other issues;
- “Justice, Human Rights and Democracy”;¹²
- “Assessing Quality and Performance of Justice Systems”;¹³ and
- “Poverty and Access to Justice: Routes to Transformation”.¹⁴

The comments from the discussants and workshop participants are also published in the proceedings. The workshop had one hundred sixty eight participants¹⁵ from various justice sector

⁸ 2005 CJSRP, *supra* note 2, p. 48.

⁹ Ministry of Capacity Building, *Justice Reform System in Ethiopia: Proceedings of the Workshop on Ethiopia’s Justice System Reform*, Africa Hall, 7-8 May 2002, p. 18.

¹⁰ *Id.*, p. 20.

¹¹ Mandefrot Belay, Director, Justice System Reform Program. Proceedings, *supra* note 9, pp. 35-45.

¹² E. A. El Obaid, Institute of Comparative Law, McGill University, *Proceedings*, *id.*, pp. 46-73.

¹³ Anne-Lise Sibony, University Paris Dauphine, *id.*, pp. 44-84.

¹⁴ Rajesh Choudree, Access to Justice Advisor to UNDP, Oslo Governance Center, *id.*, pp. 85-100.

¹⁵ See list of workshop participants, Proceedings, *supra* note 9, pp. 205-211.

institutions, government institutions, law schools, civil society organizations, professional associations, embassies, international organizations and other entities.

The 2005 Comprehensive Justice System Reform Program (CJSRP) was an outgrowth of the *Justice System Reform Program* which was formulated in 2002. The baseline study used prior research as inputs and has conducted comprehensive survey.

In a document published in April 2002¹⁶, the JSRP identified a number of major problems hindering the machinery of justice. ... In the same document, the JSRP explains that “[f]ragmented and piecemeal approaches in reforming and building the capacity of justice institutions could not solve all problems and bring the intended results. Effective resource utilisation in the sector could only be achieved by working towards a comprehensive justice system reform program, which looks [into] the system as a coherent whole.”¹⁷

The Comprehensive Justice System Reform Program “was charged with designing a comprehensive reform plan to attain these objectives”.¹⁸ It involved the following five working groups that were respectively in charge of the four components and the fifth cross-cutting element of Ethiopia’s justice system identified in the study:

- Working group on Lawmaking and Revision
- Working group on the Judiciary
- Working group on Law Enforcement (Prosecution, Police and Penitentiary System)
- Working group on Legal Education
- Working group on Information Flow within and outside the Justice System.¹⁹

The problems identified in the 2005 CJSRP regarding lawmaking and revision indicated that the “legislative and regulatory procedure leads to fragmentation of the legal system” thereby causing “lack of coherence between existing codes and laws” which results in uncertainty as to legal norms.²⁰ The following three core problems were identified with regard to the justice sector including the judiciary:

Firstly, it is neither accessible nor responsive to the needs of the poor. *Secondly*, serious steps to tackle corruption, abuse of power and political interference in the administration of justice have yet to be taken. *Thirdly*, inadequate funding of the justice institutions aggravates most deficiencies of the administration of justice.²¹

These challenges require enhancing access of the poor to justice, addressing the issues of corruption, abuse of power and interference in the administration of justice, and the need for

¹⁶ Justice System Reform Program, Ministry of Capacity Building, Addis Ababa, April 2002.

¹⁷ CJSRP, (*Italics in the original*), *supra* note 2, p. 48

¹⁸ *Id.* p. 11.

¹⁹ *Id.* p. 12.

²⁰ *Id.* p. 13

²¹ *Id.* p. 14

adequate funding of justice institutions. With regard to judicial independence, the 2005 Comprehensive Justice System Reform Program reads:

The perception of the independence of the Judiciary is very low. The operation of the courts is managed and supervised by the court presidents who therefore act both as judges and administration officials accountable to the President of the Supreme Court. Potentially this compromises their independence. Besides, the process of selection and promotion of judges is insufficiently transparent and lacks inputs from other legal professions. The same can be said of performance evaluation.²²

The 2005 CJSRP states the gaps in judicial training, the weaknesses in case management, the substantial increase in caseload during the years that preceded the study, and limited access to all kinds of legal information.²³ According to the 2005 CJSRP, “the judges’ poor working conditions threaten their independence, reduce their efficiency and constitute incentives for corruption”.²⁴ It also stated various observations on law enforcement institutions, legal education and forwarded 115 recommendations²⁵ that relate to:

- a) Law making and Law Revision (14 recommendations)
- b) Judiciary (26 recommendations)
- c) Public Prosecution (21 recommendations)
- d) Police (15 recommendations)
- e) Prison (28 recommendations)
- f) Legal Education (11 recommendations).

As Ato Mandefrot Belay who was head of the Justice System Reform Program Office at the Ministry of Capacity Building (during the initial years of the reform) duly noted:

One of the main challenges in the implementation of the Justice System Reform Program has been its complexity and the desire to undertake many reform projects in a short time. Each of the five components of the program are wide in scope requiring change and reform in the legal framework, institutional arrangement, streamlining working systems and procedures and institutional coordination. The Justice System Reform Program attempted to work on all these at once and in a short time. Annual implementation plans and accomplishment targets were often highly ambitious and sometimes unrealistic. [FN].²⁶ Coordinating the various components of the reform across different institutions both at federal and regional levels is also not an easy task. Big projects are usually difficult to

²² Ibid

²³ Ibid.

²⁴ Ibid.

²⁵ Id., pp. 206 - 291

²⁶ [FN 29] “For example in 2004/2005 budget year, it was planned to implement all court reform projects in 721 court sites throughout the country. Actually, only 72 courts were covered in that year. Similarly, when revision of the codes started the plan has been to complete revision of all codes in two years. Revision of most codes has actually taken more than seven years”.

manage and co-ordinate and hence, tend to fail. Such risks are usually mitigated by starting small and progressing in phase. Although the JSRP has not failed, it has lagged behind in many of its components.²⁷

With regard to gaps, Ato Mandefrot Belay stated that actual reform plans and interventions, “have failed either to include or give serious attention to several important aspects of the justice system such as the role of social courts, alternative dispute resolution mechanisms, legal aid and the role of civil associations in the justice system”.²⁸ The paradox in this regard is that the justice reform program during its initial phases was too ambitious in trying to do many projects at the same time, and it was meanwhile expected to include more elements of the justice sector. The resolution of this paradox lies in the inclusion of all elements and at the same time embracing realistic goals and projects in the context of delegation to the grassroots with due *caveat* against fragmentation and inadequate harmonization.

2.2 The Justice Sector under GTP I

2.2.1 Strategic directions and objectives

Section 7.3 of GTP I deals with the justice sector. The section comes under the seventh chapter of GTP I titled Capacity Building and Good Governance. It states the following *strategic directions* of the justice sector:

The overall strategic direction for the justice sector is to contribute to establishing a stable democratic and developmental state. Contributions made by the justice sector in this direction, will be to establish a system for citizens to access judicial information and ensure that the justice system is more effective. Steps will be taken to ensure that implementation and interpretation of laws are in conformity with the Constitution; where they are not, they will be amended. The independence, transparency and accountability of courts, and of the judicial system as a whole, will be assured. Law enforcement agencies will be strengthened by strengthening human resource skills and adequate equipment....²⁹

The five elements of the *strategic directions* that aim at the establishment of a stable democratic developmental state are:

- a) a system that allows citizens to have access to judicial information;
- b) a system which can ‘ensure that the justice system is more effective’;

²⁷ Mandefrot Belay (2008), “A Review of the Ethiopian Justice System Reform Program “, in *Digest of Ethiopia’s National Policies, Strategies and Programs*, Taye Assefa, Editor, Forum for Social Studies, Addis Ababa, p. 442.

²⁸ Id., p. 441.

²⁹ Ministry of Finance and Economic Development (2010), *Federal Democratic Republic of Ethiopia, Growth and Transformation Plan, 2010/11- 2014/15, Volume I, Main Text GTP I*. November 2010, Addis Ababa, English version, p. 101.

- c) steps ‘to ensure that implementation and interpretation of laws are in conformity with the Constitution’, and to amend laws that are inconsistent with the Constitution;
- d) assuring the ‘independence, transparency and accountability of courts, and the judicial system as a whole’; and
- e) strengthening law enforcement agencies through human and other resources.

During the plan period of GTP I, the *objectives* of Ethiopia’s justice sector were “to strengthen the constitutional system and ensure the rule of law, make the justice system effective, efficient and accessible as well as more independent, transparent and accountable”.³⁰ The objectives further included consolidating “the process of creating a democratic, stable and strong federal system that ensures peace and security of citizens”.³¹

2.2.2 Targets

In the context of the *strategic directions* and the *objectives* stated above, GTP I stated categories of targets that were expected to be achieved during the period 2009/10-2014/15. Although the categories of targets were stated in paragraphs, the following *fifty-three* targets can be identified under the ten categories stated in GTP I.

a) Human resource capacity development:³² This category had envisaged the achievement of the following *eight* targets:

- i) The full implementation of the new LL.B curriculum;
- ii) The preparation, evaluation and regular updating of teaching materials for the LL.B curriculum;
- iii) Pre-service training for newly appointed prosecutors and judges;
- iv) Short-term training “at least once a year for judges and prosecutors serving at all levels ranging from Woreda to Federal Supreme Courts”;
- v) Enhance the capacity of other professionals;
- vi) Equip training institutes at federal and regional levels;
- vii) Encourage ‘research works that help build the capacity of professionals working in the justice sector’;
- viii) Set and enforce ethical standards for practicing lawyers and attorneys.

b) Improve the transparency and accountability of the justice system³³ (*Seven* targets):

- i) Fully establish a system that enhances transparency and accountability;
- ii) Establish a mechanism to evaluate the effectiveness of the professionals;
- iii) Make ethical principles known and so that they can be fully implemented by the professionals involved;

³⁰ Id., p. 102

³¹ Ibid.

³² Ibid.

³³ Ibid.

- iv) Strengthen complaint handling offices;
- v) Establish and implement effective and cost saving resource management system;
- vi) Establish strong monitoring, evaluation and support systems;
- vii) Enable hearing process in fully open courts.

c) Independence, transparency and accountability of the judiciary³⁴ (Six targets):

- i) Establish a system to ensure accountability, while guaranteeing the judiciary's independence;
- ii) Appointment of judges based on competence and ensure fair regional and gender representation;
- iii) Expand the performance evaluation system for judges, ensuring the continuity of the evaluation system and improving the screening process;
- iv) Establish a system 'for the speedy resolution of disciplinary matters that are brought before the Judicial Administration Council';
- v) Improvements 'based on consultations with and contributions from service users and stakeholders';
- vi) Timely availability of cassation decisions and laws to judges.

d) Enhance service accessibility³⁵ (six targets):

- i) Provide 'standardized accommodation in which justice agencies and courts can work in an integrated manner and which are more accessible',
- ii) Expand the 'initiatives to provide the services of the courts throughout the year' to all courts, and the provision of court 'services 24 hours-a-day';
- iii) Full implementation of 'efforts that have been started to make the courts more accessible to women and children' and expanding same 'to all courts in the country';
- iv) Expand and implement the 'initiatives that have been started to make the court environment friendlier for users';
- v) Provide 'adequate legal counsel, aid and translation services' to indigent litigants; and
- vi) Increase the number of judges to ensure that it 'corresponds to the size of the population they serve.'

e) Rehabilitation of prisoners³⁶ (Seven targets):

- i) Prepare and implement 'national prison inmate handling and protection standards' in order 'to ensure appropriate rehabilitation of prisoners';
- ii) Encourage all prison inmates 'to become productive and law abiding citizens by attending civic, ethics, academic and professional training sessions';
- iii) Help inmates to generate income by 'taking part in developmental works';
- iv) Ensure the human rights of prison inmates;

³⁴ Ibid.

³⁵ Id., pp. 102, 103.

³⁶ Id., p. 103.

- v) Improve the provision of ‘accommodation, health, nutrition, communications [with visitors] and recreational services’;
- vi) Establish and implement a system ‘to follow up the integration of inmates to society’ after their release from prison;
- vii) Make efforts ‘to improve the public image of prisons.’

f) Strengthen the federal system³⁷ (*Seven targets*):

- i) Promote the values of peace and tolerance and strengthen the capacity to resolve disputes peacefully;
- ii) Establish and implement mechanisms ‘to detect and prevent conflicts before they occur and resolve conflicts that have arisen before they result in harm’;
- iii) Enhance research related to conflicts which nurture the capacity to resolve disputes permanently;
- iv) Take measures ‘to enhance the values of tolerance and respect between religious institutions and their followers’;
- v) Conduct research to identify sensitive religious issues which target at seeking and implementing solutions to religious conflicts;
- vi) Significantly enhance the ‘awareness of the leadership at all levels, and that of the population, of issues relating to interstate relations and federalism’;
- vii) Establish a system ‘to ensure permanent intergovernmental agency, as well as federal and regional state relations.’

g) Increase public participation³⁸ (*Two targets*):

- i) Strengthen *internal participation* of the justice system staff in the preparation and evaluation of plans as well as other necessary issues;
- ii) Enhance *external public participation* by taking measures ‘to improve and enhance the participation of stakeholders in issues related to justice’.

h) Improve sector communication³⁹ (*Two targets*):

- i) Carry out ‘public relation activities to sufficiently raise the awareness of government agencies and of the public about the performance of the justice sector’;
- ii) Sustain the ‘preparation and publication of professional magazines within the justice organs’.

i) Enhance the use of ICT in the reform process⁴⁰ (*Six targets*):

- i) Establish and put in use a national integrated justice information system (NIJIS);
- ii) Take actions ‘to support the court system with information communication technology which will be extended to all courts’;

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

- iii) Establish and put in use a public prosecutor information system;
- iv) Modernize all work processes and offices ‘by developing appropriate software and a database for file and record keeping’;
- v) ICT support on information about inmates;
- vi) ‘Maximum utilization of ICT in all the training centers.’

j) Ensure the mainstreaming of cross cutting issues in the justice sector⁴¹ (*Two targets*):

- i) ‘Devise and implement a mechanism whereby the rights of women and children as well as persons living with HIV/AIDS, as recognized by the Constitution and international agreements, are fully respected’;
- ii) Ensure the equal participation of women and children as well as persons living with HIV/AIDS ‘in society, and avail the opportunities and benefits’ thereof.

The breakdown of targets listed above is meant to facilitate the assessment in Sections 3.1 and 3.2 of this study regarding (a) the extent to which GTP II has assessed the achievements obtained and challenges encountered in each target, and (b) the extent to which the targets that have not yet been fully accomplished and the ones that are inherently continuous are incorporated in GTP II. It is to be noted that some of the targets include elements that can be considered as multiple targets. A case in point is the tenth category (‘j’) which, under both targets (i & ii), encompasses three elements which independently relate to gender, child rights or HIV/AIDS status. The three elements in this category are currently regarded as incomplete because “there is a strong belief that concerns regarding family planning and environmental protection should also be included among cross-cutting issues”.⁴²

2.2.3 Implementation strategies

The *implementation strategies* of the targets stated above are summarized in GTP I. The following *fourteen* elements can be identified from the strategies stated in the three last paragraphs of the section that deals with the justice sector in GTP I. The following elements were stated as implementation strategies:

- a) the justice ‘reforms will be supported by specific initiatives to build implementation capacities of the agencies involved’;
- b) ‘the law [that is] required will be drafted, codified, and consolidated prior to adoption, based on proper research’;
- c) ‘at all times, the sector will render effective, efficient, accessible and predictable justice to all and ensure the efficient and effective execution of court decisions’;

⁴¹ Ibid.

⁴² Interview with Ato Desalegn Mengistie, Justice System Reform Program Director, Ministry of Justice, November 24, 2015.

- d) strategies will be implemented to ‘prevent crimes that endanger the constitutional system and public interest’ and to bring perpetrators to justice when such crimes are committed.

The implementation strategies further state the tasks of:

- e) helping prisoners to become skilled and law abiding who respect the rights of others;
- f) creating a conducive environment that ensures ‘lasting peace and respect between religions and religious institutions’;
- g) supporting good governance and development ‘by conducting legal research, raising the knowledge and awareness of the public on human rights protection and strengthening the rule of law’.

Moreover, GTP I states the following strategies towards the implementation of justice sector reform targets:

- h) pursuance of strategies to implement the targets with regard to the rights of women, children and persons living with HIV/AIDS;
- i) raising public awareness of the law and enhancing public support for law, order and law enforcement activities;
- j) enhancing the ‘role of civic societies and stakeholders in good governance and development activities’;
- k) establishing a system ‘to ensure that attorneys have the required professional capability and ethics and to strengthen their role in the administration of justice’;
- l) fully implementing the registration of legal practitioners;
- m) promoting the value of gender equality toward equal participation of women in good governance and development and to enhance the capacities of women in the justice sector; and
- n) enhancing HIV/AIDS awareness of professionals in the justice sector and ensuring ‘that sufferers get the appropriate help in a manner that respects their human rights’, and supporting the ‘implementation of health policy that is focused on prevention.’

The elements of the ten paragraphs under Section 7.3 (which are here-above identified as *fifty three* targets) indicate that GTP I had relatively adequate coverage of the justice sector even though it was not as ambitious as the 2005 Comprehensive Justice Sector Reform Program. Although GTP I could not cover wider content on the justice sector in three pages, the *fifty three* targets had clarity thereby facilitating the development of strategic plans and annual plans by the respective justice sector institutions.

Justice Sector Components in GTP II

3.1 GTP II's Evaluation of Justice Sector Performance during GTP I

3.1.1 Evaluation of GTP I in the earlier Draft GTP II (April 2015 version)

The full-text Amharic earlier version of Draft GTP II was issued in April 2015 (Miazia 2007 EC). Part I of Draft GTP II evaluates performance during GTP I. The Evaluation made on the performance of the *fifty three* targets and *fourteen* implementation strategies should have pursued a matching modality of classification so that accomplishments, partial accomplishments, targets that are not met, and targets that are continuous could be clearly identified. The evaluation in the draft regarding the performance of the justice sector during the GTP I period pursues a different pattern of classification.

Section 1.9 of the earlier Draft GTP II (April 2015 Amharic version) evaluates performance in the realm of *Capacity Building and Good Governance* during GTP I. However, the section does not use the elements of classification used under the seventh chapter of GTP I. Section 1.9 of full-text Draft GTP II embodies three sections. They are Section 1.9.1 titled 'Objectives and Directions' (ዓላማዎችና አቅጣጫዎች), Section 1.9.2: Performance in major targets (የዋና ዋና ግቦች አፈፃፀም), and Section 1.9.3: Challenges and Good Practices (ያጋጠሙ ፈታኝ ሁኔታዎችና የተገኙ መልካም ተሞክሮዎች).

A paragraph is devoted to *objectives and directions*⁴³ under Section 1.9.1. It refers to capacity building in state organs, transparency and combating corruption from its source, public participation, and the inclusion of cross-cutting issues in the civil service. These tasks are regarded as directions that deserved attention in the course of pursuits toward capacity building and developmental good governance during GTP I. It states that a significant number of graduates from various academic institutions have joined the civil service and due attention has been given to staff development in the civil service. There is no specific reference to the performance or challenges with regard to the objectives and strategic directions of the justice sector. Section 1.9.3 briefly states the challenges encountered in areas such as good governance (in one paragraph)⁴⁴ but it does not make specific reference to the justice sector.

⁴³ Federal Democratic Republic of Ethiopia, Second Five Year (2015/15- 2019/20) Growth and Transformation Plan, Final Draft, April 2015 (Miazia 2007 EC), Addis Ababa (የኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ፣ የሁለተኛው አምስት ዓመት (2008-2012) የዕድገትና የትራንስፎርሜሽን ዕቅድ የመጨረሻ ረቂቅ፣ አዲስ አበባ፣ ሚያዝያ 2007), p. 47.

⁴⁴ Id., p. 54, last paragraph.

Section 1.9.2 of Draft GTP II (April 2015 version)⁴⁵ did not give numerical designation to the fourteen titles under which the performance of GTP I targets is highlighted. *Justice system reform* is listed as the twelfth item. Six paragraphs (on page 53 of the Draft) are devoted for the discussion on the performance of the *justice sector reform* during GTP I. Performance of the *fifty three* targets embodied in GTP I could have been systematically reviewed. However the six paragraphs that evaluate the performance of the justice sector during GTP I do not relate the evaluation with specific targets under GTP I. The elements of positive evaluation made in the draft regarding the performance of the justice sector during the GTP I period are the following:

a) Paragraph 1:

- i) Approval of criminal justice policy;
- ii) The preparation and implementation of Sentencing Guidelines;
- iii) Performance in arresting suspects;
- iv) Enhanced capacity in forensic laboratories;
- v) Enhanced rates of conviction; and
- vi) Improvements in resolving civil disputes through negotiation of parties.

b) Paragraph 2:

Performance related with registration of documents and civil status:

- i) Commendable achievements of Document Authentication and Registration Offices (public notary offices) at federal and regional state levels;
- ii) Enactment of the proclamation and registration on the registration of civil status, and tasks of institutional framework accomplished toward their implementation.

c) Paragraph 3:

Performance related with the judiciary:

- i) formation of court benches that focus on cases that deserve special attention;
- ii) improvement in case attrition rates;
- iii) improvement in case load of courts, and the subsequent decline, over the last six years, in the number of cases that are pending for more that six months.

d) Paragraph 4:

Tasks related to the combat against corruption:

- i) Enhancing public awareness on corruption;
- ii) Assessments made on anti-corruption pursuits that are underway;
- iii) Enactment of proclamations, regulations and directives on property registration and notification and the tasks accomplished thereof.

⁴⁵ Id., pp. 48-54.

e) Paragraph 5:

Tasks accomplished to ensure rule of law:

- i) Issuance of Human Rights Action Plan which is currently operational,
- ii) Tasks done toward the First Draft of Criminal Procedure Code which is at its final stage of drafting,
- iii) The studies that are underway to amend some provisions of the Commercial Code, the Criminal Code and the Civil Procedure Code; and
- iv) The preparation of draft proclamation on community-based sentences (የማኅበረሰብ አቀፍ ቅጣት አዋጅ).

f) Paragraph 6:

With regard to prison reform full-text of Draft GTP II (April 2015 version) states:

- i) the improvement in the rights of prisoners,
- ii) the initiatives to engage prisoners in productive activities, and
- iii) the tasks accomplished in enabling prisoners to acquire skills and behavioural changes and toward their reintegration with society after release.

Most of the *fifty three* GTP I targets of the justice sector (indicated above) have not been evaluated in the Draft GTP II (April 2015 version). Cases in point include achievements and challenges with regard to the judiciary which are among the key factors in the accessibility, effectiveness, efficiency and predictability of justice.

3.1.2 Evaluation of GTP I in abridged Drafts of GTP II (September 2015 versions)

The report of Ministry of Justice to the National Planning Commission on the performance evaluation of the Justice Sector in GTP I⁴⁶ embodies *nine* themes followed by a tenth section that presents conclusion, and an eleventh section which deals with the challenges encountered and measures taken. The *nine* themes in the report are:

- a) Human resource development;
- b) Institutional structure and operation procedures (process) reform:
 - i. increase effectiveness and efficiency
 - ii. enhance accessibility of services
 - iii. ensure transparency and accountability
 - iv. judicial independence, transparency and accountability
 - v. combat and control corruption;
- c) Ensure rule of law;
- d) Enhance public participation;

⁴⁶ በአ.ፌ.ዲ.ሪ የፍትሕ ዘርፍ የመጀመሪያው የአምስት ዓመት (2003-2007 ዓ. ም.) የዕድገትና ትራንስፎርሜሽን ዕቅድ አፈፃፀም ሪፖርት፣ ፍትሕ ሚኒስቴር፣ 36 ገጾች (FDRE Ministry of Justice First Five-Year Period (2010/11-2014/15) Growth and Transformation Plan Performance Report, Ministry of Justice, Amharic text, 36 pages)

- e) Strengthen federal structure;
- f) Enhance justice administration system:
 - i. criminal justice administration
 - ii. strengthen civil justice administration
 - iii. handling, administration and rehabilitation of prisoners;
- g) Improve change communication;
- h) Enhance ICT Capacity that supports justice sector reform;
- i) Incorporate cross-cutting activities in judicial sector performance.

However, Section 1.6 of the abridged English version (51 pp) of Draft GTP II (titled *Capacity Building and Good Governance*) does not make reference to the achievements and unaccomplished GTP I targets of the justice sector.⁴⁷ It reads:

In the area of capacity building and good governance, measures that strengthen the efficiency and effectiveness of public institutions and ensure good governance had also been undertaken during the plan years under review with resultant positive outcomes. But this is about changing working culture, system and building capable institutions that require their own maturity time, therefore, challenges remain. The Government, therefore still remains committed to strengthening the democratization process, efficiency and effectiveness of public institutions and enhancing good governance at all levels.

Overall, it must be said that the progress in implementation of the GTP has been very positive. Ethiopia continued to register broad-rapid economic growth that puts it as one of the fastest global growing economy. ...⁴⁸

The concluding paragraph of Section 1.6 of the abridged Draft GTP II English Version states that ‘GTP implementation has set in motion economic forces that accelerate Ethiopia’s journey towards growth and transformation’ and it also notes that ‘the implementation of GTP was not without challenges’. Section 1.7 of the abridged Draft GTP II English Version states the challenges of inflation as “a major threat for macroeconomic stability during the first two years of GTP implementation (2010/11 and 2011/12)” and “under-performance of exports and challenges in timely securing foreign finances which in turn have had adverse impact on the smooth implementation of development projects”.⁴⁹

⁴⁷ See: *Growth and Transformation Plan*, 2010/11- 2014/15, Volume I, Main Text GTP I. *supra* note 29, pp. 96-109. The justice sector comes under Chapter 7 of GTP I (titled *Capacity Building and Good Governance*). The chapter includes five themes, namely (a) capacity building, (b) ICT development, (c) justice sector, (d) democracy and good governance, and (e) media broadcast and communication.

⁴⁸ National Planning Commission (2015), *Federal Democratic Republic of Ethiopia, The Second Growth and Transformation Plan (GTP II)*, 2015/16-2019/20, (Draft), Addis Ababa, September 2015, pp.13 & 14

⁴⁹ *Id.*, p. 44.

Likewise, the abridged Amharic version of Draft GTP II (September 2015) does not raise specific issues that evaluate the justice sector’s performance during GTP I.⁵⁰ No specific reference was made (in both abridged September 2015 versions) to the performance or challenges with regard to GTP I’s *fifty three* targets and *fourteen* implementation strategies that are stated in Sections 2.2.2 and 2.2.3 above. Even if the brevity of these abridged versions of Draft GTP II does not allow elaborate reference to the performance evaluation of the targets and implementation strategies of justice sector reform during GTP I, at least two or three paragraphs could have been devoted to these issues.

3.1.3 Evaluation of GTP I in GTP II (December 2015)

The performance of GTP I is assessed in Part I of GTP II,⁵¹ under Section 5 titled *Capacity Building and Good Governance* (የማስፈጸም አቅም ግንባታና መልካም አስተዳደር). Subsection 5.2, titled *Developmental Good Governance* (ልማታዊ መልካም አስተዳደር), devotes two paragraphs which specifically make reference to the justice sector. The elements of the paragraphs are as follows:

a) Paragraph 1 on the justice sector (page 40, paragraph 3)

- i. The justice sector has a significant role not only in good governance but is also indispensable in the democratization process due to which focus is given to the sector and many tasks have been accomplished.
- ii. The justice sector is one of the spheres of good governance and the Justice Sector Reform Program has been formulated and is operational.
- iii. The achievements in the realm of human resource development has significant role in the enhancement of democratization.
- iv. Human Rights Action Plan has been prepared and is in force to facilitate the implementation of human rights and democratic rights enshrined in the Constitution.
- v. The criminal justice system has improved.
- vi. The achievements include enhanced access to the justice institutions and steady improvements in the efficiency of their services.
- vii. It is apparent that the justice sector is steadily improving its services, efficiency and accessibility.
- viii. There are tasks done to ensure the conformity of laws with the Constitution with a view to ensuring justice and rule of law.

⁵⁰ National Planning Commission (2015), *Federal Democratic Republic of Ethiopia, The Second Growth and Transformation Plan* (GTP II), 2015/16-2019/20, (Draft Prepared for Consultation), Addis Ababa, September 2015, pp.18 & 19 (የሁለተኛው አምስት ዓመት የዕድገትና ትራንስፎርሜሽን ዕቅድ (2008-2012) (ለመወያያ የተዘጋጀ ረቂቅ፣ ብሔራዊ የፕላን ኮሚሽን፣ መስከረም 2008).

⁵¹ የኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ፣ የሁለተኛው አምስት ዓመት የዕድገትና ትራንስፎርሜሽን ዕቅድ (2008-2012)፣ ጥራዝ 1፣ ዋና ሰነድ፣ ብሔራዊ የፕላን ኮሚሽን፣ ታህሳስ 2008፣ አዲስ አበባ።, Federal Democratic Republic of Ethiopia, *Second Five Year Growth and Transformation Plan* (2015/16-2019/20), Volume 1, Main Text, National Planning Commission, December 2015, Addis Ababa (Amharic version).

- ix. The Constitution ensures judicial independence and at the same time makes it accountable in accordance with the law, and positive achievements have been accomplished with regard to judicial independence.
- x. There are developments with regard to enabling the judiciary to be subject only to the law while courts operate free from any influence particularly interference and pressures from the executive, and at the same time free from any external interference or pressure.

b) Paragraph 2 (page 40, paragraph 4)

- i. Notwithstanding the strengths of the justice sector, there are problems that deserve the attention of the justice sector; in particular regarding attitudes and professional competence.
- ii. Various factors attributable to corruption and gaps in impartiality adversely affect justice and the rule of law.
- iii. The justice sector involves chains of inter-dependent functions, but there are actors in the process that have gaps in harmonizing their capacities.
- iv. Notwithstanding the achievements with regard to rendering the services of the justice sector accessible, rapid and effective, there is the need to strengthen the justice sector institutions closer to the public in the lower administrative units.
- v. The implementation of the Justice System Reform Program and the sector's capacity building program should be enhanced so that due attention can be given to elevate the accessibility, efficiency, transparency and rule of law to the level that is envisaged.

The last two paragraphs of Subsection 5.2 of GTP II deal with the public service in general and the role of the Anti-Corruption Commission in good governance. The need for rendering the services of the public sector efficient, effective, transparent, accountable, fair and free from corruption and malpractices is noted.⁵² To this end, the necessity of public participation, addressing the problems encountered and the significance of sustaining the reforms that are underway are underlined.⁵³ The last paragraph of Subsection 5.2⁵⁴ states the achievements in the capacity enhancement of the Anti-Corruption Commission. The registration of assets of office holders is indicated as an essential factor in enhancing information resources to the Commission. The various activities and the role of the Commission in combating corruption are stated.

The shortcoming of the earlier (April 2015) Draft GTP II is repeated in GTP II with regard to performance evaluation of the justice sector during GTP I. The evaluation was expected to follow the classification of the *fifty three* targets in GTP I so that the level of performance and challenges could be objectively and clearly assessed. As indicated in Section 4.2 of this study, the justice sector in GTP II is clustered with activities of other sectors under the Good

⁵² Id., p. 40.

⁵³ Id., p. 41.

⁵⁴ Ibid.

Governance Reform Cluster. This has brought about omission in the evaluation of specific targets that relate to the justice sector. As evaluation relates to specific targets, GTP II should have made specific reference to the justice sector's targets stated in GTP I rather than using broader claims of performance (as stated in Section 3.1.3(a) above).

3.2 Targets of the Justice Sector under GTP II

3.2.1 Targets of the justice sector in the earlier Draft GTP II (April 2015)

The third section of Chapter 3 of the earlier Draft GTP II (April 2015 version), Part 2 is titled 'Major Targets' (ዋና ዋና ግቦች). The twelfth category of targets i.e. 3.12 is sub-titled "*Enforcement and enhanced awareness of the Constitution, ensuring rule of law, and creating strong developmental state justice sector*" (ሕገ መንግሥቱን በማስከበር፣ በማስረጸ፣ የሕግ የበላይነትን በማረጋገጥ ጠንካራ ልማታዊና ዲሞክራሲያዊ መንግሥታዊ የፍትሕ መዋቅር መፍጠር).⁵⁵ This sub-title represents bundle of targets rather than holistically referring to the justice sector *per se*. The following elements can be identified from the five paragraphs under the sub-title.

a) Paragraph 1:⁵⁶

The first paragraph which bears the subtitle, '*Criminal Justice reform*' includes *seven* elements:

- i) 'full implementation of FDRE Criminal Justice Policy by preparing instruments of enforcement',
- ii) 'processes and structure for the protection to witnesses and informants of criminal offences' (ወንጀል ጠቋሚዎች)
- iii) 'the preparation and implementation of a system which ensures and evaluates the effectiveness and efficiency of the criminal justice system with particular attention to attrition rates, conviction rates etc.';
- iv) 'the reduction of file closures and attrition rates caused by the absence or nonappearance of accused persons or witnesses';
- v) 'resolution of minor offences (at all levels) that do not affect the state and public interest through conciliation';
- vi) 'confiscation of property that are fruits of offences';
- vii) 'capacity enhancement in the investigation, prosecution and conviction of persons accused of corruption and confiscation of property obtained by corrupt practices'.

⁵⁵ Draft GTP II, April 2015 Draft, *supra* note 43, p. 173.

⁵⁶ *Ibid.*

b) Paragraph 2:⁵⁷

The second paragraph on '*Civil Justice reform*' has the following *nine* elements:

- i) 'research and implementation of a judicial policy in tune with the concept of the developmental state that can serve the demands of a developmental state, developmental investors and citizens';
- ii) 'ensuring the propriety of tax appeal decisions';
- iii) 'research and putting in place specialized benches for cases that have significant impact on development';
- iv) 'finalizing the revision of the Commercial Code in accordance with the concept of democratic developmental state and implementing it to facilitate the pursuits of accelerated development';
- v) 'a system that provides compensation for victims of crimes';
- vi) 'reduction of attrition rates and attention to summary and accelerated proceedings';
- vii) 'correct and enforceable judicial decisions';
- viii) 'publication and distribution of binding cassation decisions'; and
- ix) ensuring that judicial decisions are in conformity with the Constitution.

c) Paragraph 3:⁵⁸

- i) 'reduction of attrition rates';
- ii) 'increase in the number of decided cases';
- iii) 'enhance current capacity of case investigation';
- iv) 'increase in conviction rates';
- v) 'reduce congestion of cases and the current level of case loads';
- vi) reduce duration until judicial decision to at least below six months;
- vii) 'adequate and effective performance by opening additional benches for cases that need particular attention due to state and public interest';
- viii) 'sustain the tasks that are underway toward due process of law';
- ix) 'reduce the percentage of defendants on trial in comparison with the percentage of convicted prisoners';
- x) 'putting in place alternative penalties other than imprisonment'.

d) Paragraph 4:⁵⁹

- i) 'improve case flow management';
- ii) 'implementation of sentencing guidelines throughout the country' and preparation of directives to that comparable sentences can be imposed on offences that are not covered in the sentencing guidelines';
- iii) 'full implementation of the tasks that are underway toward authentic data on execution of judgements';

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Id., p. 174.

- iv) ‘due support that encourages the public to use Alternative Dispute Resolution (ADR) schemes such as conciliation and arbitration ‘;
- v) ‘building the capacity of institutions that are in charge of registration of vital events, enhancing the system of registration and full implementation of the registration of vital events (birth, marriage, death, etc.) during the plan period.’

e) Paragraph 5:⁶⁰

- i) ‘enhance rule of law by enacting laws that are drafted in conformity with the Constitution and current global and local realities’;
- ii) ‘strengthen the joint performance of police and prosecutors and enhance the efficiency and effectiveness of current case investigation capacity’;
- iii) ‘prepare and implement standards in the effective administration, handling, reform and rehabilitation of prisoners’
- iv) ‘elevate the standards of prison wards and other service facilities commensurate with the required thresholds’;
- v) ‘conduct pardon and parole on the basis of reliable data that has the requisite quality’.

3.2.2 Targets of the justice sector in GTP II (December 2015)

Part 2 of GTP II embodies Ethiopia’s Growth and Transformation Plan for the years 2015/16-2019/20. It has ten chapters. Chapter 7 is titled Developmental Good Governance and Democratization (ልማታዊ መልካም አስተዳደር እና የዲሞክራሲ ሥርዓት ግንባታ). The first section (Section 7.1) titled Developmental Good Governance and Developmental Political Economy (ልማታዊ መልካም አስተዳደር ማስፈን እና ልማታዊ ፖለቲካ ኢኮኖሚ መገንባት) has four sub-sections including section 7.1.4 titled “Rendering the justice system effective, impartial and free from corruption” (የፍትሕ አስተዳደር ሥርዓቱን ውጤታማና ከመብከርና አድልዎ የፀዳ ማድረግ).

Section 7.1 incorporates Strategic directions (p. 163), objective (p. 164) and main targets (pp. 164-169). The main targets are classified into four themes namely:

- Section 7.1.1: Building developmental and effective political leadership and civil service (p. 164);
- Section 7.1.2: Rendering the public owner and beneficiary of development through enhancing public capacity (p. 165)
- Section 7.1.3: Ensuring good governance (pp. 165-168); and
- Section 7.1.4: Rendering the justice system effective, impartial and free from corruption (pp. 168-169).

⁶⁰ Ibid.

Section 7.1.4 embodies the following five paragraphs which include the main targets of the justice sector during the GTP II period.

a) Paragraph 1, Section 7.1.4

At the end of the first paragraph, the phrase which states that the issues ‘will be given attention by the sector during the five years ahead’ (በዘርፉ በሚቀጥሉት አምስት ዓመታት ትኩረት የሚሰጣቸው ጉዳዮች ይሆናሉ) prompts the classification of the paragraph’s elements onto strategic directions. However, Section 7.1 embodies strategic directions and a goal that are common to the four themes under the section, and the elements of the paragraph can be regarded as targets. Moreover, the title “ዋና ዋና ግቦች” (Major Targets) before Section 7.1.1 (on page 164 of GTP II) shows that Sections 7.1.1 to 7.1.4 embody targets. The first paragraph of Section 7.1.4 reads:

የፍትሕ ሥርዓቱ የተረጋገጠና እውነተኛ ማስረጃዎችን በማቅረብ የፍትሕን ውጤታማነት ማጠናከር፣ ሕጎች ሲረቀቁና ሲሻሻሉ እንደዚሁም አፈፃፀማቸውና አተረጓጎማቸው ከሕገ መንግሥቱ ጋር የተጣጣሙ እንዲሆኑ ማድረግ፣ የዳኝነት ሥርዓትና የፍርድ ቤት ነፃነትን፣ ግልጽነትንና ተጠያቂነትን ማረጋገጥ፣ የፍትሕ ሥርዓቱ መዋቅር በሰው ኃይል፣ በእውቀት፣ በክህሎትና በቁሳቁስ እንዲጠናከር ማድረግ፣ የኅብረተሰቡ ሕገ-መንግሥታዊ ግንዛቤና ንቃተ ሕግ እንዲጎለብት የተቀናጁ ሥራዎችን መሥራትና ግጭቶችን በሰላማዊ መንገድ የመፍታት ባህልና ልምድ እንዲዳበር ማድረግ በዘርፉ በሚቀጥሉት አምስት ዓመታት ትኩረት የሚሰጣቸው ጉዳዮች ይሆናሉ።

This paragraph embodies the following six targets of the justice sector for the GTP II period:

- i. Strengthening the effectiveness of justice through enabling the justice system to obtain valid and truthful evidence;
- ii. Ensuring that the drafting, revision, enforcement and interpretation of laws are in conformity with the Constitution;
- iii. Ensuring the independence, transparency and accountability of the judicial system and courts;
- iv. Strengthening the capacity of justice system institutions with regard to human resources, knowledge, skills and equipment;
- v. Undertaking coordinated tasks to enhance public awareness about the Constitution and the law; and
- vi. enhancing the culture and habit of peaceful resolution of conflict.

b) Paragraph 2, Section 7.1.4

The second paragraph of Section 7.1.4 reads:

የፍትሕ አስተዳደር ሥርዓት ማሻሻያ ፕሮግራም ዓላማ የልማትና የዲሞክራሲ ሥርዓት ግንባታን ለማሳካት የሚያስፈልገው የተሟላ የሕግ ማዕቀፍ እንዲኖር ማድረግ፣ ሕጎች የተነሱበትን ዓላማ በሚያሳኩበት አኳኋን እንዲፈፀሙና እንዲተረጎሙ በማድረግ የሕግ የበላይነትን ማስፈን ነው። ይህን ዓላማ ከማሳካትና በፈጣንና ዘላቂ ልማት ውስጥ ተገቢውን አስተዋፅኦ ከማድረግ አኳያ የማስፈፀም አቅምን በመገንባት ተቋማዊ ለውጥ ማምጣት፣ የኅብረተሰቡን ሁለንተናዊ ተሳትፎ የማጎልበት ሕግና ሥርዓት የሚያከብርና የሕግ ማስከበር ሥራውን በንቃት የሚደግፍ የሕዝብ አቅምን አደረጃጀት መፍጠር፣ ሕጎች ለኅብረተሰቡ በተቀላጠፈ መንገድ እንዲታወቁና እንዲሰራጩ ማድረግ ትኩረት የሚደረግበት ይሆናል። ፍርድ ቤቶችም ቀልጣፋና ዘመናዊ አገልግሎት እንዲሰጡ ይደረጋል። የፍትሕ አስተዳደር ሥርዓቱን ውጤታማ ለማድረግ የአሠራር፣ የአደረጃጀትና የሰው ኃይል የማጠናከር ሥራዎች ይሠራሉ። በሥርዓቱ ውስጥ የሚታዩ የሙስናና አድላዊ ዝንባሌዎችን ከሕዝቡ ጋር ሆኖ በመታገል የፍትሕ ሥርዓቱ የሕዝብ አመኔታን ያተረፈ እንዲሆን ይደረጋል።

We can identify the following *eight* targets:

- i. Adequate legal framework required for development and democratization;
- ii. Ensure rule of law through the implementation and interpretation of laws based on their purpose.
- iii. Bring about institutional reform towards the attainment of [the objectives hereabove, i.e., democratization and rule of law] and toward the pursuit of accelerated and sustainable development;
- iv. Establish public empowerment structures which encourage comprehensive public participation and enhance law-abiding and peaceful citizenry;
- v. Efficient dissemination and distribution of laws to the public;
- vi. Provision of efficient and modern judicial services;
- vii. Tasks that strengthen the processes, organization and human resource toward effective justice system;
- viii. In collaboration with the public, combat the tendencies of corruption and gaps in fair trial, and enable the justice system to win public confidence.

c) Paragraph 3, Section 7.1.4

The third paragraph of Section 7.1.4 (GTP II), reads:

ከፍትሕ ሥርዓቱ አገገር አሁንም ቁልፉ ጉዳይ የመዋቅሩን አቅም፣ በተለይም ደግሞ የሰው ኃይሉን ብቃት መገንባት ነው። ስለሆነም በዕቅድ ዘመኑ የፍትሕ አካላት የሰው ኃይል በታቀደና ተቋማዊ በሆነ አግባብ ሥልጠና እንዲያገኝ በማድረግ በአመለካከት፣ በሥነ ምግባር፣ በዕውቀትና በክህሎት ያለውን አቅም ይገነባል። በተጨማሪም የፍትሕ አገልግሎቱን ይበልጥ ተደራሽ፣ ቀልጣፋና ውጤታማ ለማድረግ እየተካሄዱ ያሉትን አገልግሎቶች በኢንፎርሜሽን ኮሙኒኬሽን ቴክኖሎጂ የማስደገፍ፣ የፕላንሽን ችሎቶች የማጠናከር፣ የተዘዋዋሪና ቋሚ ችሎት ጣቢያዎችን የማስፋፋት፣ ፍ/ቤቶች ለአፋጣኝ አገልግሎት ዓመቱን ሙሉ እንዲሠሩ የማድረግ፣ ወዘተ ማሻሻያዎች ተጠናክረው ይቀጥላሉ። በፍትሕ ሥርዓቱ የተሟላ ነፃነት፣ ግልፅነትና ተጠያቂነትን ለማረጋገጥ እንዲቻል እየተከናወኑ የቆዩት ተግባራትም ተጠናክረው ይቀጥላሉ። በዚህም በፍትሕ ሥርዓቱ ቅልጥፍናና ውጤታማነት፣ ተደራሽነት፣ ፍትሐዊነት፣ ነፃነት፣ ግልፅነትና ተጠያቂነት ለማረጋገጥ ታቅዷል።

The paragraph embodies the following *three* targets relating to human resource development, ICT Support and judicial independence along with transparency and accountability:

- i. Planned and institutionalized capacity building to justice system institutions and their human resource through training to enhance capacity in attitudes, integrity, knowledge and skills;
- ii. Enhance ICT support to judicial services, plasma services for court proceedings, expansion of circuit and other benches, court services throughout the year;
- iii. Strengthen the tasks that are underway toward adequate independence, transparency and accountability of the judicial system, with a view to ensuring the efficiency, effectiveness, accessibility, fairness, independence, transparency and accountability of the judicial system.

The first item that aims at capacity building is general thereby enabling justice system institutions to transpose the target onto specific institution-level directions, goals and targets. The Amharic words “ቡድን-ሕ ሥርዓቱ” can contextually interpreted as ‘judicial system’ in the last element even if they can as well mean ‘justice system.’

d) Paragraph 4, Section 7.1.4⁶¹

The targets in this paragraph relate to lawmaking and revision. The paragraph reads:

የሕግ የበላይነት ሌላው የመልካም አስተዳደር መርህ ሲሆን ማንኛውም ፖለቲካዊ፣ ማኅበራዊና ኢኮኖሚያዊ እንቅስቃሴ የሚከናወነው በሀገሪቱ ሕገ መንግሥትና ሕጎች ላይ ብቻ ተመሥርቶ መሆን እንዳለበት፣ ሁሉም ሰው በሕግ ፊት እኩል መሆኑንና ተጠያቂ መሆኑን የሚያመለክት ነው። በዚህ ረገድ እስካሁን የተገኙትን ስኬቶች ወደላቀ ደረጃ ለማሸጋገር የሚያስችሉ ሥራዎችን ለማከናወን ዕቅድ ተይዟል። በዚህም መሠረት የሚረቀቁት አዳዲስ ሕጎች በጥናትና ምርምር በመታገዝ ከሕገመንግሥቱ፣ ከዓለም አቀፍ ወቅታዊ ሁኔታዎች ጋር ተጣጥመው የተዘጋጁ መሆናቸው ተረጋግጦ ተግባራዊ እንዲሆኑ ይደረጋል። ከዚህም ውስጥ የወንጀል ሥነ ሥርዓት ሕግ፣ የአስተዳደር ሕግ፣ የዓለም አቀፍ የግል ሕግ፣ አማራጭ የክርክር መፍቻ ረቂቅ ሕጎች፣ የጥብቅና ፈቃድ አሰጣጥና አስተዳደር ረቂቅ አዋጅ፣ የወንጀል ምስክርነትና ጠቋሚዎች ጥበቃ አዋጅ ማስፈጸሚያ ረቂቅ ደንብና መመሪያ እንዲወጡ ይደረጋል። በተጨማሪም የምስክርነት እና ጠቋሚዎች ጥበቃ አገልግሎት አፈፃፀምን ተግባራዊ ለማድረግ የሚያስችል የአሠራር ሥርዓት ይቀረጻል። የወንጀል ሕግ ማሻሻያ ረቂቅ አዋጅ፣ የጥብቅና ፍቃድ ክፍያ ረቂቅ ደንብ፣ የፌዴራል ዐቃቤያነት ሕግ መተዳደሪያ ደንብ ማሻሻያ፣ በማርቀቅና በማቅረብ እንዲጸድቁ ይደረጋል። የሠራተኛና አሠሪን ሕግ ከሠራተኛና አሠሪ ፖሊሲውና ከሀገሪቱ የልማትና ኢንቨስትመንት ፍላጎት ጋር በተጣጣመ መልኩ በማሻሻል እንዲሁም ከውል ውጭ ኃላፊነት ሕግ ያለበትን ደረጃ በጥናት ገምግሞ የማሻሻልና የማስጸደቅ ሥራ ይሠራል።

Eleven elements can be identified as targets in the domain of lawmaking and revision during GTP II. The following introductory statements of the paragraph serve as framework for the targets:

“Rule of law is one of the principles of good governance and it requires all political activities to be conducted in accordance with the Constitution and other laws, and it indicates that all are equal before the law and accountable thereof. The achievements in this regard will be enhanced to higher levels. Accordingly, laws will be drafted and implemented based on research to ensure that they are in conformity with the Constitution and current global realities”.

According to the fourth paragraph of Section 7.1.4, the laws that will be drafted and submitted to the relevant organs are:

- i. The Criminal Procedure Code;
- ii. Administrative law;
- iii. Private international law (conflict of laws);
- iv. Alternative Dispute Resolution draft laws;
- v. Draft proclamation for the licensing and administration of advocates;

⁶¹ GTP II, *supra* note 51, pp. 168-169.

- vi. Proclamation to protect witnesses and informants (ጠቁሚዎች) in criminal cases, and the corresponding regulations and directives, along with the formulation and implementation of a system for the protection of witnesses and informants;
- vii. Draft Proclamation to amend the Criminal Code;
- viii. Draft Regulations on Advocate Licence fee;
- ix. Amendment regulations for the administration of federal prosecutors;
- x. Amendment of the Labour Proclamation in accordance of the Labour Policy and in accordance with Ethiopia's interest in development and investment; and
- xi. Draft amendment on the law of extra-contractual liability (torts) based on research to evaluate its current state.

e) Paragraph 5, Section 7.1.4

The last paragraph of the section embodies *ten* targets, and it mainly focuses on criminal justice, legal drafting, legal information, and the Bar:

- i. The preparation and implementation of crime prevention strategy;
- ii. The preparation and implementation of Manual for Legal Drafting;
- iii. Gathering, consolidating and publishing federal and state laws in a manner they are accessible to the public;
- iv. Gathering and organizing laws enacted since 1931⁶² [1923 EC] and make them accessible to the public;
- v. Monitor and support the effective implementation of the National Human Rights Action Plan to ensure respect for human rights;
- vi. Enhancing public awareness on the law, by various means including direct-contact dissemination and the media with a view to enabling the public to be partner in the justice system beyond its compliance with the law;
- vii. Enhance good governance through awareness against corruption and raising awareness about its adverse social and economic impact so that the society does not tolerate corruption;
- viii. Establish a system to ensure that advocates satisfy the competence and professional ethics required of them;
- ix. Enhance the positive contribution of practicing lawyers in the justice system;
- x. Ensure that international agreements are signed and ratified based on their conformity with Ethiopia's national, foreign and security policies and ensuring their contribution to the political, social and economic interests of the country.

⁶² The year 1931 EC (1931 ዓ.ም.) is apparently typographic error.

3.3 Observations on Justice Sector Targets in GTP II

As indicated in Section 3.2.2, GTP II embodies *thirty-eight* targets related to the justice sector. Country-level plans of economic transformation such as GTP II are not expected to embody a very wide coverage of every sector because they give particular attention to themes on the economy. As national Five-Year Plans focus on the economic aspects of the plan, the brevity of the parts that deal with issues of justice and governance is apparent. However, the scope of coverage that was given to the justice sector in GTP I could have been maintained in GTP II.

The number of pages devoted to the justice sector in GTP I was about three pages while the coverage given to the justice sector in GTP II (December 2015) is about a page and a half.⁶³ A distinct section (i.e. Section 7.3) was allotted to the justice sector in GTP I while a sub-section is allocated for the justice sector in GTP II. GTP I had strategic directions and goals that expressly made reference to the justice sector while GTP II uses general strategic directions and a goal to four themes under Section 7.1 which includes the justice sector. Moreover, the term ‘justice sector’ does not appear on the *Table of Contents* of GTP II under Chapter 7, Section 7.1 titled *Developmental Good Governance and Developmental Political Economy*. The word *developmental* as a qualifier for good governance seems to be redundant in accompanying ‘good’ because *good governance* naturally enhances and facilitates development. Adjectives qualify nouns and the usage of the qualifier ‘developmental’ to ‘good governance’ gives the inference that there can be good governance which is not developmental.

As indicated earlier (in Section 3.1.3), GTP II does not evaluate performance in most of the justice sector’s *fifty three* GTP I targets. Nor are most of these targets re-incorporated in GTP II based on their inherent continuity and considering parts of the targets that have not been accomplished during the period for GTP I.

The scope and magnitude of justice system reform in GTP II is narrower than the ones that were embodied in GTP I. Yet, the content and form of the justice sector’s targets in the April 2015 version of Draft GTP II are improved in the final approved version of GTP II (December 2015). GTP II duly makes reference to general thematic targets and it rectifies the problems that were apparent in the April 2015 draft, because listing down detail targets in about a page and a half leads to leaving out other targets of the justice sector. Even though targets that are specific enhance clarity, they can (under such compact text space) leave out other important targets. As compared to the April 2015 Draft, GTP II which is approved in December 2015 embodies targets that are wide enough to accommodate various strategic plans, annual plans, projects and activities of justice sector institutions. Yet, it could have devoted more space for the articulation of justice sector targets.

⁶³ GTP II, *supra* note 51, pp. 168, 169.

In light of the components of the justice sector highlighted above (as the framework of this study), the *thirty-eight* targets in Section 7.1.4 of GTP II (that are indicated in Section 3.2.2 and tabulated in Annex 4) relate to various components of the justice system. The targets in the *first paragraph* are applicable to all components of the justice sector except the third element (i.e., ensuring the independence, transparency and accountability of the judicial system and courts) which makes specific reference to the judiciary in addition to the phrase ‘judicial system’. Most of the targets in the *second paragraph* are also applicable to all justice sector institutions other than the first item (adequate legal framework required for development and democratization) which relates to the lawmaking and revision component of the justice system, and the fifth and sixth items (i.e., efficient dissemination and distribution of laws to the public, and the provision of efficient and modern judicial services) which respectively refer to legal information and the judiciary.

The targets in GTP II that apply to *specific (or nearly specific) components* of the justice system are the following:

- (a) *law making and revision*: paragraph 2 (item i); paragraph 4 (items i to xi); paragraph 5 (items ii, x);
- (b) *the judiciary*: paragraph 1 (item iii); paragraph 2 (items vi and viii); paragraph 3 (items ii and iii);
- (c) *law enforcement*: from the dimensions of evidence, crime prevention, human rights and public participation- paragraph 1 (item i), paragraph 5 (items i, v & vi), and paragraph 2 (item iv);
- (d) *training*: paragraph 3, item i;
- (e) *access to justice*:
 - legal information (paragraph 1 item v; paragraph 2, item v; paragraph 5, items iii, iv & vi);
 - the Bar (paragraph 5, items viii & ix; paragraph 4, items v & viii);
 - Alternative Dispute Resolution (Paragraph 4, item iv)
- (f) *good governance*: most items in paragraph 2; paragraph 5 (item vii); and items in other paragraphs.

This matching up of target items with the components of justice system reform shows that certain reform components of the justice sector such as the police and prison administration are missing in GTP II. Yet, the following eleven targets apply to more than one component of the justice sector (including the police and public prosecutors):

- a) strengthen the effectiveness of justice through enabling the justice system to obtain valid and truthful evidence (paragraph 1, item i);
- b) ensure that the drafting, revision, enforcement and interpretation of laws are in conformity with the Constitution (para 1, item ii);

- c) strengthen the capacity of justice system institutions with regard to human resources, knowledge, skills and equipment (para 1, item iv);
- d) undertake coordinated tasks to enhance public awareness about the Constitution and the law (para 1, item v);
- e) enhance the culture and habit of peaceful resolution of conflict (para 1, item vi);
- f) ensure rule of law through the implementation and interpretation of laws based on their purpose (para 2, item ii);
- g) bring about institutional reform towards the attainment of [the objectives hereabove, i.e., democratization and rule of law] and toward the pursuit of accelerated and sustainable development (para 2, item iii);
- h) establish public empowerment structures which encourage comprehensive public participation and enhance law-abiding and peaceful citizenry (para 2, item iv);
- i) strengthen the processes, organization and human resource toward effective justice system (para 2, item vii);
- j) planned and institutionalized capacity building to justice system institutions and their human resource through training to enhance capacity in attitudes, integrity, knowledge and skills (para 3, item i); and
- k) monitor and support the effective implementation of the National Human Rights Action Plan to ensure respect for human rights (para 5, item v).

In spite of the ability to use the general targets stated above to various components of the justice system, they cannot be applied to legal education which has been omitted from the justice sector components of GTP II.

Justice Sector Reform Pursuits in Selected Strategic Plans

4.1 The Justice Sector’s Five Year Plan during GTP I

The Strategic Plan of the justice sector for GTP I’s period 2010/11- 2014/15⁶⁴ states the *vision* and *mission* of the sector. The *vision* of the justice sector foresees Ethiopia where “good governance prevails, human rights and democratic rights are ensured, peace and security prevails, rule of law is ensured, and where there is effective, efficient, accessible and independent judicial system with due accountability and public confidence”.⁶⁵ As vision statements go beyond five-year plan periods, it applies to the GTP II period as well. The *mission statement* of the justice sector for the GTP I period was the following:

የፍትሕ ዘርፉ ተልዕኮ የዜጎችንና የነዋሪዎችን ሰላምና ደህንነት ማረጋገጥ፣ የዜጎችንና የነዋሪዎችን ሰብዓዊና ዲሞክራሲያዊ መብቶች ማክበርና ማስከበር፣ የሕዝብና መንግሥት መብቶችና ጥቅሞች ማስከበር፣ የሕግ የበላይነትን ማረጋገጥ፣ እንዲሁም ፈጣን፣ ፍትሐዊ፣ ወጭ ቆጣቢና ተደራሽ የፍትሕ አገልግሎት ለሁሉም መስጠት ነው።

The mission of the justice sector is to ensure peace and security of citizens and residents, respect and protect the human rights and democratic rights of citizens and residents, ensure rule of law, and provide speedy, equitable, cost-effective and accessible justice for all.

The *objective* of the Justice System Reform Program is stated in its Five-Year Plan for the GTP I period. It aspires “to comprehensively examine and reform the justice system and provide efficient, effective and quality services which satisfy the public, and in effect ensure rule of law at all levels, and ensure that the justice system shall render its decisive contribution to the development of a democratic system, sustainable development and good governance”.⁶⁶ The Five-Year Plan of the justice sector under GTP I identifies *seven specific objectives* for the plan period. It also states *three sub-programmes* of the Justice System Reform Programme, namely the sub-program for *judicial reform*, the sub-program for *law enforcement reform* (which

⁶⁴ Five Year Plan of the Justice Sector for the period 2010/11- 2014/15, approved on Nehassie 13-15፣ 2003 EC (August 19-21, 2010), Joined-up Justice Forum, (የፍትሕ አካላት የጋራ ጉባዔ) Hawassa.

⁶⁵ The Amharic text of the vision reads “መልካም አስተዳደር የሰፈነባት፣ ሰብዓዊና ዲሞክራሲያዊ መብቶች የተከበሩባት፣ የዜጎች ሰላምና ደህንነት የሰፈነባት፣ የሕግ የበላይነት የተረጋገጠባት፣ ውጤታማ፣ ቀልጣፋ፣ ተደራሽ፣ ነፃና ተደራሽነት ያለው የሕዝብ አመኔታ የተቸረው የፍትሕ ሥርዓት የሰፈነባት ኢትዮጵያን እውን ማድረግ ነው።”

⁶⁶ The Amharic text of the objectives of the Justice System Reform Program reads: “የፍትሕ ሥርዓት ማሻሻያ ፕሮግራም ዓላማ የፍትሕ ሥርዓቱን በሁለንተናዊ መልኩ በመፈተሽና በማስተካከል ሕዝቡን የሚያረካ ውጤታማ፣ ቀልጣፋና ብቃት ያለው አገልግሎት በመስጠት በሁሉም ደረጃ የሕግ የበላይነትን ማስፈንና የፍትሕ ሥርዓቱ ለዲሞክራሲያው ሥርዓት ግንባታ፣ ለዘላቂ ልማትና ለመልካም አስተዳደር የበኩሉን ወሳኝ ድርሻ እንዲወጣ ማድረግ ነው።”

includes the police, public prosecutors and prison administrations), and the sub-program for *reform in legal education, training and research*.

Ato Jemal Ahmed, Director of the Justice System Reform Program Office at the Ministry of Public Service and Human Resource Development stated that, “there were fifty four projects related with justice sector reform during GTP I which were classified into three reform sub-programs”.⁶⁷ He noted that certain activities in the projects will become day to day operations and may not appear as projects again even if the pillars and the categories of the reform continue.

4.2 Good Governance Reform Cluster’s Five Year Plan during GTP II

4.2.1 Evaluation of performance during GTP I period

The strategic plan of the justice sector for the GTP II period (2015/6 – 2019/20) is included in “Good Governance Reform Cluster Second Five-Year Growth and Transformation Plan.”⁶⁸ The first part of the Five-Year Plan evaluates the performance of the earlier plan. It deals with:

- i. human resource development (pp. 3-5),
- ii. organizational structure and processes:
 - (a) effectiveness and efficiency (pp. 5-7)
 - (b) accessibility of services (pp. 7-9),
 - (c) transparency and accountability (pp. 9-10),
 - (d) judicial independence, transparency and accountability (pp. 10-11),
 - (e) combat against and control of corruption and rent seeking (pp. 11-12),
 - (f) coordinating activities of justice sector institutions (pp. 12-13),
- iii. ensure rule of law (pp. 13-16),
- iv. enhance public participation (pp. 16- 17),
- v. strengthen the federal system (pp. 17-19),
- vi. strengthen the justice administration system
 - (a) criminal justice system administration (pp. 19-21)
 - (b) enhancing civil justice administration (pp. 21-22)
 - (c) prison administration, handling, correction and rehabilitation (pp. 22-23)
- vii. improve change communication (የለውጥ ኮሙኒኬሽን ማሻሻል)፣ pp. 23-25
- viii. enhance ICT support (p. 25)
- ix. cross-cutting issues (pp. 26-27).

The assessment made regarding the performance of the justice sector during GTP I period generally pursues the classification of targets under Section 7.3.3 of GTP I. Moreover, a

⁶⁷ Interview with Ato Jemal Ahmed, Head of the Justice System Reform Programme Office. November 27, 2015.

⁶⁸ Good Governance Reform Cluster Second Five-Year Growth and Transformation Plan 2015/16-2019/20, Ministry of Justice, March 2015፣” (የመልካም አስተዳደር ሪፎርም ክለስተር፣ የሁለተኛው አምስት ዓመታት የእድገትና የትራንስፎርሜሽን ዕቅድ፣ 2008-2012፣ ፍትሕ ሚኒስቴር፣ መጋቢት 2007 ዓ.ም.)

summary is included (pp. 28-36). The classification of the evaluation makes it easy to identify the targets that can be carried forward, the ones that have become routine operations and the targets that are inherently continuous. Such evaluation further facilitates the organic emergence of new targets which use earlier achievements as their foundation.

4.2.2 Strategic Plan for GTP II period and the institutions involved

The second part of the document states the strategic plan of the Good Governance Reform Cluster during the GTP II period.⁶⁹ The vision and mission statements respectively refer to Ethiopia's vision and the mission of the Cluster. The strategic directions, objectives and targets stated in the document also relate to good governance at large. The targets of the Cluster are the following:

- i. Human resource development (p. 39),
- ii. Improve organizational structure and processes:
 - (a) effectiveness and efficiency (pp. 40-41)
 - (b) accessibility of services (pp. 41-42)
 - (c) transparency and accountability (p. 42)
 - (d) judicial independence, transparency and accountability (pp. 42-43)
 - (e) combat against and control of corruption and rent seeking (pp. 43-44)
 - (f) coordinating activities of justice sector institutions (p. 43);
- iii. Ensure rule of law (p. 43, 44);
- iv. Enhance public participation (pp. 44- 45);
- v. Strengthen the federal system (pp. 45-46);
- vi. Strengthen the justice administration system
 - (a) criminal justice system administration (pp. 46-47)
 - (b) enhancing civil justice administration (pp. 47-48)
 - (c) prison administration, handling, correction and rehabilitation (pp. 48-49)
- vii. Enhance change communication (የለውጥ ኮሙኒኬሽን ማሳደግ), p. 49;
- viii. Enhance performance capacity through ICT support (በኢንፎርሜሽን ኮሚኒኬሽን ቴክኖሎጂ ተደግፎ የመሥራት አቅምን ማጎልበት), pp. 50-51;
- ix. Enhance performance by mainstreaming cross-cutting issues (pp. 51-52).

Moreover, the document states implementation strategies (p. 52), forty projects (p. 53), and summary (pp. 54-82) of outcomes, indicators, annual rates of achievement and organs responsible are set out in the Strategic Plan. The summary of the goals and the organs in charge of implementation indicate that the cluster includes various institutions at federal and regional levels. In the sequence of their list in the matrix for activities (pp. 54-82), these institutions are: the Ministry of Public Service and Human Resource Development, Federal and State institutions, Police, Prison Administration, Federal Courts, Federal Charities and Societies Agency, Anti

⁶⁹ Id., pp. 39 – 52. Moreover forty projects are stated on page 53 of the Strategic Plan.

Corruption Commission, Federal and State anti-corruption commissions, Ministry of Federal Affairs, Regional states, Ministry of Justice, and Justice and Legal System Research Institute.

4.2.3 Good Governance Reform Cluster –*versus*- justice sector strategic plan

Unlike the strategic plan of the justice sector for the GTP I period, the strategic plan for the Good Governance Reform Cluster does not make direct reference to the ‘justice sector’ in its title. There can be two lines of argument in favour of and against such cluster strategic plans. The argument that can be forwarded in support of such clusters is the potential for better harmonization of pursuits. Moreover, it may be argued that this option enables the cluster to include organs such as courts, which would otherwise be independent entities whose reform activities cannot be harmonized by executive organs such as the Ministry of Justice. However this argument assumes that the respective organs have their own strategic plans and annual plans. It also assumes that they have autonomy in project implementations including decision-making and financial management. In the absence of such institution-level strategic plans and project implementation autonomy, a central strategic plan for member institutions can cause over-centralization and inefficiency.

The argument that can interrogate such clustering can raise the question whether good governance can be planned and managed from a cluster downwards. This argument regards clusters as loose forums for exchanging good practices and harmonizing pursuits in the context of independent plans and performance. It can further invoke the experience of African countries such as Botswana, Cape Verde, Ghana, etc, where good governance emerged organically in the course of steady and incremental grassroots successes rather than top-down clusters and pledges.

A synthesis can emerge from these arguments. We can take the viable dimensions of both arguments and regard the establishment of a good governance cluster in the Ethiopian context as a positive development if the member institutions have their own strategic plans and autonomy in project design and implementation. It is to be noted that *Good Governance* is an *enabler* and not a field of activity. It relates to the task of all organs of government: the executive, legislative and executive. For example good governance is an *enabler* for the three pillars of sustainable development. In other words the economic, social and environmental dimensions of sustainable development cannot be realized without good governance. Therefore this enabler is expected to be mainstreamed in the strategic plans, annual plans and activities of every institution. In effect, justice sector institutions are expected to have their own specific strategic plans that focus on the components identified in the 2005 Comprehensive Justice System Reform Program Baseline Study and other components that emerge in the process.

There are *four challenges* for the justice sector that can emerge from generic strategic plans that are not accompanied by a specific strategic plan for the justice sector. The *first challenge* relates to the gap that will be created due to the substitution of the justice sector’s *vision, mission and objectives* (stated above in Section 4.1) by other general formulations applicable to the good

governance reform cluster. *Second*, the reform pursuits which directly relate to the core components of the justice sector run the risk of being diluted (in content and focus) thereby spreading out thin in the midst of generic reference to good governance. The *third* challenge relates to the adverse impact of this approach on the non-judicial sector if it involves the formulation of a strategic plan that predominantly refers to the justice sector while it bears the title of ‘Good Governance Reform Cluster’. The *fourth* challenge can be susceptibility to a predominantly legalistic approach while good governance, which addresses various dimensions of how well a country is governed, is mainly nurtured and honed bottom-up. As proactive peacemaking and peace building are more effective than prevention and control, addressing the elements, the sub-elements and the micro-elements of justice sector reform components that were identified in the 2005 Comprehensive Justice System Reform Program are among the factors that can bring about good governance, an *enabler* which in return facilitates the steady march toward the attainment of the vision and mission statements of Ethiopia’s justice sector institutions.

It is against this backdrop that the following sub-section of the study compares the fifty-four projects of the justice sector under GTP I with the forty projects of the Good Governance Reform Cluster during the GTP II period. Sections 4.3 and 4.4 will further highlight selected strategic plans of Ethiopia’s justice sector. As the scope of the study does not allow comprehensive coverage of all justice sector institutions, two strategic plans suffice for the purpose of insight into the issues. The strategic plan of Ministry of Justice and Justice Bureaus during GTP I and the strategic plan of Federal Courts for the period covered under GTP II are highlighted in Sections 4.3 and 4.4.

4.2.4 Justice sector reform GTP I projects –versus- Good Governance Reform Cluster – GTP II projects

As indicated in Annex 2.1, the Justice Sector Reform Program had *fifty four* projects for the GTP I period. The projects were classified into three sub-programmes namely:

- a) Sub-Program for the Reform of Courts (የፍርድ ቤቶች ማሻሻያ ንዑስ ፕሮግራም): 16 projects;
- b) Sub-Program for Law Enforcement Reform (የሕግ አስከባሪ አካላትን ማሻሻያ ንዑስ ፕሮግራም): 30 projects; and
- c) Sub-Program for Enhancing Legal Education, Training and Research (የሕግ ጎምህርት፣ ሥልጠናና ምርምር ማጠናከሪያ ንዑስ ፕሮግራም): 8 projects.

Most of these projects are inherently continuous, while some (as noted in Section 4.1 above) can be operational activities during GTP II period rather than projects.

a) Sub-Program for the Reform of Courts

The sixteen projects under the court reform sub-program of the justice sector during GTP I were the following:

1	Human resource development project	9	Project to enhance and strengthen Alternative Dispute Resolution
2	Court effectiveness enhancement project	10	Project for premises and other facilities
3	Judgement Execution Enhancement Project	11	Project to support city courts, Sharia courts, military courts, and administrative tribunals.
4	Project to ensure the constitutionality of judgements and decrees	12	Project to improve public defender's services
5	Project to enhance the system that ensures the independence, transparency and accountability of judges	13	Project to enhance public participation in courts
6	Project to strengthen Judicial Administration Council	14	Project to enhance ICT in the operations of courts
7	Project to formulate procedures for public assessment on courts	15	Project for the archiving and disposal of dead files
8	Project to enhance accessibility of courts	16	Project to enhance and strengthen performance in cross-cutting issues

Out of these sixteen projects of court reform, the following *nine* projects are not included among the forty projects (listed in Annex 2.2 of this study) in the list of Good Governance Reform Cluster Projects for the GTP II period:

3	Judgement Execution Enhancement Project	9	Project to enhance and strengthen Alternative Dispute Resolution
4	Project to ensure the constitutionality of judgements and decrees	11	Project to support city courts, Sharia courts, military courts, and administrative tribunals.
5	Project to enhance the system that ensures the independence, transparency and accountability of judges	12	Project to improve public defender's services
6	Project to strengthen Judicial Administration Council	13	Project to enhance public participation in courts
7	Project to formulate procedures for public assessment on courts		

b) Sub-Program for Law Enforcement Reform

The thirty projects of the justice sector during GTP I under the Sub-Program for Law Enforcement (የሕግ አስከባሪ አካላትን ማሻሻያ ንዑስ ፕሮግራም) were the following:

1	Human resource development project	16	Project for the enforcement and enhancement of Alternative Dispute Settlement schemes
2	Capacity building project for administrative and security affairs offices	17	Legal aid services improvement project
3	Capacity building project for the police	18	Project for the rehabilitation, correction and administration of prisoners
4	Project for community police capacity building and assignments	19	Federalism and inter-state relation enhancement project
5	Project to enhance and consolidate community-based crime prevention system	20	Project to enhance values of peace
6	Project for the formulation and enhancement of a system for witnesses and crime victims	21	Project to enhance systems for pre-conflict interventions and post-conflict responses
7	Criminal and civil justice reform project	22	Project to enhance public participation in the justice system
8	Project for registration of vital events	23	Project to strengthen lawyers associations
9	Forensic investigation and laboratory establishment and enhancement project	24	Project for follow up and support system of charities, civic societies and private security guard entities
10	Project for firearms and armaments administration and procedures	25	Justice sector organs coordination project
11	Prosecution file system project	26	Project to enhance the operations of law enforcement organs by ICT
12	Project for legal drafting in accordance with the Constitution, and consolidation of laws	27	National Integrated Justice Information System (NIJIS) project
13	Project to establish a system for public evaluation of justice organs	28	Justice Organs Integrated Information Center establishment project
14	Project to enhance the awareness of the public on law	29	Project to dispose of dead files
15	Project for premises and other facilities	30	Project to enhance and strengthen performance in cross-cutting issues

The following *eight* Justice Sector GTP I Projects under the Sub-Program for Law Enforcement (የሕግ አስከባሪ አካላትን ማሻሻያ ንዑስ ፕሮግራም) are not included in the list of Good Governance Reform Cluster Projects for the GTP II period listed in Annex 2.2 of this study:

4	Project for community police capacity building and assignments	20	Project to enhance values of peace
10	Project for firearms and armaments administration and procedures	21	Project to enhance systems for pre-conflict interventions and post-conflict responses
11	Prosecution file system project	23	Project to strengthen lawyers associations
16	Project for the enforcement and enhancement of Alternative Dispute Settlement schemes	24	Project for follow up and support system of charities, civic societies and private security guard entities

c) Sub-Program for Enhancing Legal Education, Training and Research

Out of the following eight justice system program reform projects (for GTP I period) in the legal education, training and research sub-program, items 2, 4 and 7 (indicated in bold, here-below), i.e. (a) the projects that deal with strengthening and reforming legal education, (b) establishing a system to evaluate the effectiveness and education and training institutions and (c) IT enhancement project for law schools, JLSRI and JOPTC are not included in Good Governance Reform Cluster projects for GTP II period.

1	Human resource development project	የሰው ኃይል ልማት ፕሮጀክት
2	Project to strengthen and reform legal education	የሕግ ትምህርት መገንቢያና ማሻሻያ ፕሮጀክት
3	Project to strengthen training and research institutes of federal and state justice sector institutions	የፌዴራልና የክልል የፍትሕ አካላት ባለሙያዎች የሥልጠናና የምርምር ተቋማት አቅም መገንቢያ ፕሮጀክት
4	Project to establish a system to evaluate the effectiveness of education and training institutions	የትምህርትና ሥልጠና ተቋማት ውጤታማነት የሚመዘንበት አሠራር መዘርጊያ ፕሮጀክት
5	Legal aid services improvement project	ነፃ የሕግ አገልግሎት አሰጣጥ ማሻሻያ ፕሮጀክት
6	Project for premises and other facilities	የሕንፃና ሌሎች ፋሲሊቲዎች ማሻሻያ ፕሮጀክት
7	Information technology enhancement project	በኢንፎርሜሽን ቴክኖሎጂ ማጠናከሪያ ፕሮጀክት
8	Project to enhance and strengthen performance in cross-cutting issues	ባለብዙ ዘርፍ ጉዳዮችን ትግበራ ማስፋፊያና ማጠናከሪያ ፕሮጀክት

It is impossible to incorporate all projects of the justice sector in the Good Governance Reform Cluster because the cluster includes other sectors as well. Attempting to include all justice sector targets and projects in the Good Governance Reform Cluster transforms the cluster into justice sector. Moreover, the predominance of justice sector elements in the Cluster’s targets and projects will inevitably affect the fair representation of non-justice sector institutions. Thus, such clustering of strategic plans can neither adequately incorporate justice sector targets and projects; nor can it fairly represent the strategic plans of other institutions outside the justice sector.

4.3 Justice Sector Reform Pursuits during GTP I: Ministry of Justice

Part II of the Strategic Plan of the Ministry of Justice and Region Justice Bureaus for the period between 2010/11- 2014/15⁷⁰ evaluates performance of the justice sector during the preceding strategic plan period (2005/6- 2009/10). The third part of the Strategic Plan states the plan of the Ministry of Justice for the years 2010/11- 2014/15.⁷¹ The evaluation of performance for the years 2005/6- 2009/10 addresses the following:

- a) human resources development, pp. 10–23;

⁷⁰ See Ministry of Justice & Region Justice Bureaus, *Justice Sector’s Five Years (2010/11-2014/15) Strategic Plan*, Addis Ababa, July 2010, pp. 10-78. Available at <<http://www.moj.gov.et/Public/Downloads/MOJ%20Strategic%20plan.pdf>>, Last visited Nov. 3, 2015.
⁷¹ Id, pp. pp. 79-80, 83-149.

- b) efficiency in the administration of justice and setting up an efficient justice service (in criminal cases, civil cases, tax appeal), registration of charities and societies, and document authentication and registration, pp. 24-40, 45-48;
- c) transparency and accountability, pp. 41-42;
- d) ensuring the prevalence of rule of law, pp. 42-45;
- e) accessibility (of criminal justice administration, civil justice administration, legal drafting and vetting In terms of accessibility and participation, accessibility of tax appeal, accessibility of document authentication and registration), pp. 48-50;
- f) rehabilitation of prisoners, pp. 50-53;
- g) building strong and stable federal system, p. 53;
- h) change communication, p. 53; and
- i) cross – cutting issues (which included constitutional rights of women and children prevention of HIV/AIDS, youth rights, population and development, and environmental protection and development), pp. 54-59.

The *Mission* of the Justice Sector and the *Vision* of the Ministry of Justice are stated in the Strategic Plan document⁷², as follows:

Mission of the Justice sector

Protecting the government and public interest according to the law, deterring criminals before the court, enhancing awareness of law and participating the people to prevent crime and plays the leading role, respecting and enforcing human and democratic rights and ensuring rule of law.

Vision of the Ministry of Justice

Ensuring the country in which human and democratic rights are respected, rule of law and justice prevail.

The Strategic Plan of the Ministry of Justice and Regional Justice Bureaus for the period 2011/12- 2014/15 identifies the gaps in the sector.⁷³ For example, the Strategic Plan (Section 3.1.12)⁷⁴ is titled “*Gaps in efficiency, fairness, effectiveness, quality, accessibility, transparency and accountability in the performance of the service giving system*”, and it indicates the existence of weak institutional capacity. It states that “failure to focus on strategic issues has made government and the public to have less trust and confidence on the justice system”. The gaps stated are:

- Less performance in ensuring the rule of law; respecting and cause to respect the human and democratic rights enshrined in the constitution and other laws;
- Weak performance in issues with public and government interest; [and]

⁷² Id. p. 6.

⁷³ Id. pp. 79-80.

⁷⁴ Id. p. 80

- Absence of commitment in fighting corruption and ethical problems.⁷⁵

Strategic plans envisage the formulation of annual plans and detail activities that address the gaps observed and the objectives sought to be achieved. Equally important is performance evaluation at the end of the strategic plan period. The Strategic Plan (2009/10- 2014/15) embodies the following four goals that embrace (7 + 10 + 7 + 6) a total of thirty objectives distributed between four goals:

- Goal 1- Create a management, employees and institution which have efficient capacity, and commitment to accomplish the mission of the sector and gain the confidence of government and public. (P. 85)
- Goal 2- Protecting the interest of the public and government through minimizing crimes and threats of crime and enhancing the credibility of public and government in the justice administration system. (p. 89)
- Goal 3- Draft laws and policies ensure rule of law and the constitution; playing important role in the prevalence of good governance, development, human rights of citizens and the development of democratic system. (p. 95)
- Goal 4- Respect the constitutional rights of citizens with special need and ensure the interest and participation of these citizens. (p. 98)

Compared with the themes of evaluation for the Strategic Plan Period 2009/10- 2014/14, the four goals stated for the strategic Plan Period 2010/11- 2014/15 seem to be narrower in scope. One can argue that the evaluation regarding the gaps that were observed in the performance of the former strategic plan period warrant broader goals and plans. In support of this argument, one may say that goals emanate from the mission and vision of an institution, and the four goals for the Strategic Period 2010/11-2014/15 could have aspired higher than the goals and objectives stated therein.

The counter-argument can be the need to focus on achievable goals and objectives that can be realistically implemented by the Ministry of Justice and Region Justice Bureaus within the strategic plan period. Such realistic goals and objectives can indeed enhance confidence and motivation to exceed targets whenever possible. But this is possible only where complacency to easily attainable targets is not predominant and if the principles enshrined in the FDRE Constitution, Ethiopia's vision statement, the vision of the justice sector, the mission and values of MoJ permeate every activity that adds up toward enhancing the performance of the justice sector commensurate with these values, principles and thresholds.

The Ministry of Justice seems to have given prime focus to the tasks under its actual mandate. As public prosecutors are under the MoJ and Region Justice Bureaus, the Strategic Plan focuses on criminal justice. Prior to the 2010/11 – 2014/15 Strategic Plan, the Ministry of Justice

⁷⁵ Ibid.

has introduced Business Process Re-engineering (BPR) ⁷⁶ applicable to criminal justice administration. The attention given to criminal justice by the Ministry can further be observed from the Criminal Justice Policy⁷⁷ which was formulated by the Ministry and approved by the Council of Ministers.

All other components of the justice system including the judiciary are thus expected to work towards their respective responsibilities in the justice reform which in the aggregate determine the pace and achievements envisaged under the FDRE Constitution.

4.4 Strategic Plan (2015-2020) of Federal Courts

Reference to the strategic plan of the federal courts for the five years ahead (including the current budget year) gives insight into the reform pursuits of courts in Ethiopia. The Strategic Plan of Federal Courts for the Period 2015/16- 2019/20 has six parts. Part I assesses the external national environment and institutional issues. Parts 2 and 3 of the Strategic Plan state areas of focus and strategic goals. The last three parts deal with the relationship between the strategic goals (Part 4), Targets of the strategic goals (Part 5) and Implementation strategies (Part 6).

The introduction of the Strategic Plan states that “the judiciary is the organ which enables citizens to enforce their human rights and democratic rights enshrined in the Constitution or in other laws free from the intervention of any government organ or individual”.⁷⁸ It further notes that courts should provide “efficient, quality and accessible judicial services to enhance the satisfaction and confidence of the public”.⁷⁹ In its assessment of the external environment, the Strategic Plan, *inter alia*, states the steady increase in the complexity of issues and the number of cases that are brought to courts in the course of Ethiopia’s economic development.⁸⁰ It underlines that:

Commensurate with the pace of Ethiopia’s economic development and in the context of judicial independence, courts are required to resolve the issues in the cases brought to them by rendering efficient, quality and accessible services. When courts perform their functions properly, they have an indispensable role in attracting investment and enhancing goodwill;

⁷⁶ Ministry of Justice, Federal Government’s Criminal Justice Administration Business Process Reengineering (BPR) for Investigation, Litigation and Adjudication, December 8, 2010 (ፍትሕ ሚኒስቴር. በፌዴራል መንግሥት የወንጀል ፍትሕ አስተዳዳሪ ወንጀልን የመመርመር፣ መከራከርና ውሳኔ መስጠት ዋና የሥራ ሂደት አዲስ አሠራር፣ ጎዳር 29 ቀን 2003 ዓ.ም.)

⁷⁷ Ministry of Justice, Criminal Justice Policy of the Federal Democratic Republic of Ethiopia, Revised version after approval by the Council of Ministers, September 2011 (ፍትሕ ሚኒስቴር፣ የኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ የወንጀል ፍትሕ ፖሊሲ. በሚኒስትሮች ምክር ቤት ከፀደቀ በኋላ ተስተካክሎ የተዘጋጀ፣ መስከረም 2004 ዓ.ም.)

⁷⁸ *Strategic Plan of Federal Courts for 2015/16 – 2019/20*, Federal Supreme Court, June 2015, p. iv.

⁷⁹ *Ibid.*

⁸⁰ *Id.*, p. 2.

and on the contrary, their inability to catch up with economic development will have adverse impact on the sustainability of the development which is underway.⁸¹

It further assesses current social and technological changes that need the enhancement of human and other resources. In the schedule that analyzes opportunities and challenges, the *opportunities* in the political environment are (a) the constitutional guarantee for rule of law and separation of powers, (b) constitutional guarantee for judicial independence and accountability, (c) favourable government policies and strategies, and (d) government efforts toward the success in judicial reform.⁸² The *challenges* stated in the schedule are (a) erosion of judicial powers through enactment of various laws, (b) the level of confidence of the executive in the judicial services rendered by courts, (c) inadequacy in the pace of reform, and (d) attempts of undue intervention of the executive in judicial independence.⁸³

Similar comparisons of opportunities and challenges are made with regard to the economic, social and technological environment.⁸⁴ The Strategic Plan further makes institutional assessment on the responsibilities and duties of courts, the strengths and weaknesses in leadership, human resource, structure and operations (during the preceding Strategic Plan period).⁸⁵ Moreover, the assessment identifies stakeholders and analyzes their needs in detail.⁸⁶

The gaps identified are “inadequate awareness of vision and mission, gaps in planning and inadequate monitoring and evaluation of performance, gaps in effective system for transparency and accountability, inadequate staff for research, and gaps in overall implementation”.⁸⁷ The Strategic Plan notes the need to address these gaps so that courts can duly play their role in the realization of GTP II. To this end, the following eight strategic directions are identified:

- i. Human resource development;
- ii. Reform in institutional structure and operations:
 - a) Enhance effectiveness and efficiency in performance,
 - b) Enhance the judicial independence, transparency and accountability,
 - c) Combat and control rent gathering (corrupt) attitudes and practices,
 - d) Enhance coordination in performance;
- iii. Ensure rule of law;
- iv. Enhance the participation of citizens;
- v. Strengthen accessibility;
- vi. Improve change communication (የለውጥ ኮሙኒኬሽን ማሻሻል)
- vii. Enhance capacity in using ICT by supporting the judicial reform by ICT

⁸¹ Ibid.

⁸² Id., p. 5

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Id., pp. 6-11.

⁸⁶ Id., pp. 14- 22.

⁸⁷ Id., p. 23.

viii. Implement cross-cutting issues.⁸⁸

The core themes of these strategic directions are in short reformulated as:

- “judicial independence, transparency and accessibility,
- enhance efficiency and effectiveness of judicial services,
- enhance access to judicial services,
- enhance quality of services,
- enhance capacity building activities,
- strengthen the sustainability of change management,
- ensure good governance, and
- enhance popular participation and change communication”.

The strategic directions highlighted above are categorized into three pillars of excellence (የትኩረት መስኮች), namely: (a) excellent judicial services, (b) elevated performance and goodwill, and (c) good governance.⁸⁹

The *vision* of Ethiopian Federal Courts is to “attain high level of public confidence in 2022/23 (በ2015 ያደገ የሕዝብ አመኔታ ያለው ፍርድ ቤት ሆኖ መገኘት)”.⁹⁰ Its *mission statement* reads “rendering judicial services which ensures rule of law (የሕግ የበላይነትን የሚያረጋግጥ የዳኝነት አገልግሎት መስጠት)”.⁹¹ The values⁹² of Ethiopian Federal Courts are:

- i. Independence and accountability (ነፃነትና ተጠያቂነት)
- ii. Impartiality (ገለልተኝነት)
- iii. Transparency (ግልጽነት)
- iv. Equality (እኩልነት)
- v. Integrity (ታማኝነት)
- vi. Confidentiality (ምስጢራዊነት)
- vii. Fairness (ሚዛናዊነት)
- viii. Sustained professional competence (ሁልጊዜ ራስን ማብቃት)
- ix. Responsiveness (ምላሽ መስጠት)
- x. Quality Service (የአገልግሎት ጥራት)
- xi. Readiness for change (የለውጥ ዝግጁነት)
- xii. Participatory (አሳታፊነት)
- xiii. Rapid and equitable judicial decisions (የተፋጠነና ፍትሐዊ ዳኝነት)
- xiv. Rule of law (የሕግ የበላይነት)
- xv. Punctuality (ቀጠሮ አክባሪነት).

⁸⁸ Ibid.

⁸⁹ Id., pp. 27, 28.

⁹⁰ *Federal Courts Annual Plan* for the 2015/2016, June 2015, Addis Ababa, page 1.

⁹¹ Ibid.

⁹² Strategic Plan of Federal Courts, *supra* note 78, p. 24.

The Strategic Plan defines the values listed above in order to enhance clarity.⁹³ The mission, vision and values of Ethiopian federal courts reflect the mandate entrusted in Ethiopian courts by virtue of Articles 78 to 82 of the FDRE Constitution. Strategic plans of the federal courts and annual plans are expected to be in conformity with these constitutional provisions and should pursue the vision, mission and values of the courts. The strategic directions and the three pillars of excellence indicated above are further transposed to strategic goals in the third part of the Strategic Plan.⁹⁴

The indicators of performance in the fifth part of the strategic plan are meant to be used in the monitoring and evaluation of performance. To this end, each annual plan evaluates performance of the preceding year. For example the evaluation in the Annual Plan of Ethiopian Federal Courts (2008 EC, i.e. 2015/16) shows the performance of federal courts in deciding cases during a period of seven months that were covered in the evaluation. “The Federal Supreme Court has rendered decision on 7,489 cases during the seven months that were evaluated while the number of decisions expected during the period were 6,748”; its performance percentage is 110.98%.⁹⁵ The decisions that were expected from federal high courts and federal first instance courts during the same period of seven months were 18,417 and 47,691 respectively. The decisions rendered in federal high courts were 11,189 (60.8% of target), while federal first instance courts rendered decisions in 78,319 cases (thereby attaining a performance percentage of 164.2%).⁹⁶ The number of decisions that were planned for the budget year at the three levels of federal courts were 9,640 (Federal Supreme Court), 26,310 (federal high courts) and 68,130 (federal first instance courts).

These figures indicate case loads of federal courts, and they also give insight into case loads in regional state courts. One of the values of Ethiopian Federal Courts is “*Rapid and equitable adjudication*”, and this envisages not only rapid judicial decisions, but also considers the extent to which it is equitable. This renders the other values of rule of law, judicial independence, accountability, impartiality, transparency, equality, integrity, etc. expedient. The number of cases decided during the period indicated above and the need for quality decisions evokes the issue of human power, budget, resources and remuneration of judges and other staff in courts. While some elements of the reform such as judicial independence need political will and commitment to the FDRE Constitution, various dimensions of the reform require budget, including autonomy and efficiency in resource management:

... There is increasingly growing concern about the level of competence in many courts which can be attributable to the unsatisfactory remuneration and other factors which need to be addressed so that judges with exemplary competence and integrity can be retained. ...

⁹³ Id., pp. 25, 26.

⁹⁴ Id., pp. 27-38.

⁹⁵ Federal Courts Annual Plan, *supra* note 90, p. 5.

⁹⁶ Ibid.

The judiciary can hardly attract and retain such judges under the current remuneration scale and prevailing non-financial incentives. ... This raises the issue whether a country's treasury should generate revenue from court fees, or whether such fees can be ploughed back to the judiciary so that remuneration for judges can be significantly raised. ... In the realm of non-financial incentives, there is the need to enhance rule of law, the independence of courts as enshrined in the Constitution and the tenure of judges. These factors coupled with the level of judicial scrutiny that should be put in place to harness discretionary powers of administrative [tribunals] determine the degree of law enforcement and the fairness, efficiency and predictability of judicial decisions that can enhance the complementarities between laws, administrative decisions and adjudication.⁹⁷

⁹⁷ Hailu Burayu, Elias N. Stebek & Muradu Abdo, "The Judicial Protection of Property Rights in Ethiopia", *Mizan Law Review*, Vol. 7. No. 2, December 2013, p. 367.

The Notion of ‘Developmental State Judicial Policy’ in the Earlier Draft GTP II (April 2015 Version)

As indicated in Section 2.2.1, “establishing a stable democratic and developmental state” was stated as an overall strategic direction in GTP I. The justice sector was, during the period for GTP I, required to address the following core factors in the attainment of the strategic direction:

- a) a system which enables citizens to access judicial information,
- b) ensuring that the justice system is more effective,
- c) ensuring that implementation and interpretation of laws are in conformity with the Constitution and due amendments in the event of heir inconformity with the Constitution;
- d) assuring ‘the independence, transparency and accountability of courts, and of the judicial system as a whole’, and
- e) strengthening law enforcement agencies by enhancing their ‘human resource skills and adequate equipment’⁹⁸

In particular, ensuring ‘the independence, transparency and accountability of courts, and of the judicial system as a whole’ in GTP I shows that the context in which the notion of the *democratic developmental state* was used in the strategic direction of the justice sector in GTP I was consistent with Article 79(3) of the FDRE Constitution which provides that: “Judges shall exercise their functions in full independence and shall be directed solely by law.”

Any policy or law which infringes this constitutional provision is void, and in effect, it was improper to make a pledge in the April 2015 version of Draft GTP II towards “research and its implementation in the creation of a judicial institution and formulation of a judicial policy in a manner that can serve the demands of a developmental state, developmental investors and citizens, and in tune with the concept of the developmental state”.⁹⁹ This pledge is omitted in GTP II.¹⁰⁰ Yet, the issue deserves a brief discussion.

Reference to various parts of the earlier April 2015 version of Draft GTP II gives insight into how the developmental state was perceived. For example, the following goals of Draft GTP II (April 2015 version) under Section 3.4 (i.e. the third section of Chapter 3 titled *Popular Participation, Democratic System Building and National Consensus*) dealt with the targets of democratic institutions, the media and communication. The last sentence of Item 3.12 in this

⁹⁸ Volume I, Main Text GTP I. (2010,) *supra* note 29, p. 101

⁹⁹ Draft GTP II, April 2015 version, *supra* note 43, p. 173. The original Amharic version reads “የልማታዊ መንግሥት፣ የልማታዊ ባለሀብትና የዜጋውን ጥያቄ ሊያስተናግድ በሚችል አግባብ እንዲሁም በልማታዊ መንግሥት ጽንሰ ሐሰብ የተቃኘ የዳኝነት ተቋም ለመፍጠርና የዳኝነት ፖሊሲ ለመቅረጽ የሚያስችል ጥናት ተካሂዶ ተግባራዊ ይደረጋል።”

¹⁰⁰ GTP II, December 2015, *supra* note 51, pp. 40,41, 168, 169.

sub-section (i.e. 3.4) reads “substitution of neo-liberal curriculum by developmental democratic curriculum; and applying the same in the fields of legal education and economics” (“የኒዮ ሊበራል ካሪኩለም በልማታዊ ዲሞክራሲያዊ ካሪኩለም መተካት፤ የሕግና የኢኮኖሚክስ መስኮችም በዚህ እንዲቃኙ ማድረግ”).¹⁰¹

The same sentence had reappeared in Item 3.16¹⁰² which stated the need for revision in the curricula for the media, communication and creative arts. Such pledge has been duly omitted in Section 7.2 of GTP II titled *Building Democratic System* (pp. 169-172). Yet this notion of substituting ‘neo-liberal curriculum by developmental democratic curriculum’ deserves a brief clarification regarding the risks of using the word ‘developmental’ in the contexts of ambiguity and ambivalence.

Some modest reflections on semantics (the study of meaning) indicates that clarity in meanings come from the synchrony between the *referent*, the *reference* and the *symbol*. In the absence of harmony between this triadic interface, any word or phrase (i.e. *symbol*) can represent different feelings, thoughts, actions or events (*referent*) unless the *reference* made to a word or phrase has uniform meaning for all members of a target audience. Such reference is said to be valid when the reference made to a word or phrase (*symbol*) by the speaker or writer is given the same meaning by any other person. In the absence of such validity in meaning, words become ambivalent and vague because they can conceal motives and intentions that may contradict the meaning they purport to represent. For example, an investor, a public office holder or a judge who claims to be ‘developmental’ can, under such settings of ambiguity in meaning conceal acts of bribery, embezzlement or nepotism in the course of his/her acts, decisions or orders that depart from laws, processes and procedures.

One of the features of a developmental state is that its pursuits and the outcomes of development speak for themselves. The word *developmental* is a designation used by academics and researchers in making reference to the model of state intervention in South Korea, Singapore, Taiwan, etc. (in *post facto* narrations and analyses). The developmental states of the 1960s and 1970s were not thus concerned with the label, and focused on their pragmatic policy content which harnessed extremist market deregulation while the intervention facilitated development through private sector empowerment (as opposed to private sector substitution).

On the contrary, predatory states overuse the ‘development’ label to conceal their corrupt practices in the name of ‘development’. Evans distinguishes developmental states from ‘predatory’ states. The latter, according to Evans “control the state apparatus” and they “seem to plunder without any more regard for the welfare of the citizenry than a predator has for the welfare of its prey”.¹⁰³ Evans considers the Newly Industrialized Countries (NICs) of East Asia

¹⁰¹ Id., p. 177.

¹⁰² Ibid.

¹⁰³ Peter B. Evans (1989), ‘Predatory, Developmental and other Apparatuses: A Comparative Political Economy Perspective on the Third World State,’ *Sociological Forum*, Vol. 4, No. 4, pp. 562 & 563.

as developmental states, and Zaire [of the late 1980s] as the ‘predatory state’.¹⁰⁴ The inclusion of the qualifier ‘developmental’ in the April 2015 Version of Draft GTP II was not thus necessary to designate the *modus operandi* of Ethiopia’s judiciary and to express the features of Ethiopia’s legal education curriculum.

The notion of the ‘developmental state’ is not an economic theory or philosophy. Nor is it an economic system. It merely rectifies the downsides of laissez-faire deregulation (known as neo-liberalism) and argues against the minimal state model in the name of ‘free’ market. Meanwhile, it avoids the Marxist model of paternalistic over-regulation through command economy. The developmental state model is a *post-facto* narration and analysis of the entry points, the nature, consequences, and the exit points of the intervention. In fact, the success of a developmental state marks its *exit point* because the enhancement of the private sector and institutions bring about a steady decline in authoritarian policy interventions and it marks an *entry point* into mature levels of free market and democratic systems .

As Korea’s experience indicates, there is a phase of obsolescence of the developmental state during which its role in enhancing economic development outlives its usefulness because wider state intervention in the economy eventually becomes undue patronage and red tape, as marked by the massive labour unrest of the 1980s and Korea’s 1997 economic crisis.¹⁰⁵

The limits of the developmental state are caused by the contradictions inherent in the model. The capitalist class which steadily grows in the course of the state interventions at a certain stage regards the interventions as unnecessary and red tape.¹⁰⁶ The role of the state as provider of long-term goals declines upon the success of the developmental state.¹⁰⁷ The state also loses its autonomy due to the gradual fusion of economic interests between the economic actors and the political elite.¹⁰⁸

The policy interventions of a developmental state, *inter alia*, relates to the coordination of investment plans, the role of the state in facilitating development through visionary national development, and the state’s tasks of institution building that cause vibrant economic development.¹⁰⁹ However, such interventions and other features of the developmental state do not share common features with the Leninist-Stalinist model of intervention. Developmental states of the 1960s and early 1970s did not mechanically combine certain elements of communism with other elements of free market economy. In spite of their wider interventionist

¹⁰⁴ Ibid.

¹⁰⁵ Elias N. Stebek, “Overview of Country Experience in Land Rights and Developmental Statehood”, *Mizan Law Review*, Vol. 7, No. 2, December 2013, p. 218

¹⁰⁶ Eun Mee Kim (1993), “Contradictions and Limits of a Developmental State: With Illustrations from the South Korean Case” *Social Problems*, Vol. 40, No. 2 (May, 1993) p. 231-232

¹⁰⁷ Ibid.

¹⁰⁸ See *id.*, pp. 232-233.

¹⁰⁹ See, Ha-Joon J Chang, (1999) ‘The Economic Theory of the Developmental State’ in Meredith Woo-Cumings (ed.), *The Developmental State*, Cornell University Press, pp. 182-199.

policies in the path of development, they remained within the landscape of market economy. As Chalmers Johnson observes:

“The achievements of the Japanese developmental state were inconvenient to both sides of the debate. They illustrated to the West what the state could do to improve the outcome of market forces, and they illustrated to the Leninists that their big mistake was the displacement of the market rather than using it for developmental purposes”.¹¹⁰

Developmental states did not thus substitute market economy but rather facilitated its effective performance. Their salient features include a strong private property legal regime, robust private sector, meritocratic and depoliticized state apparatus, national consensus, and autonomy of the state structure from opportunistic benefits in economic activities while at the same time being embedded¹¹¹ in the economic life of the societies through regulatory interventions.

Japan pursued interventionist policies during the 1950s and 1960s without, however calling itself a developmental state. In spite of such policy intervention to regulate market forces, “courts in Japan had formal power to review legality and constitutionality of administrative actions and laws” regarding the “protection of property rights against arbitrary governmental interference”.¹¹² Kahase cites Ginsburg¹¹³ and states:

Kings of Japan ... started to give the judiciary an autonomous role in the same area since early twentieth century with the aim to promote economic predictability and generate revenue. [FN 181]. The judicial power in the protection of property rights and enforcement of contracts also continued during Japan’s decades of developmental statehood. [FN 182]¹¹⁴

In Japan, the role of the judiciary “in the economic domain and the relative stability of property rights and contract enforcement regimes indeed led authors to note that developmental state pursuits in Japan demonstrated liberal legalism in the economic sphere”.¹¹⁵ Likewise, the experience in South Korea (in the 1960s and early 1970s) indicates judicial autonomy even during the decades of authoritarian economic policy interventions:

¹¹⁰ Chalmers Johnson (1999), ‘The Economic Theory of the Developmental State’ in Meredith Woo-Cumings (ed.), *The Developmental State*, Cornell University Press, p. 49.

¹¹¹ The principle of ‘*embedded autonomy*’ refers to the balance that developmental states maintain in being autonomous from opportunistic economic gains of office holders while retaining the state’s supportive link with all economic actors (owners, managers and labour unions).

¹¹² Kahase Gebrehiwot (2014), *The Role of the Judiciary in Developmental States*, LL.M Thesis, Addis Ababa University School of Law, Unpublished, June 2014, p. 46, (citing Article 81 of the 1947 Constitution of Japan).

¹¹³ Tom Ginsburg, *Dismantling the Developmental State; Administrative Procedure Reform in Japan and Korea*, *American Journal of comparative law* (49), 2001, pp 585-622 at pp 590.

¹¹⁴ Kahase, *supra* note 112, p. 45.

¹¹⁵ Kahase, p. 47, Citing, for further reading: Stephan Haggard, Andrew MacIntyre, and Lydia Tiede, *Rule of Law and Economic Development*, California, California University Press (2008), P209; Tom Ginsburg, *supra* note 71 and Katharina Pistor and Philip A. Wellons, cited at 12

An assessment of practical experience of courts of South Korea ... shows that the judiciary in South Korean developmental state enjoyed genuine autonomy in enforcing regimes of property rights and contracts between individual actors when they chose it [FN 244]. In spite of the authoritarian nature of governance in ... Korea, the ‘economy put first’ policy [FN 245] of leaders induced them to be credible to economic predictability allowing courts to decide civil and commercial disputes without any fear and interference.¹¹⁶

Ethiopia pledges to pursue the policy of a democratic developmental state. The word ‘democratic’ is meant to distinguish the policy from the elements of authoritarianism that were manifested in the degree of state intervention in South Korea, Taiwan and Singapore during the 1960s and early 1970s. This is because the level of authoritarianism in the 1960s that was ‘tolerated’ by the international community in the midst of the East-West polarities of the cold war does not fit to current global realities. As the strategic directions of GTP I (indicated at the beginning of this section) shows, Ethiopia’s pledge to pursue the policy of a democratic developmental state is required to be in conformity with the FDRE Constitution thereby rendering any act of encroaching on the independence of the judiciary unconstitutional.

Botswana is a democratic developmental state whose ranking in Africa with regard to political rights and civil liberties shows that its developmental pursuits are not tradeoffs to the rule of law including the independence of the judiciary.

Democracy as well as development are processes, which require constant attention. To date, however, Botswana has a commendable record in the African context. In the Freedom House Index of political rights and civil liberties there are, as of 2009, only two African democracies (Cape Verde and Ghana) in the top group of free countries which have a higher rating than Botswana; and Botswana in 2009 continues to be ranked as the least corrupt country on the African continent according to the Corruption Perception Index (CPI) published annually by Transparency International, ... [ranking 37th out of 180 countries],, followed by Mauritius (42) and Cape Verde (46)).¹¹⁷

Transparency International’s 2014 Corruption Perception Index (CPI), shows Botswana’s improved rank (31st out of 175 countries), thereby maintaining its ranking as the least corrupt country in Africa. It is followed by Cape Verde (another democratic developmental state in Africa) which is 42nd in world ranking and is considered as the second least corrupt country in Africa.¹¹⁸ Botswana’s standing among *free* democracies¹¹⁹ is also commendable. In spite of

¹¹⁶ Kahase, *supra* note 112., p. 55 (citing FN 244: James Palais, *Politics and Policy in Traditional Korea*, Cambridge, Harvard University Press, 1976 pp 22; FN 245: Huck-ju Kwon, *Advocacy Coalitions and the Politics of Welfare in Korea after the Economic Crisis*, *Policy & Politics*, Vol. 31, No.1, 2002, pp.69-83 at pp 74.

¹¹⁷ Peter Meyns and Charity Musamba (eds.), *The Developmental State in Africa Problems and Prospects*, INEF-Report, 101/2010 (Institute for Development and Peace), p. 55

¹¹⁸ Transparency International <<https://www.transparency.org/cpi2014/results>>, Accessed: 22 November 2015

Botswana's commendable achievements since its independence in 1966, there are yet outstanding issues such as minority rights, fragmented opposition parties and relative weaknesses in civil society activities (attributable to the performance of civil societies rather than legal restrictions). Although "Botswana does not constitute the best practice model" in all aspects of the democratization process, there are general lessons such as the role of "*a ruling political party to direct the trajectory of economic development*".¹²⁰ A case in point is Botswana's "decision to nationalize mineral wealth" and extract "rents from the mineral sector to found a developmental state" and "a sound development planning and budgeting regime and institutions".¹²¹ Botswana has meanwhile developed "*a legal-institutional framework of mineral wealth management*" thereby demonstrating that "resource blessings need not degenerate into resource curses".¹²²

Alongside the creation of a public service based on merit, Botswana's political leadership also had an interest in ensuring the autonomy of the bureaucracy so as to allow it to pursue the country's developmental objectives. Holm asserts that Botswana's first two presidents, Khama and Masire in particular, 'protected the civil service from most political interference' (Holm 1996: 101) thereby shielding it from corruption and guaranteeing its professionalism, and turning it into a powerful agent of development.¹²³

The nature of the judiciary in a democratic developmental state can be observed from Botswana's experience. "The Judiciary is independent from other arms of government; that is the executive and the legislature" and to "further reinforce the independence of the Judiciary and to ensure that it is insulated from interference from the other arms, the Constitution creates the Judicial Service Commission" that is entrusted with the responsibility of assessing and recommending appointments for Judicial posts.¹²⁴ Judicial Independence is indeed a right that citizens in Botswana "demand and enjoy".

Thus, the concept of democratic developmental state does not envisage intervention in the independence of the judiciary in the name of 'developmental state judicial policy' as it was envisaged under the earlier draft of GTP II, April 2015 version. The risk of such 'policy' could have been its propensity to avail discretion to office holders to intervene in the independence of the judiciary in violation of the FDRE Constitution.

¹¹⁹ Freedom House, Freedom in the World 2015 <freedomhouse.org/regions/sub-saharan-africa>, Accessed: 22 November 2015

¹²⁰ Emmanuel Botlhale (2015), *The Building a Democratic Developmental State in Botswana* Regional Conference on Building Democratic Developmental States for Economic Transformation in Southern Africa (20-22 July 2015, South Africa).

¹²¹ Ibid.

¹²² Ibid.

¹²³ Peter Meyns and Charity Musamba (eds.), *supra* note 117, p. 47.

¹²⁴ Republic of Botswana, Government Portal <<http://www.gov.bw/en/PrintingVersion/?printid=1854>> Accessed: 20 November 2015

Assessment of GTP II based on Justice System Reform Components

The 2005 *Comprehensive Justice System Reform Program* adopted a holistic approach in addressing the gaps and challenges in Ethiopia's justice system. This is indeed commendable because positive development in each component contributes to the overall improvement of the justice system; and meanwhile, the justice system in general benefits from the positive causal reciprocity of each element or subsystem that determines the strengths or shortcomings of the aggregate. In other words, success or failure in each component positively or negatively contributes to the progress or regression of the justice system.

Ethiopia's Justice System Reform Program (JSRP) included institutions and processes that come under different organs of the state, i.e. the legislative, judiciary and executive. On the one hand, the scope of the task in terms of volume, quality and depth creates challenges and impediments in the formulation of practical plans, activities, skills, resource allocation and deliverables that fit to the needs and realities at the grassroots. On the other hand, the holistic nature of the reform creates synergy and harmony in spite of functional divergence attributable to the legislative, adjudicative and executive nature of the specific mandates and responsibilities of the various components of the justice system. The challenges and gaps encountered in the course of implementing the comprehensive justice system reform illustrate this point.

It is indeed commendable that the JSRP opted to pursue a holistic approach in justice system reform rather than fragmented and piecemeal reform pursuits. It is equally important to note that such holistic approach can further include other components of the justice system in addition to the categories stated in the 2005 CJSRP. However, such frontier expansion of justice system components requires safeguards against the risk of diluting or weakening the efficiency and effectiveness of reform at the grassroots.

The balance in this regard should thus avoid the extremes of mechanical fragmentation and over-centralization. This calls for a holistic justice system reform which facilitates synergy, harmony and experience sharing, while at the same time ensuring relatively autonomous justice system component reforms with the bigger justice system framework in view. In other words, each component deserves a reform programme of its own with due autonomy in needs assessment, planning, organizational arrangements, manpower, resource allocation, implementation, monitoring and evaluation subject to the need for horizontal and vertical synergy and harmonization within the justice system. This is because every positive change in

each component enhances the level of efficiency, quality and public confidence in the justice system.

The Joined-up Justice Forum that was held in Hawassa on November 9 and 10, 2015 has evaluated reform and good governance in the various organs of the justice system, and has also stated the directions to be pursued by the institutions in the sector. The Forum has examined the objective reality of the justice sector in the realms of the external and internal environment.¹²⁵ The issues that were raised include performance and challenges regarding leadership, employees, public participation, private law practice, and legal education, training and research.¹²⁶ Problems and potential solutions were identified with regard to the problems related with good governance in the police, public prosecutor, courts, and prisons. The Forum has further formulated a system of follow up and support.¹²⁷

The problems identified by the Forum regarding good governance are related to processes in operations (*አሰራር*), institutional framework (*አደረጃጀት*), human resource and laws.¹²⁸ In general, it is believed that the sector has substantial gaps in performance and the Forum has underlined the need to address these gaps and challenges.¹²⁹ To this end, action items toward the reversal of the gaps in the various institutions are identified. The Forum decided that monitoring of performance of these activities should be made every three months by the *Cluster of Good Governance and Reform* through the Justice System Reform Program Office at the Ministry of Public Service and Human Resource Development, and that each institution should conduct its internal monitoring and submit performance report to the Cluster every month.¹³⁰ The Forum agreed on the need to strengthen the Justice System Reform Program Office at the Ministry of Public Service and Human Resource Development which is in charge of coordinating the *Cluster of Good Governance and Reform*.

According to Ato Jemal Ahmed, Director of the Justice System Reform Office, the Ministry of Public Service and Human Resource Development coordinates the Cluster on *Good Governance and Reform* one of which is the Justice System Reform Program Coordination Office. He stated that a new structure for Justice System Reform Program is approved and it is expected to be implemented soon. The structure has three directorates, namely: (a) Justice Sector Reform Program Planning and Revision Directorate, (b) Research, Training and Capacity Building Directorate, and (c) Justice Sector Reform Program Monitoring and Support Directorate. He indicated that “this structure pursues process based approach rather than a

¹²⁵ Report of the Joined-up Justice Forum, November 9 & 10, 2015, Hawassa.

¹²⁶ Ibid.

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ Ibid. The Amharic text of the Report Summary reads “በአጠቃላይም ዘርፉ ተቋማዊ የአፈፃፀም ችግር በሰፊው እንደሚታይበትና በቀጣይ መቀነስ እንዳለበት ከስምምነት ላይ ተደርሶ ከዕቅዱ ጋር የሚካተቱ ነጥቦች እንዲገቡ ተወስኗል።”

¹³⁰ Ibid.

functional approach so that each directorate can coherently deal with the functional components of the justice sector”.¹³¹

The implementation of the justice system reform program has undergone through various phases and institutional arrangements of coordination. The lessons drawn are the need to avoid being too ambitious (accompanied by over-centralization) and due caution against the other extreme of fragmented pursuits with a disempowered centre which lacks adequate budget, manpower, resources, mandate and effective authority to harmonize and monitor the justice reform process at the grassroots.

It is against this backdrop regarding some gaps in coordination that meaningful assessment can be made on the components of the justice sector in GTP II. As indicated in Section 1, five *components* and one *enabler* in Ethiopia’s justice sector deserve attention as *indicators* of reform commensurate with the significance of the sector toward the realization of the economic, social and other objectives envisaged for the GTP II period. They are (a) institutions, processes and procedures in lawmaking and revision, (b) the judiciary; (c) law enforcement with particular reference to the police, public prosecutor services, and prisons; (d) legal education, training and legal research; (e) access to justice which include legal information, the Bar, legal aid, alternative dispute resolution, traditional systems that are in conformity with the FDRE Constitution, and the engagement of the legal profession and civil societies in enhancing access to justice; and (f) good governance in the justice sector. These components encompass the *justice system loop* that is interconnected, and also require *good governance* as a cross-cutting enabler.

6.1 Lawmaking and revision

The aspirations of Justice System Reform Program transcend the technical skills (of drafting and amending laws) and the professional ethics involved therein. To this end, a manual¹³² was prepared which, *inter alia*, underlines the need for *research* as the foundation of legislative drafting. As Section 3.1 of the draft indicates, “[a] drafter is the craftsperson” who writes down “public policies and ideas into a textually rigid form that can be given legal effect” and “whose task is to help resolve a problem by legislative means”.¹³³ The Manual underlines that legislative “drafting shall be preceded by a thorough appraisal of the real problem and proper understanding of the nature of policies to be implemented, which can be properly attained through *research*”.¹³⁴ In short, “research is an integral part of legislative drafting”.¹³⁵

According to the Manual, drafters should address the following in their research in connection with policies:

¹³¹ Jemal Ahmed, *supra* note 67.

¹³² Legislative Drafting Manual, Justice System Reform Program, December 2007

¹³³ *Id.*, Section 3.1.3

¹³⁴ *Ibid.*

¹³⁵ *Ibid.*

- i. Determine the nature and scope of the policy sought to be implemented;
- ii. Identify, if there are any, other policies that have direct or indirect relationship with the policy sought to be implemented;
- iii. Determine the possible options for giving effect to the policy;
- iv. Decide whether the policy [can] be realized through legislation rather than by non-legislative means;
- v. Identify whether the policy must be dealt with by primary legislation (proclamation) or secondary legislation (for example, regulation);

Effective legislation is the realistic textual articulation of policies and values towards solving problems based on research. It can also serve as proactive means of averting problems prior to their occurrence. Research that serves as the basis for effective legislation is forward looking and it facilitates upcoming progress and development. The Manual notes that research should pay attention to the following prior to drafting:

- i. “Define the problem(s) correctly in terms of: [a] Nature, [b] Scope, [c] Frequency, [d] Consequence (effect) ... etc;
- ii. Determine whether government action is justified to deal with the problem; because, sometimes, a problem may be effectively handled and resolved by, for example, non-governmental actors;
- iii. If government action is justified, identify the options for dealing with the problems, i.e. [whether] legislative or non-legislative options [are appropriate];
- iv. Study the likely benefits from each option in terms of: [a] Effectiveness, [b] Cost, [c] Gains, etc;
- v. If legislation is the preferable form of government action, make sure that the matter cannot be dealt with under existing law;
- vi. Identify whether the appropriate legislation is proclamation or regulation.”

Justice and Legal System Research Institute had organized a workshop on legislative drafting in 2008. Based on the initiative of Ato Adamseged Belay,¹³⁶ professors with wide experience were invited for the workshop. As the introductory outline of the Training on Legislative Drafting developed by Robert Seidman, Ann Seidman and Lorna Seitz indicates, the detailed provisions of a bill (draft law) is a design for legislative solution “grounded on facts [that are] logically organized” and which are “likely to overcome the causes” of the problems.¹³⁷ To this end, pre-drafting tasks include (a) “identifying alternative possible solutions, (b) showing

¹³⁶ Director General of Justice and Legal System Research Institute, JLSRI (2006-2010).

¹³⁷ The training was conducted by Professor Ann Seidman and Lorna Seitz, Boston University, in May 2008. The training was a take-off point in capacity building in the realm of legislative drafting. Although the legislative drafting is usually perceived in a simplistic context of drafting laws based on policy decisions, effective lawmaking involves deeper issues and considerations. *See* for example, Ann Seidman and Robert B. Seidman (2009), “ILTAM: Drafting Evidence-Based Legislation for Democratic Social Change”, *Boston University Law Review*, Vol. 89, pp. 435-485.

‘preferred solutions’ that are logical and that overcome causes of problematic behaviours”; and (c) showing that “estimated social and economic benefits” of the law to be legislated “outweigh probable social and economic costs”.¹³⁸

The capacity enhancement aspirations of the justice sector reform in lawmaking and revision had targeted at enhancing professionalism in drafting laws with particular attention to organs that have active involvement in drafting and enacting laws. In the absence of sustained reform and capacity building in legislative drafting, laws can continue to be spontaneous, fragmented, inconsistent and largely uncertain. Under such circumstances, new laws or amendments can be counterproductive by bringing about heavier social and economic cost in comparison with the purpose they purport to serve. Examples in this regard include wider rooms for corruption and subsequent miscarriage of justice due to mal-craftsmanship of laws that create discretionary authority toward arbitrary administrative decisions and unpredictable judicial decisions.

GTP II (December 2015) gives due attention to this component of the reform. As indicated in Section 3.2.2 (e), “preparation and implementation of Manual for legal drafting” is one of the targets for the GTP II period. The Manual is expected to have a broader conception of legislative drafting which involves the tasks of research and analysis (or problems and options of solution) that are drastically different from the mechanical transposition of policy decisions into legal provisions.

6.2 The judiciary

Three core problems were identified in the 2005 Comprehensive Justice System Reform Program. As stated in Section 2.1, these problems are (a) gaps in accessibility and responsiveness to the needs of the poor, (b) the need for “serious steps to tackle corruption, abuse of power and political interference in the administration of justice”, and (c) “inadequate funding of the justice institutions” which “aggravates most deficiencies of the administration of justice”.

The 2005 CJSRP also notes the low public perception regarding the independence of the judiciary and indicates that the power entrusted on court presidents who “act both as judges and administration officials accountable to the President of the Supreme Court” compromises their independence. The Study further states the gaps in the transparency of “the process of selection and promotion of judges” and their performance evaluation which according to the Study “lacks inputs from other legal professions”.¹³⁹ There are improvements in the transparency of selection processes upon initial recruitment. However, the achievements attained should be seen in light of the aspirations and promises of the Justice System Reform Programme. For example, “complaints from the business community with regard to gaps in the justice sector, *inter alia*,

¹³⁸ Introductory outline of the Training on Legislative Drafting, *Ibid*.

¹³⁹ 2005 Baseline Study, *supra* note 2, p. 14.

relate to contract enforcement”.¹⁴⁰ Moreover, “corruption is a major factor that is being raised by the business community; there are also complaints regarding the need to enhance the efficiency of court procedures in order to make them business friendly”.¹⁴¹

Although the Anti-Corruption Commission, the Ethiopian Human Rights Commission, the Ethiopian Institution of the Ombudsman and the Auditor General have substantial contribution to good governance, the challenges of corruption and maladministration are still issues of concern in various sectors. In Cressey’s Fraud Triangle there are three factors that are conducive to corruption. They are *motivation* (pressures), *opportunities* and *rationalization*.¹⁴² In the context of a judge, the level of remuneration and benefits can bring about *pressures*. Any form of executive intervention in the judiciary can then widen the *opportunities* and *rationalization* of discretion. For example, a judge whose decision is influenced by any direct or indirect intervention from an executive official (which in the Soviet Union was labelled as ‘telephone justice’) can gradually be inclined to use such discretions as *opportunities* and *rationalizations* toward doing the same for a relative, a friend or an acquaintance. At its final level of ethical decline, bribery can set in by gradually corroding the level of integrity required in the profession. At this stage, corruption usually starts as facilitative corruption (speed-up bribery) to merely render rapid decision in accordance with the law, which can then gradually, with regard to some judges, develop toward corruption that circumvents judgements.

At the Workshop on Indicators to Combat Corruption in Ethiopia’s Justice Sector, Ato Ali Suleiman, Commissioner of the Federal Anti-Corruption Commission stated that a corrupt justice system cannot provide equal treatment to citizens thereby affecting contract enforcement which is the core foundation for free market; and he stated that Ethiopia cannot attain the economic development it aspires and attract the desired level of investors in the absence of a judiciary free from corrupt practices.¹⁴³ He noted that the justice system is the ultimate forum to combat corruption, and if corruption becomes widespread in this sector, all anti-corruption efforts will be ineffective.¹⁴⁴ The workshop included participants from the Federal Supreme Court, Federal High Court, First Instance courts, prison administration, federal police, Addis Ababa Police Commission Public Prosecutor and other institutions.

¹⁴⁰ Interview with Fekadu Petros, Assistant Professor, Addis Ababa University School of Law, and Expert at Ethiopian Chamber of Commerce and Sectoral Associations, 25 November, 2015.

¹⁴¹ Ibid.

¹⁴² Donald R. Cressey, in Joseph T. Wells, *Principles of Fraud Examination*, Wiley, 2008.

¹⁴³ Ali Suleiman, Opening Remarks at the Workshop on Indicators to Combat Corruption in Ethiopia’s Justice Sector, A research conducted by Justice and Legal System Research Institute, Ghion Hotel, October 20, 2015. (ጥቅምት 9 ቀን 2008 ዓ.ም. «በኢትዮጵያ ፍትሕ ዘርፍ ሙስናን ለመከላከል የሚያስችሉ፣ የፍትሕ ዘርፍ አገልግሎት አሰጣጥና አፈጻጸም አመላካች»», *The Reporter*, Amharic Version, 21 October 2015, Reported by Tamiru Tsige.

¹⁴⁴ Ibid.

The Commissioner underlined that if justice organs are not protected from various forms of corrupt practices, and unless their activities are rendered transparent for the public along with their accountability in the event of failure to comply with the processes and procedures stipulated by the law, the problems will go beyond the control of the justice system and can bring about national crisis.¹⁴⁵ With regard to the independence of the judiciary, he remarked that “interpretation of the law is the mandate entrusted on judges” and “intervention to promote individual interest in the guise of public interest should cease”.¹⁴⁶

After the opening speech of Ato Suleiman, the researchers (Dr. Dejene Girma, W/t. Maereg Geberegziabher and Ato Aron Degol) who conducted the study (initiated and sponsored by Justice and Legal System Research Institute) presented their research findings and recommendations.¹⁴⁷ They underlined the need to render court operations efficient, enhance the ethical standards of court employees, ensure accountability, enhance transparency, ensure the independence of the judiciary, and address the problems related with inadequate remuneration which create pressures toward corruption. They further noted the need for qualified staff, better information and document management, monitoring schemes, avoiding conflict of interest and dealing with the causes of corruption identified in the study.¹⁴⁸

The concern regarding the level of corruption in the justice sector was also underlined in the Joined-up Justice Forum¹⁴⁹ (የፍትሕ ዘርፍ የጋራ መድረክ) which was held in Hawassa on November 9 and 10, 2015.¹⁵⁰ The Forum included justice sector organs (i.e. courts, Ministry of justice, justice bureaus, Police Commission officers, prison administration, etc.) from the federal city administrations of Addis Ababa and Dire Dawa and regional state stakeholders. In his opening speech at the Forum, Ato Getachew Ambaye, Minister of Justice, stated that the justice sector is expected to contribute to Ethiopia’s pursuits of peace, development and democratization.¹⁵¹ He recalled the achievements made during GTP I to make the services rendered to the public by the justice sector efficient, transparent and accountable, and he stated that there are still challenges in the sector that require substantial efforts as observed in the evaluations conducted at various levels.¹⁵²

The challenges stated by the minister include gaps in “the initiatives and commitment of the leadership in the justice sector, and weaknesses in goal-orientation, attitudes, professional

¹⁴⁵ Ibid.

¹⁴⁶ Ibid “ሕግ መተርጉም ለዳኞች የተሰጠ ኃላፊነት ነው። ነገር ግን ዳኞች ሕግን በነፃነት እንዳይተረጉሙ ለሕዝብ ተቆርቋሪ በመምሰል የግል ፍላጎትን ለማሟላት በዳኝነት ሥራ ላይ የሚደረገው ጣልቃ ገብነት ሊወገድ ይገባል።”

¹⁴⁷ Ibid.

¹⁴⁸ Ibid.

¹⁴⁹ አገር አቀፍ የፍትሕ አካላት የምክክር መድረክ

¹⁵⁰ Ethiopian News Agency, November 9 November 2013. Available at <<http://www.ena.gov.et/index.php/social/item/9066-2015-11-10-00-03-16>>, Accessed: 23 November 2013

¹⁵¹ Ibid.

¹⁵² Ibid.

competence, skills, integrity and other problems at operational levels”.¹⁵³ The minister underlined the need for further attention to public grievances that are caused by the exposure of the justice sector to economic rent gathering and poor governance.¹⁵⁴ According to Ato Getachew, focus will be given to adequately respond to the public demand for justice and resolve problems related with good governance during the plan period of GTP II.

President of the Federal Supreme Court, Ato Tegene Getaneh expressed similar concerns at the Forum. He stated that there are many gaps in the delivery of services and good governance at all tiers and noted the need to resolve problems of poor governance and rent gathering attitudes in all institutions of the justice sector so that these problems could not hamper development.¹⁵⁵

The discussion above clearly indicates the level of attention which should be given to judicial reform. However, the judicial reform targets in the earlier April 2015 version of Draft GTP II were inadequate. Even worse, that statement (discussed in Section 5) which had envisaged ‘*developmental judicial policy*’ would have violated the independence of the judiciary guaranteed under the FDRE Constitution. As indicated earlier, this is omitted in the final approved December 2015 version of GTP II. As discussed in Section 5, such interventionist policy, not only would have violated the independence of the judiciary guaranteed in Ethiopia’s Constitution, but also goes against the good practices in democratic developmental states such as Botswana. In fact, such policy would have repeated the fatal errors of the former Soviet Union and various Leninist regimes whose misperception about the convergence of the law and the state, led them to gross encroachments on the independence of the judiciary.

As highlighted in Section 5, the democratic developmental state model does not justify intervention in the independence of the judiciary. Instead, there is the need to enhance their independence, resources, and substantially raise the remuneration of judges and other staff to attract and retain competent and experienced manpower. Lessons can indeed be drawn from Singapore’s experience regarding the positive impact of judicial independence accompanied by substantially high benefit schemes for judges. Unlike economic plans, the budgetary and other resource inputs in the judiciary may not provide visible statistical figures of ‘physical growth’. Yet, effective, efficient, predictable and accessible judicial system is inevitable to render the economic, social and governance elements of any transformation plan functional.

6.3 Law enforcement organs

6.3.1 Law enforcement in criminal justice

The concerns related with good governance highlighted above in relation with the judiciary apply *mutatis mutandis* for law enforcement organs. The study presented at the Workshop on

¹⁵³ Ibid.

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.

Indicators to Combat Corruption in Ethiopia's Justice Sector (stated in Section 6.2) was also related to the police, public prosecutor offices and prison administrations. The study identifies the types of corruption to which these organs are exposed. The corrupt practices include taking bribes, poor performance (ሥራን መበደል), embezzlement, misuse of authority (በሥልጣን መነገድ) and unlawful enrichment.

The study attributes these acts of corruption particularly to inadequate knowledge and skills, low salary scales and low level of financial benefits, discretionary powers, lack of transparency and service delivery systems.¹⁵⁶ According to the study, other factors that induce corrupt practices in the police include closer relations with offenders, poor level of recognition given to good performance, and failure to disclose corrupt practices due to the level of friendship which prevails among colleagues in the same unit.¹⁵⁷ The specific factors that are challenges in prison reform include problems of inadequate prison space, level of awareness in prison handling, and unprofessional relations with prisoners.

The criminal justice process involves (a) interrogation of accused persons by the police (b) investigation by the public prosecutor which institutes charge, and (c) enforcement of committal for trial or enforcement of sentences by prison administrations. As these three organs enforce the law, their success or failure is not measured by the number of convictions or case attritions, but by the level of their professionalism and integrity in the course of fair, competent, responsible, effective and efficient performance in accordance with the law.

A criminal justice system may have a spectrum of features ranging from primacy to *due process* vis-à-vis focus on *crime control*. The determinant factors may be the level of peace, shared values, democratization, crime rates, government legitimacy, national consensus, and other variables. Even when criminal justice systems are forced to give primacy to the *crime control* model rather than the *due process* model, they are expected to consider potential infringements of due process as transient (that would recede proportionate to the decline of crime rates, civil wars or terrorism). The justice system in such settings is expected to consider its emphasis on crime control (rather than due process) as *transient*, because it envisages that the *due process model* ultimately deserves to be in the mainstream.

The distinct functions of the Police and the Public Prosecutor under the Ethiopian Criminal Procedure Code reflect the *due process* model so that the police and public prosecutor would independently conduct their law enforcement mandates. However, in settings of rising crime rates (as in the case of substantial numbers of petty theft “in locations such as Addis Ketema, regional bus terminal in Addis Ababa”¹⁵⁸) the *due process model* may tend to create case loads on both parties, and the pursuit of efficiency may, at times, give primacy to the ‘efficient’ means

¹⁵⁶ Ibid.

¹⁵⁷ Ibid.

¹⁵⁸ This example was raised by Ato Desalegn Mengistie during interview, *supra* note 42.

of search for truth through the functional coordination of the police and public prosecution. This is because the dictum ‘justice delayed is justice denied’ may require the option of embracing the lesser evil. Law enforcement agencies under such settings may thus encounter push factors toward giving primacy to faster means of managing cases.

Real Time Dispatch (RTD) which allows the joint tasks of the Police and Public Prosecutor falls under the *crime control* model. Yet, justice systems are not expected to consider such schemes as their ultimate aspiration in strategic five-year plans. As indicated in Section 3.2.1(a), targets (iii) and (vii) which were embodied in the earlier April 2015 Draft of GTP II respectively aimed at:

- ‘a system which ensures and evaluates the effectiveness and efficiency of the criminal justice system with particular attention to attrition rates, conviction rates etc.’; and
- ‘capacity enhancement in the investigation, prosecution and conviction of persons accused of corruption and confiscation of property obtained by corrupt practices’.

As shown in Annex 3 (of this study), the fourth target under the third paragraph of the April 2015 version of Draft GTP II, pp. 173- 174, (i.e. Target Item 20 in Annex 3) states “increase in conviction rates’ (የጥፋተኝነት ምጣኔ ከፍ እንዲል) as one of the targets. The final approved version of GTP II (December 2015) has duly omitted such targets in conviction rates.

The percentage of convictions among the cases handled by a public prosecutor cannot be an objective threshold of evaluating professional service and effectiveness. The police and the public prosecutor are entrusted with the task of enforcing the law, and not enhancing conviction rates. A case which, for example, results in the release of a suspect from custody due to inadequate evidence does not prove the weakness of the police in charge. The same holds true for acquittal after charge. Criminal investigation or criminal prosecution is not a competitive game, and a verdict of not guilty shall not represent loss in a game for the police or the public prosecutor. The ultimate *raison d’être* of both institutions is law enforcement, including the release of innocent persons.

At a recent workshop, a practicing attorney raised a question: “In view of current efforts to raise the conviction rate in Ethiopia to nearly to 100%, why should there be discussion about public defender services and legal aid?”¹⁵⁹ He meant to imply that the decision is already done by the organ which files the charge if the conviction rate is planned to be close to 100%. The question evoked many reflections and observations. According Ato Tamrat Kidanemariam, “the purpose of a criminal justice system is to punish the offender and to acquit the innocent, and in

¹⁵⁹ Validation workshop organized by Ethiopian Lawyers Association on “Assessment of Public Defender’s Services in Ethiopia: Current Gaps and the Way Forward”, Jupiter Hotel, 16 November 2015.

effect, non-conviction of innocent persons cannot be regarded by the public prosecutor as losing a case”.¹⁶⁰

There can be an argument that such conviction rates may serve as disincentive against filing charges on cases in which the likelihood of conviction is uncertain. However, such disincentives should not come from the evaluation of the performance of public prosecutors based on the rates of convictions in the cases they handle, but from the proper enforcement of the law which protects accused persons from charges unless the thresholds embodied under the Criminal Procedure Code or other laws of procedure are met.

6.3.2 Civil justice reform

Law enforcement in the civil justice system particularly involves many institutions of the executive. The focal point of interest in this regard should be the susceptibility of administrative tribunals to arbitrary decisions in implementing the laws and regulations in which their institutions are parties of the litigation. Cases in point are administrative tribunals that deal with urban land expropriation, eviction and compensation in which the tribunals established under the administrative authorities (that are parties in the litigation) are empowered to adjudicate and decide cases.

The extent to which ambiguities and discretionary power are avoided in the demarcation lines between administrative and legislative functions, or between administrative and judicial functions determine the level of check and balance against abuse of authority by administrative entities. This balance ultimately determines the degree of the normative and institutional safeguard towards the protection of public interest and private rights as correlated and interdependent aspects of administrative responsibility and accountability. Unfortunately, however, Ethiopia has not yet enacted an administrative procedure law, a task which is long overdue.

The advantage of administrative tribunals relates to efficiency and effectiveness in contrast to judicial processes that might cause delay. However, experience in the complaints against expropriation and the amount of compensation show that equal attention ought to be given to the issue of impartiality through, for example, judicial review and stakeholder representation when members of administrative tribunals are appointed.¹⁶¹

Civil justice also requires safeguards against arbitrary rulemaking so that administrative authorities cannot intervene in the lawmaking function of the legislature other than enacting enabling regulations and directives that merely implement the primary laws enacted by the legislature. As Aron and Abdulatif noted, although “modern states cannot effectively function without allowing the administrative agencies to have such roles” this should be done with “the

¹⁶⁰ Ibid.

¹⁶¹ Elias N. Stebek (2013), “Role conflict between Land Allocation and Municipal Functions in Addis Ababa”, *Mizan Law Review*, Vol. 7, No. 2, p. 263.

caveat that the agencies should be kept in check by procedural stipulations and schemes”.¹⁶² They duly underline the “gap in the Ethiopian legal regime due to the absence of administrative procedure law”¹⁶³ even though the Draft Federal Administrative Procedure Proclamation (2004) was drafted a decade ago.

Rule of law requires safeguards of stakeholder participation in the membership of all administrative tribunals and envisages judicial review upon exhaustion of all administrative remedies. Likewise, administrative rulemaking procedures should clearly regulate the rulemaking function of administrative agencies. In the absence of these safeguards against arbitrary decisions without judicial scrutiny and unless administrative remaking is harnessed by administrative procedure law, civil justice can hardly be possible. GTP II does not address the gaps in the civil justice system with regard to stakeholder representation in administrative tribunals and judicial review. As indicated in Section 3.2.2 (d) above, GTP II states *administrative law* as one of the laws that will be drafted and submitted to the relevant organs. This law is, *inter alia*, expected to include *administrative rulemaking* and delimit the scope of authority of administrative tribunals.

6.4 Legal Education and Research

The legal education reform program is one of the components of the Justice System Reform Program. The reform had four pillars:¹⁶⁴ (a) curriculum (b) delivery and assessment (c) law school management (which required autonomy of law schools in self-management including budget execution), and (d) research, publications and consultancy services. Community services (including legal aid in clinical programs and externship) were considered as part of the second pillar, i.e., delivery of legal education. The revised curriculum which was effective since September 2006, changed the years of legal education from four to five years, introduced various skilled courses including externship and also introduced exit exam which is still in force.

One of the achievements of the legal education reform was the preparation of teaching materials which are made available to all Ethiopian law schools. Course Syllabi and teaching materials have been prepared for all LL.B courses. Teaching materials for 67 courses were “assessed at different workshops by assessors and different participants from law schools and other stakeholders” out of which 16 were “identified as below standard”.¹⁶⁵ There were plans to submit these materials to other course developers for upgrading. Moreover, some teaching materials that were rated as having excellent standards by the Curriculum Committee based on their content and form were expected to be upgraded and be published as books. Even if the teaching materials are stated in GTP I, the performance in this regard is not evaluated in GTP II.

¹⁶² Aron Degol & Abdulatif Kedir (2013), “Administrative Rulemaking in Ethiopia: Normative and Institutional Framework”, *Mizan Law Review*, Vol. 7, No. 1, p. 1.

¹⁶³ Ibid.

¹⁶⁴ Justice and Legal System Research Institute, *Ethiopian Legal Education Reform Program*, 2006.

¹⁶⁵ Memo, Tasks on Curriculum Implementation, presented to Technical Committee for Ethiopian Law Schools, (Justice and Legal System Research Institute, January 03, 2011).

GTP I had targeted at the full implementation of the new LL.B curriculum. The curriculum envisages the accomplishment of various projects based on the Guidelines that were developed through substantial inputs in expertise, budget and time. These Guidelines were meant to ensure the quality and standards of legal education with a view to preparing law graduates to the justice system commensurate with the level of competence, integrity, sense of citizenship and professional responsibility necessary for the sector. These instruments include:

- Regulatory Framework on Legal Education in Ethiopia;
- Regulatory Framework for Distance Legal Education in Ethiopia;
- Guidelines on Delivery and assessment;
- Regulatory Framework for Short-Term Training in Ethiopia;
- Regulatory Framework on Continuous Legal Professional Development; and
- Guidelines on Research, publication, Consultancy and Community Service.
- Guideline for Teaching Material and Textbook Preparation
- Manual for Externship and Code of Conduct Governing Students engaged in Externship and Clinical Legal Education
- LL.B Exit Exam Guideline, and
- Other guidelines and manuals.

With regard to graduate studies, the joint LL.M and PhD programmes with University of Warwick and University of Alabama were meant to lead to sustainable capacity building in the host law schools of Addis Ababa University and Mekelle University. Clusters were also formed so that more graduate programmes could be conducted (through twinning) to enhance the capacity of all clustered law schools. Even though the reform project has enhanced the tradition and outputs of research and publications, the pace at which it is progressing is slower than what was anticipated.

The third component of the legal education reform, i.e, the autonomy of law schools is among the projects that have not been put to practice in most law schools. The level of autonomy in the various law schools is largely determined by the discretion of the university senates and presidents rather than the standards that were envisaged in the legal education reform program. The challenge encountered by most law schools is the focus accorded to faculties and colleges based on the number of their students rather than the significance of the respective faculties, departments or colleges (irrespective of their enrolment size). Moreover, the focus on statistical figures of graduates (caused by a university's targets) has brought about pressure on law schools from university administrations which promote the motto of 'student enablement' (ማብቃት).¹⁶⁶ Although the principle is indeed legitimate, its extremist interpretation of enabling nearly all students (who are enrolled) to graduate adversely affects the efforts of students in the learning process thereby harming quality and standards of legal education. This exerts pressure

¹⁶⁶ Interview with a law school instructor who seeks anonymity; 18 December 2015.

on instructors to give tutorial assistance and make-up exams to students below ‘C’ grades. This is a push factor for instructors to provide ‘C’ grades as the minimum threshold (for students who would have scored ‘D’ or ‘F’) in order to avoid the inconvenience of tutorials and make up exams.¹⁶⁷

During the initial years of legal education reform, JLSRI was the hub for the reform process by facilitating the coordination of Ethiopian Law Schools to own and manage the reform pursuits. JLSRI was in the midst of coordinating various legal education reform projects when it was required to leave its premises which were located in the compound of the Ministry of Finance and Economic Development at Sidist Kilo. The location was very suitable in view of its proximity to the Federal Supreme Court, Addis Ababa University, Ministry of Education and other stakeholders. It was also convenient for all law school representatives to use JLSRI offices and JLSRI Library during their stay in Addis. The projects of legal education reform were transferred first to Ministry of Justice and then to Higher Education Strategic Centre (HESC) at the Ministry of Education, thereby losing momentum and pace. At present, most of the elements of the legal education reform program are shelved except the Exit Exam which is still underway.

GTP II does not make reference to legal education and research except the incidental mention that was made (in the earlier April 2015 version) which had expressed its aspirations toward the substitution of neo-liberal curriculum by developmental democratic curriculum, an issue that is mentioned in Section 5 above. This statement is duly omitted from GTP II. Yet, the issue deserves some discussion.

It is to be noted that neo-liberalism is a policy of extreme market deregulation, and it is already in the back seat in many countries after its ‘years of blossom’ known as the ‘Washington-Consensus’ of the late 1980s and early 1990s. Law curriculum which is based on ideology and indoctrination cannot be effective in preparing law graduates with analytic skills, diversified perspectives, competence, integrity and responsibility. This is because any ideological patronage in legal education corrodes the key competence of being analytic and critical; it rather leads to preparing ‘fence-sitter’¹⁶⁸ paralegal clerks rather than lawyers. As Frere¹⁶⁹ notes, effective education is different from the ‘banking model’ in education which is analogous to depositing data in the minds of students and making inventories during exams. Effective legal education empowers and nurtures students with the cognitive, affective and behavioural competence and integrity in analysis, synthesis, evaluation and problem solving. It is in light of the need for such minds and souls that legal education reform should steadily continue during GTP II.

¹⁶⁷ Ibid.

¹⁶⁸ ‘Fence-sitters’ are persons with workplace attitudes of just doing what the superiors assign based on the instructions and work rules.

¹⁶⁹ Paulo Frere, *Pedagogy of the Oppressed*, 1970 (Translation into English by Myra Ramos), New York: Continuum, 2007.

This should not, however, be misinterpreted as ‘legal education for its sake’. Law curricula are expected to give due attention not only to ‘black letter law’ but also to the ‘law in action’ or the ‘law in context’. This approach is articulated in Ethiopia’s 2002 Policy Document titled ‘Capacity Building Strategy and Programs’.¹⁷⁰ It notes the significant role of lawyers in economic development and states that legal education should not only focus on the letters of law but should also consider the law in the context of principles and objectives of economic development.¹⁷¹ In other words, legal education curriculum cannot be labelled as ‘neo-liberal’ or ‘developmental’. What development pursuits require from legal education curricula is due attention to the *law in action*, by including relevant courses that give wider context to the contents of the curriculum. To this end, the revised LL.B curriculum has new courses such as ‘law in development’, and the gaps relate not to lack of courses, but their effective delivery.

6.5 Access to Justice

Article 37 of the Constitution guarantees “the right to bring a justiciable matter to, and obtain decision or judgements by, a court of law or any other competent body with judicial power”.¹⁷² Such right can be invoked by individuals,¹⁷³ or by any association which represents “collective or individual interest of its members”,¹⁷⁴ or by “any group or person who is a member of, or represents a group with similar interests”.¹⁷⁵ The constitutive ingredients of Article 37(1) include the right to institute a claim, and the right to obtain decision or judgement. These core elements presuppose:

- a) awareness on the part of the claimant about the law which envisages the accessibility of laws (i.e. legal information) and other data which are relevant to the claimant (data related with registration of ownership or immovable property, accessibility of data, etc);
- b) professional advise or representation in preparing claims, defences, arguments in court, etc.
- c) obtaining judgement in accordance with the law within a reasonable time.

¹⁷⁰ Government of Federal Democratic Republic of Ethiopia, Capacity Building Strategies and Programs, February 2002 (የኢትዮጵያ ፌዴራላዊ ዲሞክራሲያዊ ሪፐብሊክ መንግሥት፣ የማስፈጸም አቅም ግንባታ ስትራቴጂና ፕሮግራሞች፣ የካቲት 1994 ዓ. ም.)

¹⁷¹ Id. p. 292. The Amharic text reads: “... የሕግ መያተኞች በኢኮኖሚ እንቅስቃሴው ውስጥ ከፍተኛ ግምት የሚሰጠው ሚና ያላቸው በመሆኑ ሥልጠናቸው ሕጉን በተናጠል ሳይሆን ከበስተጀርባው ካሉ የኢኮኖሚ ልማት መርሆችና ዓላማዎች ጋር አስተሳስረው እንዲመለከቱት ለማድረግ የሚያስችል ሊሆን ይገባል።”

¹⁷² According to Article 79(1) of the FDRE Constitution, “Judicial powers, both at Federal and State levels, are vested in the courts.” The words ‘any other competent body with judicial power’ in Article 37 are given restrictive interpretation and they refer to forums such as arbitration, etc.

¹⁷³ FDRE Constitution, Art. 37(1).

¹⁷⁴ Id., Art. 37(2)(a)

¹⁷⁵ Id., Art. 37(2)(b)

As Tamrat Kidanemariam (chairman of Ethiopian Lawyers Association) notes, the right of access to justice “envisages factors from three dimensions, namely the law, the bench and the parties to the suit or trial”.¹⁷⁶

The *first* factor requires laws, processes and practices which do not deny or restrict the right to bring justiciable matters to courts of law (or other relevant tribunals). The *second* factor relates to independent, competent and impartial courts in the context of integrity against corruption. And *third*, legal services should exist, and in particular, persons who do not afford to hire a lawyer should be provided with free legal service.¹⁷⁷

Access to justice presupposes the existence of *the normative dimension* that relates to the content and form of laws, and the *adjudicative dimension* to which the claims are made and from which judgements are sought. These two settings enable access to justice only when (fairly comparable) legal services of advising and representation exist to both sides of the litigation. While the normative and the adjudicative preconditions for access to justice relate to *lawmaking* and the *judiciary*, the realization of access to justice require *access to legal information and the availability of legal services*. These core elements of access to justice were not addressed in the earlier April 2015 Draft GTP II, other than the brief reference made to the ‘publication and distribution of binding cassation decisions’¹⁷⁸ and reference to capacity building of “institutions that are in charge of registration of vital events” and enhancing their performance in the registration of vital events such as birth, marriage and death.¹⁷⁹ This gap is (to some extent) rectified in the approved version of GTP II (December 2015) because (as indicated in Sections 3.2 and 3.3 of this study) it incorporates targets that relate to legal information, the Bar and ADR.

Six issues deserve attention in relation with the enhancement of access to justice. They are legal information, the Bar, legal aid, alternative dispute resolution (ADR), recognition of traditional systems (that are in conformity with the FDRE Constitution), and the role of the legal profession in general and civil societies in access to justice and justice system oversight.

a) Legal Information

There are indeed achievements in the accessibility of legal information. They include accessibility of proclamations, regulations and Federal Supreme Court cassation decisions online. Yet there is much to be done by the respective organs of the justice sector in availing and updating legal information on websites that are functional and updated. One of the components of justice sector reform in the 2005 Comprehensive Justice System Reform Program refers to

¹⁷⁶ Foreword, in Abera Hailemariam (2015), “Public Defenders Services in Ethiopia: Assessment of Current Gaps and the Way Forward”, EN Stebek, ed. (Ethiopian Lawyers Association, December 2015), p. 5.

¹⁷⁷ Ibid.

¹⁷⁸ See Annex 3, Item 15 of this study.

¹⁷⁹ Id., Item 30.

‘information flow within and outside the justice system’. The ambitious project on ‘National Integrated Justice Information System for the Ethiopian Justice Institutions’ (NIJIS) seems to take longer than what was anticipated.

World Bank and other donors were involved in the NIJIS project. A significant budget was allotted to it. And a very extensive field work was done. The project envisages three phases. Now that the first phase is done, focus should be given to the next phases”.¹⁸⁰

Legal information to the wider public and within institutions of the justice sector can have modest start ups and organically develop onto steady achievements toward long-term goals. For example, law blogs such as Ethiopian Legal Brief,¹⁸¹ Abyssinia Law¹⁸², etc. deserve appreciation. Another commendable initiative in the avenue of legal information is a project that is initiated by African Law Library¹⁸³ to support the enhancement of access to legal information in Africa. One of the outcomes of this project is *EtLex* Volume 1¹⁸⁴ in which English translations of one hundred Federal Supreme Court Cassation Division decisions were published along with thematic index to all proclamations and regulations enacted from 1995 to 2012. As Dr. Menberetsehai Tadesse (former Vice President of the Federal Supreme Court) noted, even if the project was “a small addition in the justice process, it will have a big impact” as a contribution in the domain of legal information.¹⁸⁵

b) The Bar and the legal profession in general

As various participants of the panel discussion on this study noted, the Bar and the legal profession in general are among the key factors in justice sector reform. The following remarks were made during the Panel Discussion:

- “Lawyers associations should be given attention comparable with other components of the justice system”.¹⁸⁶ Practicing lawyers are “components of the justice system. There is the tendency of giving more emphasis to the controlling aspect and magnifying the weaknesses of persons who only represent few practicing lawyers. This cannot be generalized for the entire profession”.¹⁸⁷

¹⁸⁰ Interview with Belen Teferi, November 19, 2015, International Cooperation on Legal Affairs Directorate Public Prosecutor, Ministry of Justice

¹⁸¹ Available at <<http://chilot.me/>>

¹⁸² Available at <<http://www.abysiniaweb.com/>>

¹⁸³ Available at <<http://www.africanlawlibrary.net/>>

¹⁸⁴ *EtLex* Vol. 1, *Selected Federal Cassation Decisions, and Ethiopian Law Index* (1995-2012), Justice and Legal System Research Institute, December 2013.

¹⁸⁵ Task Launching Event of African Law Library Project (organized by Justice and Legal System Research Institute in collaboration with two other members of the Ethiopian Legal Information Consortium), August 22, 2013.

¹⁸⁶ Ato Reshid Seid, Ethiopian Young Lawyers Association, Board Chairperson, Panel Discussion, 11 December 2015.

¹⁸⁷ Ato Tamrat Kidanemariam, President of Ethiopian Lawyers Association, Panel Discussion, 11 December 2015.

- “The criticism is not against all lawyers. But there is the tendency from various persons with court cases to inquire whether an attorney knows the judge. Good governance in the justice sector envisages professional integrity and the competence of practicing lawyers”.¹⁸⁸
- “Participation is one of the principles pursued by the Ministry of Justice and practicing lawyers will be encouraged to participate in various pursuits of the Ministry of Justice. For example, Ethiopian Lawyers Association can be invited to participate in drafting, training and similar engagements”.¹⁸⁹
- “Ethiopia’s legal services should be at a level that is required by the pace of economic development, contract enforcement and investment. Legal Service Provision, as a component of justice sector reform, does not only include practicing lawyers, but it also encompasses lawyers that are employed in the public and private sector to advise and represent institutions. The relevant government organs should not only have positive attitudes toward practicing lawyers, but should also regard them as partners in the efforts toward justice sector reform. The capacity building pursuits during GTP II should also include practicing lawyers”.¹⁹⁰

c) Legal aid

Legal aid to the indigent is one of the areas that need due attention in the realm of access to justice. The right of an accused person to be provided with the legal service of representation at the state’s expense if he/she cannot afford to hire a lawyer is enshrined in Article 20(5) of the FDRE Constitution. However, studies show gaps in this regard owing to the legal framework and other constraints including budgetary, human power and institutional challenges that are encountered in the realm of public defender’s services.¹⁹¹ The gaps in this regard are so wide that they can neither be covered by the *pro bono* services to be provided by practicing lawyers in Ethiopia¹⁹² nor the clinical legal aid programmes that are underway in various law schools. Significant achievement in this regard requires the establishment of an independent Public Defender’s Office with due autonomy, budget and professional staff during the GTP period.

¹⁸⁸ Ato Desalegn Mengistie, Director of Justice System Reform Program Office, Ministry of Justice, Panel Discussion, 11 December 2015.

¹⁸⁹ Ato Fekadu Demissie, Director of Advocates Licensing and Administration Directorate, Ministry of Justice, Panel Discussion, 11 December 2015.

¹⁹⁰ Ato Gebreamlak Gebregiorgis, Ethiopian Lawyers Association, Chairman of Legal Aid Committee, Panel Discussion, 11 December 2015.

¹⁹¹ See, for example, Abera Hailemariam, *supra* note 176; and Hussein Ahmed Tura (2013), “Indigent’s Right to State Funded Legal Aid in Ethiopia”. *International Human Rights Law Review*, 2

¹⁹² Pursuant to Article 49 of the Federal Court Advocates’ Code of Conduct Regulations No. 57/1999 practicing lawyers are required to provide *pro bono* services for at least fifty hours a year.

d) Alternative Dispute Resolution

GTP II envisages the drafting of laws on Alternative Dispute Resolution.¹⁹³ The earlier (April 2015) Draft GTP II had also included a target regarding the need to encourage ‘the public to use Alternative Dispute Resolution (ADR) schemes such as reconciliation and arbitration’.¹⁹⁴ As Ato Gebreamlak Gebregiorgis duly observes, Ethiopia’s justice sector “should be able to provide legal services such as alternative dispute resolution forums and facilities at the level that is acceptable by international institutions of arbitration and investors” because “efficient economic activities and investments seek wide and effective opportunities for alternative dispute resolution”.¹⁹⁵ He further notes that in the absence of such ADR forums “arbitration at international forums will be very costly for Ethiopia”.¹⁹⁶

e) Recognition of traditional systems

Institutions of justice include not only formal institutions but also embrace traditional institutions that offer access to justice as long as the content of the traditional normative system and the process are not in violation of the Constitution. Enhanced legal pluralism is envisaged during GTP II. There are commendable achievements in the avenue of research and publications (on traditional legal systems) by Justice and Legal System Research Institute (JLSRI), various research forums and civil society organizations.

f) Public participation and the role of civil society organizations

The various elements of access to justice evoke the issue of public participation and the role of civil society organizations. GTP II embodies a target regarding the need for establishing “public empowerment structures which encourage comprehensive public participation and enhance law-abiding and peaceful citizenry”.¹⁹⁷ Public participation becomes meaningful if it goes beyond spontaneous engagements which lack continuity and institutional memory. For example, if the participants are different persons who merely speak out their views without formal records and in the absence of a steady transfer of information to persons who will be engaged in future public participation, the forums cannot be effective.

Section 7.2.1 of GTP II (titled Strengthening Public Participation) states that follow up and support will be made to societies and charities during GTP II period.¹⁹⁸ Even though the section that deals with the justice sector does not address the role of civil society organizations in

¹⁹³ Draft GTP II, November 2015 version, *supra* note 51, p. 167.

¹⁹⁴ See Annex 3 of this study, Item 30.

¹⁹⁵ Gebreamlak Gebregiorgis, *supra* note 190.

¹⁹⁶ *Ibid.*

¹⁹⁷ It reads “የኅብረተሰቡን ሁለንተናዊ ተሳትፎ የማጥፋት ስሜት ለማስወገድ የሚያከብርና የሕግ ማስከበር ሥራውን በንቃት የሚደግፍ የሕዝብ አቅምን አደረጃጀት መፍጠር”, GTP II, December 2015, *Supra* note 51, p. 168.

¹⁹⁸ GTP II, *supra* note 51, pp. 170-171. It reads “የብዙሃንና የሙያ ማኅበራት እንዲሁም የበጎ አድራጎት ድርጅቶች ባለው የአገሪቱ ስጋ መሠረት ግልፅነትና ተጠያቂነት የሰፈነበት አሠራር ተከትለው ለአገሪቱ ልማትና የዲሞክራሲ ሥርዓት ግንባታ የበኩላቸውን ሚና እንዲያበረክቱ ለማድረግ በዕቅድ ዘመኑ ክትትልና ድጋፍ ይደረግላቸዋል።”

relation with access to justice, the target mentioned in Section 7.2.1 can have positive impact in this regard. Civil society organizations not only enhance legal information, the performance of the Bar, legal aid, ADR, the recognition of traditional systems, and public participation, but they also serve as instruments of oversight and feedback. This issue is briefly discussed in section 7.

6.6 Good Governance

Various parts of GTP II address the issue of good governance. The themes apply to the justice sector as well because they make reference to the civil service in general. All components of the justice sector involve governance. And every gain in any of these components positively contributes to the march from weak governance to good governance. Good governance cannot be imposed ‘top down’. Nor can it be legislated as law. It emerges and develops through the dynamics that nurture and enhance its elements. Weak governance is attributable to gaps in governing institutions, and in return these institutions are weak because of their economic, social, cultural and political realities.

At the national level, the chicken-egg paradox cannot be resolved by purely legalistic means or merely through policy declarations. The vicious cycle in the causal link between weak governance and deepening impoverishment (even in the midst of non-inclusive ‘statistical claims of growth’) pushes a country toward poverty and fragility traps. And on the contrary, every success at the foundational ingredients of sustainable development including components of the justice sector will positively contribute toward elevation from poverty and fragility traps thereby transposing the negative vicious cycle onto a positive *virtuous cycle* whereby the economic and social dimensions of progress enhance the levels of democratization and rule of law.

For the success of governance reforms, the state and governing institutions must be reformed and strengthened; effective democratic institutions established; and effective participation, strengthened accountability, and enhanced rule of law instituted to ensure sustainable good governance.¹⁹⁹

Kaufmann, Kraay and Mastruzzi define governance as “the traditions and institutions by which authority in a country is exercised”. This, according to Kaufmann *et al*, includes “(a) the process by which governments are selected, monitored and replaced; (b) the capacity of the government to effectively formulate and implement sound policies; and (c) the respect of citizens and the state for the institutions that govern economic and social interactions among them”.²⁰⁰ Two measures of governance are formulated “corresponding to each of these three areas, resulting in a total of six dimensions of governance”. They are:

¹⁹⁹ Ved P. Nanda (2006), “The ‘Good Governance’ Concept Revisited”, *The Annals of the American Academy of Political and Social Science*, Vol. 603, Law, Society, and Democracy: Comparative Perspectives (Jan., 2006), p. 281.

²⁰⁰ Daniel Kaufmann, Aart Kraay and Massimo Mastruzzi (2010), *The Worldwide Governance Indicators: Methodology and Analytical Issues*, Global Economy and Development at Brookings, p. 1.

- (a) *The process by which governments are selected, monitored, and replaced:*
1. Voice and Accountability (VA): ...the extent to which a country's citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and a free media.
 2. Political Stability and Absence of Violence/Terrorism (PV): ... the likelihood that the government will be destabilized or overthrown by unconstitutional or violent means, including politically motivated violence and terrorism.
- (b) *The capacity of the government to effectively formulate and implement sound policies:*
3. Government Effectiveness (GE): ... the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies.
 4. Regulatory Quality (RQ): ... the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development.
- (c) *The respect of citizens and the state for the institutions that govern economic and social interactions among them:*
5. Rule of Law (RL): ...the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police, and the courts, as well as the likelihood of crime and violence.
 6. Control of Corruption (CC): ... the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as "capture" of the state by elites and private interests.²⁰¹

This model avoids the pitfalls of extremely wide and narrow definitions of governance, and it also provides a holistic approach in which the dimensions are interrelated. As Kaufmann *et al* illustrate, “accountability mechanisms lead to less corruption, or that a more effective government can provide a better regulatory environment, or that respect for the rule of law leads to fairer processes for selecting and replacing governments and less abuse of public office for private gain”.²⁰²

These six dimensions are currently in use as Worldwide Governance Indicators.²⁰³ The *first* dimension relates to the foundation of state legitimacy. The *second* dimension refers to peace and stability which constitute *a sine qua non* setting for social, economic and political interactions in society. As the justice sector is part of the public service, the *third* dimension, i.e., *government effectiveness* applies to the justice sector as well. The same holds true for the *sixth* dimension, i.e. the *control of corruption*, which is relevant for the entire public service including the justice system. The *fourth* and *fifth* dimensions specifically relate to the justice sector, because, the dimension of *regulatory quality*, inter alia, relates to the lawmaking component of the justice system, while the *rule of law* dimension is relevant to most components of the justice sector.

²⁰¹ Id., p. 4.

²⁰² Id., p. 5.

²⁰³ The World Bank, Worldwide Governance Indicators
<<http://info.worldbank.org/governance/wgi/index.aspx#home>>

The Role of Civil Society Organizations in Justice Sector Reform

As civil society organizations in their modern conception emerged as entities outside the periphery of the state, there is the propensity toward harmony and tension depending on the avenues of (a) cooperation and conflict, and (b) the level of democratization in a country. Civil Society Organizations are voluntarily established non-governmental and non-profit entities that are registered and operate in accordance with the law. The Charities and Societies Proclamation²⁰⁴ states the need “to aid and facilitate the role of Charities and Societies in the overall development of Ethiopian Peoples”.²⁰⁵ It classifies civil society organizations into various categories²⁰⁶ and regulates their establishment, registration, source of fund and operations. The Proclamation shall not apply to religious institutions, *Edir*,²⁰⁷ *Equb*²⁰⁸ and societies governed by other laws.²⁰⁹

Civil society organizations do not compete for political office. Nor is the purpose of civil society organizations dissident or oppositional resistance to government. Yet, they have significant roles in tasks that positively contribute to economic development, social wellbeing and environmental sustainability. Civil society organizations involve themselves in hands-on activities which they consider is to the benefit of citizens. Their salient features include “the establishment of legal boundaries” that can ensure “an independent public space from the exercise of state power, and their ability to “influence the exercise of [state] power.”²¹⁰

²⁰⁴ The Societies and Charities Proclamation No. 621/2009, *Negarit Gazeta*, 15th Year, No. 25. 13th February 2009.

²⁰⁵ Id., Preamble, paragraph 2.

²⁰⁶ “Ethiopian Charities” or “Ethiopian Societies), “Ethiopian Residents’ Charities”, “Foreign Charities”, and “Mass-Based Societies” which include “professional associations, women associations, youth associations and other similar Ethiopian societies.”

²⁰⁷ *Edir* is a traditional self-help association in Ethiopia established for mutual support among members (who are usually neighbours) during difficult times such as mourning, and to share responsibilities of organizing events such as tents, etc during weddings.

²⁰⁸ *Equb* is traditional saving scheme in Ethiopia in which members deposit a certain amount of money based on units of deposit amount collected weekly, monthly, etc, and paid to members based on lots drawn.

²⁰⁹ Proclamation No. 621/2009, *supra* note 204, Art. 3(2).

²¹⁰ Michael Bernhard (1993), “Civil Society and Democratic Transition in East Central Europe”, *Political Science Quarterly*, Vol. 108, No. 2 (Summer 1993), p. 308.

There are historic events whereby political parties in power or office holders within a party brought about substantial reforms as in the case of the reforms in the former Soviet Union during the changes toward *perestroika* and *glasnost*. The same holds true for changes in China since the late 1970s. This shows that civil society organizations are not *sine qua non* reasons for reforms, although they can be contributory factors. Tolerance of a regime to civil society organizations does not also necessarily buttress their activities because the performance of civil society organizations in Botswana, for example, is not as strong as it could have been. On the other hand, Mexico is a good example for the substantial engagement of civil society organizations and their resultant impact in justice sector reform:

Mexico has historically featured a relatively weak civil society, due to the influence of corporatist structures controlled by the Mexican state. Yet, with regard to the criminal justice system ..., Mexican civil society has recently shown some encouraging signs of engagement and activism in response to significant rule of law and security concerns. Specifically, with regard to judicial reform, Mexican civic activists were very engaged in the historic 2008 constitutional and legal reforms that produced one of the most important changes in Mexico's contemporary history.²¹¹

As the scope of this study relates to the role of civil society organizations in Ethiopia's justice system reform, its discussion is confined to the CSO activities that can enhance pursuits of reform because civil society organizations can play significant roles "in complementing the activity of the state by filling [gaps]".²¹² The fifth component of the justice system reform program that was identified in 2002 was 'professional and civic legal associations'.²¹³ Moreover, as indicated in Section 2.2.3(j), 'enhancing the 'role of civic societies and stakeholders in good governance and development activities' was one of the implementation strategies under GTP I. Section 6.5(f) of this study further indicates that Section 7.2.1 of GTP II states the need for following up and supporting societies and charities during GTP II period. As the following paragraphs indicate, civil society organizations can play constructive roles in all the components of a justice system.

a) **Lawmaking**: One of the components of justice reform is lawmaking. Civil society organizations contribute to effective lawmaking through awareness enhancement about the problems they witness in the course of their activities. This serves as vital input in the course

²¹¹ Octavio Rodríguez Ferreira (2013), "Civic Engagement and the Judicial Reform: *The role of civil society in reforming criminal justice in Mexico*", Working Paper Series on Civic Engagement and Public Security in Mexico (Woodrow Wilson International Center for Scholars; the University of San Diego) August 2013.

²¹² Sisay Gebregziabher (2002), "The Role of Civil Society Organizations in Democratization Process in Ethiopia", Paper Presented at the Fifth International Conference of the International Society for the Third-Sector Research (ISTR) "Transforming Civil Society, Citizenship and Governance: The Third Sector in an Era of Global (Dis) Order", July 7-10, 2002, University of Cape Town, South Africa, p. 9.

²¹³ Proceedings, *supra* note 9, p. 43.

of policy decisions and legislative reforms. It enables the legislature to have wider perspectives on issues, problems, options in the solution of the problem/s and good practices of other countries. Civil society organizations can thus influence policies and legislation. A case in point is the commendable role played by Ethiopian Women Lawyers Association (EWLA) in its awareness creation efforts towards reforming Ethiopia’s family law under the 1960 Civil Code and its role in the lawmaking process of the 2000 Revised Family Code.

- b) **The judiciary:** Professional associations are standard bearers, gate keepers and watchdogs of any profession. For example, the American Bar Association sets the standards in legal education (used in all law schools) and it is also in charge of Bar exams that are entry points to the career of law practice. Members of a professional association benefit from various professional development schemes in competence and integrity. Such levels of professionalism are crucial in economic development because they facilitate predictability, efficiency, effectiveness and integrity in the justice system in general. This in return facilitates the quality, efficiency and effectiveness of judicial decisions. As the process of democratization and rule of law progresses, there is more frequency of judgeship recruitments from the legal profession to the bench. The Communiqué of the *Joined-up Justice Forum* (issued on 10 November 2015) notes the adverse impact of some corrupt advocates who broker court decisions thereby putting pressure of corruption on the judiciary.²¹⁴ Thus enhancing the competence, integrity and responsibility of associations in the legal profession including the Bar and other civil society organizations (involved in activities relevant to the justice sector) positively contributes to the quality of judicial services.
- c) **Law enforcement:** Civil society organizations enhance public awareness about rights and capacity building which is crucial in development and good governance. The contribution of Prison Fellowship-Justice for All in prison reform and in the various aspects of justice sector reform in general is commendable. Its partnership in various projects involves not only prison administrations, but other justice sector institutions as well.

The contribution of APAP²¹⁵ illustrates the role that can be played by civil society organizations in law enforcement. It had “the aim of promoting accountability and transparency in the operation of low level government administration and law enforcement organs”. To this end, it had “organized zonal level (the lowest political administration unit next to *woreda*) human rights education and training workshop for judges, prosecutors, administrators and police officials in different parts of the country”.²¹⁶ APAP’s contribution in enriching Ethiopian jurisprudence in the area of public interest litigation is exemplary. On

²¹⁴ Joined-up Justice Forum, Communiqué, 10 November 2015, Hawassa, p. 2, Item 6. (አገር አቀፍ የፍትሕ አካላት የጋራ መድረክ አቋም መግለጫ፣ ጥቅምት 30 ቀን 2008 ዓ.ም. ሐዋሳ)።

²¹⁵ Action Professionals Association for the People, established in 1993

²¹⁶ Sisay Gebregziabher, *supra* note 212, p. 10.

December 8, 2005 APAP had filed a suit (at the Federal First Instance Court) against the Environmental Protection Authority, requiring the respondent to have due diligence in taking the necessary measures that can stop the environmental pollution of Akaki River. This illustrates the positive role of civil society organizations in law enforcement oversight. Even if discussing the merits of the case is beyond the scope of this study, it is worth to note that, a decade after APAP's suit against EPA (for lack of diligence in protecting Akaki River), the pollution has grown worse.

- d) **Legal education and research:** Ethiopian legal education reform had envisaged the transfer of the reform program to Association of Ethiopian Law Schools (AELS)²¹⁷, which was one of the projects in legal education reform. It was envisaged to be an association comparable to law school associations in other countries. The goals were envisaged to be:

- “- Facilitate networking of law schools and external links;
- Create conducive forum for exchanging best practices and research outputs; and
- Strengthen efforts towards quality legal education”.²¹⁸

The thresholds of ‘*quality of legal education*’ are articulated in 60 standards. The standards have a general part (Standards 1-4), Standards for Curriculum (5-17), Standards for Delivery and Assessment (18-28), Standards for Management, Leadership and Organization (29-48), and Standards for Research, Publications and Consultancy Services (49-58), Other programs (Standard 59), and Quality Assurance (Standard 60).²¹⁹ The Consortium of Ethiopian Law Schools was established and registered as a prelude to the establishment of the Association of Ethiopian Law Schools. However, the regression in the pace and scope of legal education reform (briefly indicated in Section 6.4) has not enhanced the strength of the Consortium which has not yet grown onto an association.

In the realm of positive contributions for legal education and research, there are achievements of Ethiopian Lawyers Association (ELA) in publishing series of issues of a law journal, *Ethiopian Bar Review*. Legal education and the profession in general will benefit if Ethiopian Lawyers Association resumes its activities in research and publications. Another noteworthy achievement by a civil society organization is the sustained publication of ‘*Wonber*’ (ወንበር), which in Amharic means ‘The Bench’. It is a periodical published by Alemayehu Haile Foundation.

²¹⁷ Action Plan Item 28, Part VIII, *The Ethiopian Legal Education and Training Reform Document*, Justice and Legal System Research Institute (2006)

²¹⁸ Association of Ethiopian Law Schools: Concept Paper Background: Objectives of AELS and Problems to be addressed, Justice and Legal System Research Institute, August 2009.

²¹⁹ “Standards for Law Schools”, *Ethiopian Journal of Legal Education*, Justice and Legal System Research Institute, Vol. 2, No. 1, January 2009, pp. 97-136.

There was an achievement by a civil society organization, the American Bar Association Rule of Law Initiative (ABA ROLI)²²⁰ in publishing law textbooks at enhanced level of content and standard through a rigorous review process which involved academics in and outside Ethiopia. However, the initiative did not continue because ABA ROLI was denied registration. As Ato Mandefrot Belay, who was director of the program, recalls:

“the American Bar Association Rule of Law Initiative (ABA ROLI)’s legal education support program was meant to enhance the overall capacity of the Ethiopian legal education system through reform projects focused on providing improved access to legal education resources *via* the development and publication of textbooks, building the skills of law students and enhancing the capacity of law school faculty as part of USAID’s program of support to the Ethiopian Justice Sector reform. The publication of textbooks and other research outputs by Ethiopian scholars and academics through funding by the program was a preferred option and this was thought to have positive impact in terms of building local capacity compared to earlier interventions such as book donations from abroad”.²²¹

Ato Mandefrot further notes that “in the realm of research and publications funded under the project, the program facilitated the review process and publication of six textbooks on the core subjects of the Ethiopian Legal Education Curriculum which was a rare success after nearly forty years of the publication of the first law textbooks by the Law School of Addis Ababa University”. The books were distributed to Ethiopian Law Schools free of charge. “The next phase in the project was to proceed toward the publication of six other textbooks, and facilitate the 2nd Edition of the textbooks published during the first round of textbook publications”.²²²

- e) ***Access to justice***: One of the components of the justice sector which benefits from enhanced involvement of civil society organizations is access to justice. In addition to its contribution stated earlier in the revision process of Ethiopia’s family law, EWLA represents indigent women. It has continued its active engagement in legal aid in addition to which it undertakes awareness creation including radio and TV programmes.²²³ EWLA has conducted survey on

²²⁰ ABA ROLI did not continue with its project initiatives because its formal registration request as a foreign non-profit organization was rejected by Charities and Societies Agency. If registered, the office was meant to serve as a regional center for similar support in Africa in legal education and research as well, in view of Addis Ababa’s location as seat of AU Headquarters.

²²¹ Interview with Ato Mandefrot Belay, former Director of the National Justice System Reform Program at the former Ministry of Capacity Building of the Government of Ethiopia on November 25, 2015.

²²² Ibid.

²²³ Interview with W/ro Zenaye Tadesse, Executive Director, Ethiopian Women Lawyers Association, 22 December 2015.

domestic violence,²²⁴ and this enables it to undertake its activities in the realm of access to justice based on research findings.²²⁵

As indicated in Section 6.5, the right to legal aid to the indigent at the state's expense is enshrined under Article 20(5) of the FDRE Constitution. However, the facts at the grassroots show gaps between what the law envisages and the actual level and quality of legal aid which is being provided. This is an area of intervention which benefits from enhanced engagement of civil society organizations.

Another area of *access to justice* that benefits from civil society organizations is alternative dispute resolution. For example, Addis Ababa Chamber of Commerce is facilitating ADR. However, in view of the case load of courts, the delay that can result from court proceedings and the interest of parties to solve their disputes out of court, there is the need for robust ADR forums in Ethiopia. The Ethiopian Arbitration and Conciliation Center was a civil society organization which had commendable achievements in mediation and arbitration. The Center "used to work in five regions and the number of disputes settled out of court by mediation from September 2012 to October 2013 involved 29,142 (twenty nine thousand one hundred and forty two) cases".²²⁶ Haregewein Ashenafi, who was Executive Director of the Center, stated that "mediation was conducted (1) in kebeles, i.e. cases that come to Social courts; (2) in relation to cases that are handled by Community Policing and (3) at first Instance courts".²²⁷ The publication of four volumes of arbitration awards by the Center was another major contribution to Ethiopia's jurisprudence on arbitration, in addition to the importance of the volumes in legal education and research.²²⁸

f) **Good Governance:** As Weiss observes:

"good governance is more than multiparty elections, a judiciary and a parliament, which have been emphasized as ... Western-style democracy. The list of other attributes, with the necessary resources and culture to accompany them, is formidable: universal

²²⁴ Ibid.

²²⁵ Ibid.

²²⁶ Interview with W/ro Haregewein Ashenafi, Former Executive Director of Ethiopian Arbitration and Conciliation Center, Nov. 30, 2015.

²²⁷ Ibid.

²²⁸ *Report of Arbitral Awards*, Published by the Ethiopian Arbitration and Conciliation Center, Volumes 1 to 4. The volumes embody selected arbitral awards rendered over a period of over three decades. The volumes were the following:

- Ethiopian Arbitration and Conciliation Center (2008), *Report of Arbitral Awards*, Volume 1, August 2008.
- Ethiopian Arbitration and Conciliation Center (2010), *Report of Arbitral Awards*, Volume 2, June 2010.
- Ethiopian Arbitration and Conciliation Center (2011), *Report of Arbitral Awards*, Volume 3, November 2011.
- Ethiopian Arbitration and Conciliation Center (2012), *Report of Arbitral Awards*, Volume 4, November 2012.

protection of human rights; non-discriminatory laws; efficient, impartial and rapid judicial processes; transparent public agencies; accountability for decisions by public officials; devolution of resources and decision making to local levels from the capital; and meaningful participation by citizens in debating public policies and choices.²²⁹

Good governance is a process and not a single-step accomplishment. Nor can it be assured merely through promises and pledges. The elements of good governance, *inter alia*, involve standards of behaviour (including the justice sector) and “meaningful participation of citizens debating public policies and choices”. Such public discourse can be practical only where the engagement is informed and rational. In the context of the justice system, this presupposes not only pursuits of justice sector institutions, but also requires settings or public participation including civil society oversight and all stakeholders with due *caveat* against two extreme pitfalls of exaggerating or downplaying (denying) weaknesses.

²²⁹ Thomas G. Weiss (2000, “Governance, Good Governance and Global Governance: Conceptual and Actual Challenges”, *Third World Quarterly*, Vol. 21, No. 5 (Oct., 2000), p. 801

Conclusions and Recommendations

During its initial phase, the Justice System Reform Program (as indicated in Section 2.1) encountered *challenges* because it had components that involved very wide pursuits and there was the ‘desire to undertake many projects in a short time’. Moreover, it had *gaps* in not including other components that are crucial to the justice system. In an interview with the Reporter, Professor Kenichi Ohno who, since 2008, “has been in direct contact with the late Prime Minister Meles Zenawi and ..., Prime Minister Hailemariam Desalegn” notes that ‘to have a fast going idea is one thing, but we want to see the quality in policy making’.²³⁰ He added “Japanese are always slow and steady movers. Ethiopians are fast movers. I think we can work together reminding each other of that. The speed as well as the quality is important” and he noted that these two should interact in a positive way²³¹. This *caveat* is enshrined in the Ethiopian adage ‘ሲሮጡ የታጠቁት ሲሮጡ ይፈታል’ which warns against ‘running while dressing up’. One of the core conclusions that emerges from the preceding sections substantiates this point regarding the need for due attention to steady and concrete achievements in justice sector reform.

The fifty three targets of the Justice Sector in GTP I for the period 2010-2015 (indicated in Section 2.2.2) had narrowed down the ambitious pursuits envisaged in the 2005 Comprehensive Justice System Reform Program. Yet, the attention given to the justice sector was adequate. However, the performance of the justice sector during GTP I is not adequately evaluated in GTP II even if there is brief reference to some elements of the sector as indicated in Section 3.1.3.

With regard to targets, the earlier April 2015 version of GTP II had (in about a page) stated certain specific activities of the justice sector for the GTP II period as targets of the entire justice sector. It was analogous to a book which devotes a page for a particular site in a forest, and uses pictures of a few trees rather than a picture (or pictures) that can capture the entire site. This is rectified in GTP II because the five paragraphs under Section 7.1.4 embody targets that represent wider content rather than listing down details (within a limited space of about a page and a half) thereby missing other targets. Even if the approach in stating the targets in the approved December 2015 version of GTP II is better than the earlier April 2015 Draft GTP II version, both versions do not adequately represent the report submitted by the Ministry of Justice to the National Planning Commission (stated in Section 3.1.2).²³² Interview with the Secretary of the

²³⁰ *The Reporter*, 16 August 2014, Birhanu Fikade’s interview with Professor Kenichi Ohno and Professor Izumi Ohno, who are Japanese professors of economics and have wide experience in areas of policy formulation dialogues and advising governments in Asia.

²³¹ *Ibid*

²³² በኢ.ፌ.ዲ.ሪ የፍትሕ ዘርፍ የመጀመሪያው የአምስት ዓመት (2003-2007 ዓ.ም.)፣ *supra* note 46.

Joined-up Justice Forum and Director of Justice System Reform Program at the Ministry of Justice,²³³ also shows that the targets in the strategic plans of justice sector institutions for the GTP II period are indeed wider than what can be expressed in GTP documents.

GTP I was narrower in scope than the justice system reform envisaged in the 2005 Comprehensive Justice System Reform Program. The scope of coverage given to the justice sector is further reduced in GTP II. Had this been caused by the level of attainment of the targets that were envisaged in the 2005 CJSRP and GTP I, the steady decline in the number of targets which specifically refer to the justice sector would have been acceptable. As observed in the various sections of the study, however, most of the concerns that prevailed during the take-off point of the Justice System Reform Program are still relevant.

The assumption of responsibilities of reform by the respective organs during GTP I was indeed commendable. However, it could have been more effective in the context of enhanced institution-level empowerment in decision making and project implementation subject to sector-level harmonization. The earlier phases of the reform (2005-2010) were coherent and harmonized, *inter alia*, through a Steering Committee chaired by the Minister of Capacity Building. At present, there is *Joined-up Justice Forum* which meets twice a year in which various institutions of the justice sector participate. Each sector is in charge of its reform activities with some oversight. However, there is the need for clarity as to which authority is at the wheels regarding the task of overall harmonizing. Such meaningful harmonization goes beyond organizing forums and reports.

It is at this juncture that the justice system reform pursuits are clustered into the *Good Governance Reform cluster*. As indicated in Section 4.2, it is impossible to incorporate all projects of the justice sector in the Good Governance Reform Cluster because the cluster includes various institutions outside the justice sector as well. The exhaustive inclusion of justice sector targets and projects will rather alter the cluster onto the justice sector thereby adversely affecting the fair representation of other institutions in targets and projects. This challenge is already visible in the proportion of justice sector projects because most of the cluster's forty projects for the GTP II period indicated in Annex 2.2 relate to the justice sector. Thus, clustering strategic plans, targets and projects in a single document inevitably encounters challenges. Instead, clustering could have focused on the harmonization of strategic plans at the macro level, and empowering the respective sectors and institutions in the implementation of their plans and projects.

As briefly highlighted under Section 2.1, the initial phases of the justice system reform had some challenges and gaps which do not, however, undermine the achievements and the level of vision, enthusiasm and commitment at all levels. In contrast to the earlier features of extremely high thresholds of targets, the pace of justice system reform pursuits in GTP I (i.e. 2009/10 –

²³³ Interview with Ato Desalegn Mengistie, *supra* note 42

2014/15) seems to reflect over-reaction against centralized reform program rather than a synthesis that avoids the pitfalls of the two extremes. The current measures of clustering for the GTP II period (2015/16 – 2019/20), can aggravate the problems if the Good Governance Reform Cluster, as highlighted in Section 4.2, substitutes Justice System Reform Program targets and projects. Such clusters are merely expected to facilitate the harmonization of independent reform programs which should be accorded autonomy in planning, decision making and budget administration.

The following *recommendations* are forwarded: (a) in view of the discussion in Sections 2, 3, 4 and 5 of this study, (b) based on the observations highlighted in Section 6 regarding the components of Ethiopia's justice system reform in GTP II, and (c) in light of the positive role of civil society organizations (highlighted in Section 7):

- a) **Lawmaking and revision:** Capacity enhancement in legislative drafting based on a holistic approach which integrates the task of lawmaking and revision with adequate research on problems, potential options and appropriate policies is a continuous component of justice system reform which is expected to gain attention during GTP II. The Ministry of Justice is expected to be in charge of this reform component, with due attention to its core function (in concert with other institutions) as Ethiopia's think-tank in legislative drafting, draft-treaty assessment, and other law and justice related issues.
- b) **The Judiciary:** Three major gaps were stated in the 2005 Comprehensive Justice System Reform Program, namely (i) inadequate accessibility and responsiveness to the needs of the poor, (ii) the need for "serious steps to tackle corruption, abuse of power and political interference in the administration of justice", and (iii) "inadequate funding of the justice institutions" which "aggravates most deficiencies of the administration of justice". There is the need to address these issues in the context of the vision of courts to "attain high level of public confidence" and the *mission* of "rendering judicial services which ensures rule of law". The problems in the realm of concrete achievements are mainly related with grassroots empowerment in the implementation of reform plans, merit-based judgeship, the need for substantial raise in remuneration, judicial independence and meritocratic judicial support personnel.
- c) **Law enforcement:**
Criminal justice: The targets stated in GTP II do not adequately represent the entire content of the criminal justice reform. Yet general targets should be interpreted in relation with the reform pursuits of the police, public prosecutors and prison institutions during GTP II. The regulations for the administration of federal prosecutors which will be amended during the GTP II period is expected to rectify fragmentation of various public prosecutor offices which are under different institutions. Pursuits of addressing the problem envisage the establishment

of a General Public Prosecutor's office during the GTP II period with relative autonomy from the Ministry of Justice.

Civil justice in decisions of administrative tribunals: While decisions of administrative tribunals and administrative rulemaking are necessary for the efficient administration of civil justice, the tribunals require membership from stakeholders, and the final decisions of administrative tribunals should be subject to judicial review. The general targets embodied in GTP II should be interpreted to facilitate such reforms.

Civil justice in rule making: The enactment of Draft Federal Administrative Procedure Proclamation (2004) is long overdue. Its enactment can regulate administrative rulemaking so that administrative authorities do not intervene in the legislature's lawmaking power other than enacting enabling regulations and directives that are in conformity with the law which they implement. The enactment of administrative law which is envisaged during the GTP II period is expected to address this gap.

d) **Legal education, research and training :**

Legal education: GTP II does not include legal education while it should have rectified the current setbacks that are encountered in legal education reform. Inference should be taken from the general justice sector targets regarding the need for enhanced quality and standards in legal education, and efforts should be made to assure the representation of law schools in the Joined-up Justice Forum. As the human resource base of the all justice sector institutions (and the legal profession at large) is legal education, the reinvigoration of the 2006 Legal Education Reform Program including the autonomy of law schools in admissions, course delivery and assessment, resource management, and other avenues of empowerment will determine the quality and features of Ethiopia's justice sector in the years and decades ahead.

Justice and Legal System Research Institute (JLSRI): Capacity building in the lawmaking component of the justice sector and the pursuits of legal research benefit from a strong research institute which can attract competent and experienced researchers on permanent, dual employment, part-time employment or commissioned research arrangements. This envisages a convenient location for the premises of JLSRI along with an institutional setting of autonomy in the context of accountability.

Justice Organ Professionals Training Center (JOPTC): Strategic plans of justice sector institutions are expected to indicate the upcoming direction of JOPTC in human resource development.

- e) **Access to justice:** During the GTP II period, this component envisages (i) enhanced access to laws, court decisions, academic literature and other legal information, (ii) enhancing the level of competence and integrity in the Bar, (iii) adequate legal aid to the indigent, (iv) adequate Alternative Dispute Resolution forums, and (v) enhanced recognition of traditional justice systems compatible with the Constitution. The enhancement of these elements of

access to justice is indispensable in justice system reform and there is the corresponding need to encourage the role of civil society organizations in these pursuits.

With regard to *legal aid*, the gaps in institutional autonomy and the budgetary constraints in public defender's services should be addressed during the GTP II period. Moreover, the role of practicing lawyers in *pro bono* services to the indigent, legal aid clinics of law schools, and the role of civil society organizations in conducting and supporting legal aid pursuits are expected to be enhanced.

- f) **Good Governance:** It is argued that “in development debates, the growth of civil society” can play a crucial role not only in “the establishment and maintenance of a democratic polity, but also by improving the quality of governance within that polity”.²³⁴ Civil society organizations are thus indispensable as institutions that can play supportive roles in harnessing arbitrary acts of various organs in the justice sector (through objective oversight and feedback) and participating in various avenues such as legal aid and capacity building thereby positively contributing toward steadily developing levels of good governance

Good practices in developmental states show the need for merit-based job placements and promotions at every unit and in all components of the justice sector. There is also the need to address the gaps in resources (financial, physical, technological, and informational), processes, organization and leadership. During the GTP II period, it is expected that holistic reference will be made to the roots of weak governance, and for the enhancement of the components of the justice sector, i.e. lawmaking, the judiciary, law enforcement, legal education (training and research) and access to justice. *Good Governance* calls for grassroots empowerment in decision making and resource management in the context of *effective harmonization* among organs and institutions of the justice sector. It further envisages broad-based participation including enhanced involvement of civil society organizations.

²³⁴ Peter Burnell & Peter Calvert, eds. (2004) *Civil Society in Democratization*, Rutledge, p. 13.

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Panel Discussion

Ethiopian Lawyers Association

Panel Discussion on the Assessment of Justice Sector Reform Components in Draft GTP II

Friday, Dec. 11, 2015; Venue: Churchill Hotel

List of Participants

	Name	Institution
1	Abera Hailemariam	Ethiopian Lawyers Association, Project Coordinator
2	Akalewold Bantirgu	EU-CSF II, Program Manager
3	Bantayehu Demilie	Ethiopian Young Lawyers Association, Legal Aid Centre Coordinator
4	Beshada Gemechu	Ethiopian Bar Association, President
5	Desalegn Mengistie	Ministry of Justice, Justice System Reform Program, Director
6	Elias Nour	St. Mary's University, Mizan Law Review, Chief Editor
7	Fekadu Demissie	Ministry of Justice, Advocate Licensing and Administration, Director
8	Feven Lemma	Prime Minister's Office, Expert
9	Gebreamlak Gebregiorgis	Ethiopian Lawyers Association, Chairman of Legal Aid Committee
10	Getachew Gudina	Council of Constitutional Inquiry, Researcher
11	Jemal Ahmed	Ministry of Public Service and Human Resource Development, Justice System Reform Program, Director
12	Kassahun Argaw	Justice Organs Professionals Training Center, Senior Training Expert
13	Manyawkal Mekonnen	Ethiopian Lawyers Association
14	Melaku Tamrat	Ethiopian Catholic Church, JTP Department
15	Mesfin Eshetu	Justice and Legal System Research Institute, Expert
16	Rakeb Demissie	Inter Africa Group, Coordinator
17	Reshid Seid	Ethiopian Young Lawyers Association, Board chairperson
18	Saba Alebachew	National Planning Commission, Assistant Legal Advisor
19	Susanne Heidmann	EU-CSF II, Deputy Program Manager
20	Tamrat Kidanemariam	Ethiopian Lawyers Association, President
21	Tariku Wondemagegn	Ministry of Public Service and Human Resource Development, Legal Officer
22	Tesfaye Abate	Ethiopian Civil Service University, Assistant Professor
23	Yibrah Fiseha	Federal courts, Judge
24	Yoseph Aemero	Ethiopian Lawyers Association, Secretary

Summary of the Panel Discussion

Opening statement

Presentation of the study

Reflections on the study

Discussion on justice sector reform components in Draft GTP II

Closing remarks

1. Opening Statement

(Ato Tamrat Kidanemariam, President of Ethiopian Lawyers Association)

- a) There is concern whether the justice sector has reached at the level required by the current state of economic activities.
- b) Cases take a very long time before decision. At times they take two or three years. Thus defendants can stay in prison for a long time before conviction including the ones that are found not guilty.
- c) Investors expect efficient contract enforcement.

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Ato Yoseph Aemero (Ethiopian Lawyers Association) chaired the presentation, reflections on the study and panel discussion on justice sector reform components that are expected to be included in GTP II.

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2. Presentation of the Study

- The study was presented by the researcher, Dr. Elias Nour: 50 minutes.

*

2. Reflections on the Study

The following brief reflections were made by:

- the Director of Justice System Reform Program Office, Ministry of Public Service and Human Resource Development, and
- the Director of Justice System Reform Program Office, the Ministry of Justice).

Ato Jemal Ahmed, Director, JSRP Office, Ministry of Public Service and HRD

- a) The research is appreciable.
- b) GTP I had matrix in Volume II. It helps to follow up the evaluation of projects. GTP II is expected to do the same.
- c) The study is an important input for pursuits of justice sector reform during GTP II.
- d) JSRP Office will discuss the study with officeholders in the Ministry.

Ato Desalegn Mengistie, Director, JSRP Office, Ministry of Justice

- a) Issues that are common to all sectors such as good governance, human resource development and cross-cutting issues are applicable to all sectors, and the reference made for the governance cluster applies to the justice sector;
- b) The fourth and fifth research questions [relating to developmental state] can be omitted because the later GTP II draft (issued in September) has omitted the part that is referred in the issues.
- c) The research should cover the strategic plans of the police, prison administration, and it should cover the performance of the Ministry of Justice. The research must further look into the governance section of the latest version. There are activities that may not be reported and the research should make field visit. (Response was given regarding the scope of the research which is short-term study, and not a survey that deals with all components of the justice sector in detail).
- d) With regard to Access to justice and good governance the research should look into more documents. For example, the Strategic Plan of the Good Governance Cluster for the GTP Period must be part of the study. [Section 4.2 of the final draft of this study titled ‘Good Governance Cluster’s Five Year Plan during GTP II’ is included in this version of the study].

*

4. Discussion and views of panel participants on justice sector reform components in Draft GTP II

Ato Tamrat Kidanemariam (President of Ethiopian Lawyers Association)

- a) There is the need for rapid judicial process and decision, and it is necessary to have a general timeframe for rendering judicial decisions.
- b) There was an experience of Inspector which used to conduct impromptu inspection to any part of the court system, including offices and archives. (መዝገብ ቤት)
- c) The vision of the judiciary toward high public confidence in 2015 EC (2022/23) is stated. This vision should be the vision of the present as well.
- d) [Practicing lawyers] are components of the justice system. There is the tendency of giving more emphasis to the controlling aspect and magnifying the weaknesses of persons who only represent few practicing lawyers. This cannot be generalized for the entire profession.
- e) In light of the pace of economic development and the magnitude of foreign direct investment, there is the need for a legal regime which allows the establishment of law firms.

- f) Legislative formation of the Ethiopian Lawyers Association can enhance its ability enhance awareness among members, and to control and discipline its members.

Ato Tariku Wondimagegnehu (Ministry of Public Service & Human Resource Development)

- a) Laws enacted by various institutions are becoming too fragmented and confusing. The laws should be streamlined through a single institution. (Ato Desalegn Mengistie responded that there is a recent decision to harmonize drafting of laws, and all executive offices should submit their drafts to the Ministry of Justice before they are sent to the HoPR as draft laws. He expressed his expectation that this will be practical soon).
- g) The problems in the judiciary do not only relate to judges. But the problems also apply to archives (መዝገብ ቤት) and other clerks as well.
- a) There are many judges who give appointments for 8:30 AM in the morning and come to their benches around 10 AM or after that. They could have made the appointment at 10 AM.
- b) The measures taken by the Judicial Administrative Council are weak.

Ato Bantayehu Demilie (Ethiopian Young Lawyers Association)

- a) There is the need to check the constitutionality of laws before their enactment.
- b) Courts should be able to adjudicate the constitutionality of laws.

Ato Reshid Seid (Ethiopian Young Lawyers Association)

- a) It is not only speedy adjudication that should be considered. There is the need to pay equal attention for quality decisions.
- b) The focus given to criminal justice reform should also be given to civil justice reform.
- c) Judicial services should offer quality services to attract foreign investment. This is important as Ethiopia is in the process of acceding to the World Trade Organization (WTO).
- d) Caution should be made against the tendency to compromise quality in the course of attempts to satisfy targets.
- e) The weaknesses of attorneys are usually expressed. But which institutions give due respect to practicing lawyers?
- f) Lawyers associations should be given attention comparable with other components of the justice system.

Ato Abera Hailemariam (Ethiopian Lawyers Association)

There is the need to give due attention to strengthen legal research institutions.

Ato Desalegn Mengistie (Justice System Reform Program Office, Ministry of Justice)

- a) The justice sector is not marching in tandem with the phase of economic development.
- b) The criticism is not against all lawyers. But there is the tendency from various persons with court cases to inquire whether an attorney knows the judge. Good governance in the justice sector envisages professional integrity and the competence of practicing lawyers.

- c) The concern regarding the drafting tasks of all institutions is already recognized and it is decided that executive organs cannot draft laws, and the drafts should go through the Ministry of Justice.
- d) The performance of Justice and Legal System Research Institute (JLSRI) and Justice Organs Professionals Training Center (JOPTC) should be enhanced.
- e) There should be problem-solving research.

Ato Fekadu Demissie (Advocates Licensing and Administration Directorate, Ministry of Justice)

- a) Each institution of the justice sector is expected to prepare a detailed plan which deals with the part of the GTP that relates to its function.
- b) Problems in good governance have been observed in the justice sector which include the public prosecutors, the police (including interrogation of accused persons), courts and prisons.
- c) The gaps in the services rendered by practicing lawyers is being examined.
- d) The issue of law firms is not an issue that can be resolved by GTP II.
- e) With regard to lawyers associations, the issue arises as to which association can be regarded as the association of practicing lawyers.
- f) Participation is one of the principles pursued by the Ministry of Justice. Practicing lawyers will be encouraged to participate in various pursuits of the Ministry of Justice. For example, Ethiopian Lawyers Association can be invited to participate in drafting, training and similar engagements.
- g) Practicing lawyers are indeed part of the justice system.

Ato Yibrah Fisseha (Judge, Federal courts)

- a) The vision of federal courts mentions 2015 Ethiopian Calendar, i.e. 2022/2023. It does not, however, mean that tasks toward that do not start today.
- b) The need to rectify the problems regarding punctual starting time for court sessions is not related with the independence of the judiciary. It relates to a particular judge or specific judges. It is the Judicial Administrative Council that should be strengthened to address such issues. Or else, the independence of the judiciary can encounter threats of intervention not only from outside the judiciary, but also from within.
- c) There is delay in judgments. Yet there is a standard that is formulated. This standard is not imposed top-down. It is formulated based on the participation of judges and other staff. Depending on the case under adjudication, if this standard cannot be met, judges are not required to meet the timeline by compromising the quality of decisions.
- d) The problems encountered by the public are attributable not only to the services rendered by judges but can also be caused by other staff. Pursuits are underway to address these problems.
- e) The issue of entrusting power on courts to interpret the Constitution evokes the question whether this right should be given to the representatives of people (i.e. Parliament) or courts.

Ato Gebreamlak Gebregiorgis (Ethiopian Lawyers Association)

- a) The formulation of a standard timeframe for the decision of court cases cannot be regarded as interference in the independence of the judiciary. For example, the standard that requires labour disputes to be resolved in six months does not violate judicial independence. This standard and judicial independence can be realized concurrently.
- b) The concerns for rapid and quality decisions should be seen in the context of their interdependence and not as trade-offs. Rendering judicial decision in good time is one of the features of quality judicial decision. Taking a long time in criminal cases is punishing an accused person who might be innocent.
- c) The justice sector should be able to provide legal services such as alternative dispute resolution forums and facilities at the level that is acceptable by international institutions of arbitration and investors. Or else, arbitration at international forums will be very costly for Ethiopia. Efficient economic activities and investments seek wide and effective opportunities for alternative dispute resolution.
- d) Ethiopia's legal services should be at a level that is required by the pace of economic development, contract enforcement and investment. Legal Service Provision, as a component of justice sector reform, does not only include practicing lawyers, but it also encompasses lawyers that are employed in the public and private sector to advise and represent institutions.
- e) The relevant government organs should not only have positive attitudes toward practicing lawyers, but should also regard them as partners in the efforts toward justice sector reform. The capacity building pursuits during GTP II should also include practicing lawyers.

Ato Getachew Gudina (Council of Constitutional Inquiry)

- a) The issue of constitutional interpretation cannot be addressed in GTP.
- b) There can be cases where court decisions may be inconsistent with the Constitution. The problem of interpretation under such cases should be considered.

Ato Akalewold Bantirgu (EU CCFII, Technical Assistance Unit)

- a) The discussion today and the various activities of Ethiopian Lawyers Association shows the extent to which the capacity of the Association is increasing.
- b) GTP envisages the participation of professional associations in contributing inputs to the plans.
- c) The points and comments raised during the panel discussion are very important, they do not only fill gaps but they also include new inputs.
- d) Civil societies and professional associations have vital roles in policy formulation especially when their inputs are based on research as seen on this panel.
- e) Civil societies are usually considered as focusing only on the downsides, and not on the positive aspects of government policies and practices. However, the panel discussion

deviates from this tendency in that it also appreciates the commendable successes achieved so far.

Ato Manyawkal Mekonnen (Ethiopian Lawyers' Association)

Ato Manyawkal asked the reason for the reduction in the number of targets in GTP II as compared with GTP I, and asked if this was attributable to the omission of the ones that have been achieved during the GTP I period. (In response, Ato Desalegn Mengistie said that “the variation in number results from the fact that some of them have indeed been achieved, some of them assimilated in other targets, and some of them are moved to other sectors.”)

Appendices

Annex 1- Targets in GTP I

Annex 2 - Projects under GTP I and GTP II Periods

2.1. Projects under Justice Sector Reform Program during GTP I

2.2. Projects under Good Governance Reform Cluster during GTP II

Annex 3- Targets of the Justice Sector in the Earlier Draft GTP II (April 2015) version

Annex 4- Targets of the Justice Sector in GTP II, (December 2015)

**Annex 1
Targets in GTP I**

Table 1- Category of targets: Human resource capacity development

1	Full implementation of the new LL.B curriculum
2	Preparation, evaluation and regular updating of teaching materials for the LL.B curriculum
3	Pre-service training for new prosecutors and judges
4	Short-term training at least once a year for judges and prosecutors serving at all levels
5	Enhance the capacity of other professionals;
6	Equip training institutes at federal and regional levels;
7	Encourage 'research works that help build the capacity of professionals working in the justice sector';
8	Set and enforce ethical standards for practicing lawyers and attorneys.

Table 2- Category of targets: Improving the transparency and accountability of the justice system

9	Fully establish a system that enhances transparency and accountability
10	Establish a mechanism to evaluate the effectiveness of the professionals
11	Make ethical principles known and so that they can be fully implemented by the professionals involved
12	Strengthen complaint handling offices
13	Establish and implement effective and cost saving resource management system
14	Establish strong monitoring, evaluation and support systems
15	Hearing process in fully open courts

Table 3- Category of targets: Independence, transparency and accountability of the judiciary

16	Establish a system to ensure accountability, while guaranteeing the judiciary's independence
17	Appointment of judges based on competence and ensure fair regional and gender representation
18	Expand the performance evaluation system for judges, ensuring the continuity of the evaluation system and improving the screening process
19	Establish a system 'for the speedy resolution of disciplinary matters that are brought before the Judicial Administration Council'
20	Improvements 'based on consultations with and contributions from service users and stakeholders
21	Timely availability of cassation decisions and laws to judges

Table 4- Category of targets: Enhance service accessibility

22	Provide '[s]tandardized accommodation in which justice agencies and courts can work in an integrated manner and which are more accessible',
23	Expand the 'initiatives to provide the services of the courts throughout the year' to all courts, and the provision of court 'services 24 hours-a-day'
24	Full implementation of '[e]fforts that have been started to make the courts more accessible to women and children' and expanding same 'to all courts in the country'
25	Expand and implement the 'initiatives that have been started to make the court environment friendlier for users'
26	Provide 'adequate legal counsel, aid and translation services' to indigent litigants
27	Increase the number of judges to ensure that it 'corresponds to the size of the population they serve

Table 5- *Category of targets: Rehabilitation of prisoners*

28	Prepare and implement ‘national prison inmate handling and protection standards’ in order ‘to ensure appropriate rehabilitation of prisoners’
29	Encourage all prison inmates ‘to become productive and law abiding citizens by attending civic, ethics, academic and professional training sessions’
30	Help inmates to generate income by ‘taking part in developmental works’
31	Ensure the human rights of prison inmates
32	Improve the provision of ‘accommodation, health, nutrition, communications [with visitors] and recreational services’
33	Establish and implement a system ‘to follow up the integration of inmates to society’ after their release from prison
34	Make efforts ‘to improve the public image of prisons

Table 6- *Category of targets: Strengthen the federal system*

35	Promote the values of peace and tolerance and strengthen the capacity to resolve disputes peacefully
36	Establish and implement mechanisms ‘to detect and prevent conflicts before they occur and resolve conflicts that have arisen before they result in harm’
37	Enhance research related to conflicts which nurture the capacity to resolve disputes permanently
38	Take measures ‘to enhance the values of tolerance and respect between religious institutions and their followers’
39	Conduct research to identify sensitive religious issues which target at seeking and implementing solutions to religious conflicts
40	Significantly enhance the ‘awareness of the leadership at all levels, and that of the population, of issues relating to interstate relations and federalism’
41	Establish a system ‘to ensure permanent intergovernmental agency, as well as federal and regional state relations

Table 7- *Category of targets: Increase public participation*

42	Strengthen <i>internal participation</i> of the justice system staff in the preparation and evaluation of plans as well as other necessary issues
43	Enhance <i>external public participation</i> by taking measures ‘to improve and enhance the participation of stakeholders in issues related to justice’

Table 8- *Category of targets: Improve sector communication*

44	Carry out ‘public relation activities to sufficiently raise the awareness of government agencies and of the public about the performance of the justice sector
45	Sustain the ‘preparation and publication of professional magazines within the justice organs’

Table 9- *Category of targets: Enhance the use of ICT in the reform process*

46	Establish and put in use a national integrated justice information system (NIJIS)
47	Take actions ‘to support the court system with information communication technology which will be extended to all courts’
48	Establish and put in use a public prosecutor information system
49	Modernize all work processes and offices ‘by developing appropriate software and a database for file and record keeping’
50	ICT support on information about inmates
51	Maximum utilization of ICT in all the training centres

Table 10- *Category of targets: Ensure the mainstreaming of cross cutting issues in the justice sector*

52	Devise and implement a mechanism whereby the rights of women and children as well as persons living with HIV/AIDS, as recognized by the Constitution and international agreements, are fully respected
53	Ensure the equal participation of women and children as well as persons living with HIV/AIDS in society, and avail the opportunities and benefits' thereof

Annex 2
Projects under GTP I and GTP II Periods

Annex 2.1: Projects under Justice Sector Reform Program during GTP I

Table 1:

Projects under the Sub-Program for the Reform of Courts (የፍርድ ቤቶች ማሻሻያ ንዑስ ፕሮግራም)

1	Human resource development project	የሰው ኃይል ልማት ፕሮጀክት
2	Court effectiveness enhancement project	የፍርድ ቤቶች ውጤታማነት ማጠናከሪያ ፕሮጀክት
3	Judgement Execution Enhancement Project	የፍርድ አፈፃፀም ሂደትን ማጠናከሪያ ፕሮጀክት
4	Project to ensure the constitutionality of judgements and decrees	ፍርዶችና ብይኖች በሕገ መንግሥቱ መሠረት መሰጠታቸውን የማረጋገጥ ፕሮጀክት
5	Project to enhance the system that ensures the independence, transparency and accountability of judges	የጻፎች ነፃነት፣ ግልጽነትና ተጠያቂነት ሥርዓትን ማጠናከሪያ ፕሮጀክት
6	Project to strengthen Judicial Administration Council	የጻፎች አስተዳደር ጉባዔ ማጠናከሪያ ፕሮጀክት
7	Project to formulate procedures for public assessment on courts	ኅብረተሰቡ ፍርድ ቤቶችን የሚመዘንበት አሠራር መዘርገያ ፕሮጀክት
8	Project to enhance accessibility of courts	የፍርድ ቤቶች ተደራሽነት ማጠናከሪያ ፕሮጀክት
9	Project to enhance and strengthen Alternative Dispute Resolution	አማራጭ የሙግት መፍቻ ማስፋፊያና ማጠናከሪያ ፕሮጀክት
10	Project for premises and other facilities	የሕንፃና ሌሎች ፋሲሊቲዎች ማሟያ ፕሮጀክት
11	Project to support city courts, Sharia courts, military courts, and administrative tribunals.	የከተማ ነክ ፍርድ ቤቶች፣ ሸሪዓ ፍርድ ቤት፣ ወታደራዊና አስተዳደራዊ ፍትሕ የሚሰጡ አካላትን ማጠናከሪያ ፕሮጀክት
12	Project to improve public defender’s services	ነፃ ተከላካይ ጠበቃ አገልግሎት አሰጣጥ ማሻሻያ ፕሮጀክት
13	Project to enhance public participation in courts	በፍርድ ቤቶች የኅብረተሰብ ተሳትፎ ማሳደጊያ ፕሮጀክት
14	Project to enhance ICT in the operations of courts	የፍርድ ቤቶች አሠራር በኢንፎርሜሽን ቴክኖሎጂ ማጠናከሪያ ፕሮጀክት
15	Project for the archiving and disposal of dead files	ለረጅም ጊዜ የተጠራቀሙ ሰነዶችና መዛግብቶችን መጠበቅና ማስወገጃ ፕሮጀክት
16	Project to enhance and strengthen performance in cross-cutting issues	ባለብዙ ዘርፍ ጉዳዮችን ትግበራ ማስፋፊያና ማጠናከሪያ ፕሮጀክት

Table 2:

Projects under the Sub-Program for Law Enforcement (የሕግ አስከባሪ አካላትን ማሻሻያ ንዑስ ፕሮግራም)

1	Human resource development project	የሰው ኃይል ልማት ፕሮጀክት
2	Capacity building project for administrative and security affairs offices	የአስተዳደርና ፀጥታ ጉዳዮች ቢሮ አቅም ግንባታ ፕሮጀክት
3	Capacity building project for the police	የፖሊስ ኃይል አቅም ግንባታ ፕሮጀክት
4	Project for community police capacity building and assignments	የሚሊሺያ ኃይል አቅም ግንባታና ስምሪት ፕሮጀክት
5	Project to enhance and consolidate community-based crime prevention system	ኅብረተሰብ አቀፍ ወንጀል መከላከል ሥርዓት ማስፋፊያና ማጠናከሪያ ፕሮጀክት

6	Project for the formulation and enhancement of a system for witnesses and crime victims	የምስክሮችና ወንጀል ተጎዲዎች ሥርዓት መመሥረቻና ማጠናከሪያ ፕሮጀክት
7	Criminal and civil justice reform project	የወንጀልና ፍትሐብሔር ፍትሕ አስተዳደር ማሻሻያ ፕሮጀክት
8	Project for registration of vital events	መሠረታዊ ኩነቶች ምዝገባ ሥርዓት መዘርገያ ፕሮጀክት
9	Forensic investigation and laboratory establishment and enhancement project	የፎረንሲክ ምርመራ ላቦራቶሪ ማቋቋምና ማጠናከሪያ ፕሮጀክት
10	Project for firearms and armaments administration and procedures	የትጥቅና ቦር መሣሪያ አስተዳደር አሠራር ማሻሻያ ፕሮጀክት
11	Prosecution file system project	የዐቃቤ ሕግ የመዝገብ አያያዝ ፕሮጀክት
12	Project for legal drafting in accordance with the Constitution, and consolidation of laws	ከሕገ መንግሥቱ ጋር የተጣጣሙ ሕጎችን የማርቀቅ፣ የማሰባሰብና ማጠቃለል ፕሮጀክት
13	Project to establish a system for public evaluation of justice organs	ኅብረተሰቡ የፍትሕ አካላትን የሚመዘንበት አሠራር መዘርገያ ፕሮጀክት
14	Project to enhance the awareness of the public on law	የኅብረተሰብ ንቃተ ሕግ ማላደገያ ፕሮጀክት
15	Project for premises and other facilities	የሕንፃና ሌሎች ፋሲሊቲዎች ማሟያ ፕሮጀክት
16	Project for the enforcement and enhancement of Alternative Dispute Settlement schemes	አማራጭ የሙግት መፍቻና ግጭት ማስወገጃ ሥርዓት ማስፈጸሚያ ማጠናከሪያ ፕሮጀክት-ፕሮጀክት
17	Legal aid services improvement project	ነፃ ሕግ ምክር አገልግሎት አሰጣጥ ማሻሻያ ፕሮጀክት
18	Project for the rehabilitation, correction and administration of prisoners	የታራሚዎች ማኅጽ፣ ማረም፣ አያያዝና አስተዳደር ማሻሻያ ፕሮጀክት
19	Federalism and inter-state relation enhancement project	የፌዴራሊዝምና መንግሥታት ግንኙነት ማጠናከሪያ ፕሮጀክት
20	Project to enhance values of peace	የሰላም እሴት ግንባታ ማስፋፊያ ፕሮጀክት
21	Project to enhance systems for pre-conflict interventions and post-conflict responses	የግጭት ቅድመ ማስጠንቀቂያና ፈጣን ምላሽ ሥርዓት ማስፋፊያ ፕሮጀክት
22	Project to enhance public participation in the justice system	በፍትሕ ሥርዓቱ የኅብረተሰብ ተሳትፎ ማላደገያ ፕሮጀክት
23	Project to strengthen lawyers associations	የሕግ ሙያተኛ ማኅበራትን ማጠናከሪያ ፕሮጀክት
24	Project for follow up and support system of charities, civic societies and private security guard entities	የበጎ አድራጎት ድርጅቶች፣ ሲቪክ ማኅበራትና የግል ጥበቃ ድርጅቶችን የመከታተልና የመደገፍ ሥርዓት መዘርገያ ፕሮጀክት
25	Justice sector organs coordination project	የፍትሕ አካላት ቅንጂታዊ አሠራር ማጠናከሪያ ፕሮጀክት
26	Project to enhance the operations of law enforcement organs by ICT	የአስፈጻሚ አካሉን አሠራር በኢንፎርሜሽን ኮሙኒኬሽን ቴክኖሎጂ ማጠናከሪያ ፕሮጀክት
27	National Integrated Justice Information System (NIJIS) project	ብሔራዊ የተቀናጀ የፍትሕ ተቋማት መረጃ ሥርዓት መዘርገያ ፕሮጀክት
28	Justice Organs Integrated Information Center establishment project	የፍትሕ ተቋማት የተቀናጀ የመረጃ ማዕከል ማቋቋሚያ ፕሮጀክት
29	Project to dispose of dead files	ለረጅም ጊዜ የተጠራቀሙ ሰነዶችና መዝገቦች ማስወገጃ ፕሮጀክት
30	Project to enhance and strengthen performance in cross-cutting issues	ባለ-ብዙ ዘርፍ ጉዳዮችን ትግበራ ማስፋፊያና ማጠናከሪያ ፕሮጀክት

Table 3:

Projects under the Sub-Program for Enhancing Legal Education, Training and Research (የሕግ ትምህርት፣ ሥልጠናና ምርምር ማጠናከሪያ ንዑስ ፕሮግራም

1	Human resource development project	የሰው ኃይል ልማት ፕሮጀክት
2	Project to strengthen and reform legal education	የሕግ ትምህርት መገንቢያና ማሻሻያ ፕሮጀክት
3	Project to strengthen training and research institutes of federal and state justice sector institutions	የፌዴራልና የክልል የፍትሕ አካላት ባለሙያዎች የሥልጠናና የምርምር ተቋማት አቅም መገንገቢያ ፕሮጀክት
4	Project to establish a system to evaluate the effectiveness of education and training institutions	የትምህርትና ሥልጠና ተቋማት ውጤታማነት የሚመዘንበት አሰራር መዘርገያ ፕሮጀክት
5	Legal aid services improvement project	ነፃ የሕግ አገልግሎት አሰጣጥ ማሻሻያ ፕሮጀክት
6	Project for premises and other facilities	የሕንፃና ሌሎች ፋሲሊቲዎች ማሟያ ፕሮጀክት
7	Information technology enhancement project	በኢንፎርሜሽን ቴክኖሎጂ ማጠናከሪያ ፕሮጀክት
8	Project to enhance and strengthen performance in cross-cutting issues	ባለብዙ ዘርፍ ጉዳዮችን ትግበራ ማስፋፊያና ማጠናከሪያ ፕሮጀክት

Annex 2.2: Projects under Good Governance Cluster during GTP II²³⁵

Table 4:

Projects under the Good Governance Reform Cluster for the GTP II Period

			Similar Project Items of JSRP during GTP I (See Tables 1, 2, 3, above)
1	Human resource development project	የሰው ኃይል ልማት ፕሮጀክት	Table 1(Item 1), 2(1), 3(1)
2	Project for the reform of courts	የፍርድ ቤቶች ማሻሻያ ፕሮጀክት	Comparable to 1(2)
3	Capacity building project for the police and security	የፖሊስና ፀጥታ ኃይል አቅም ግንባታ ፕሮጀክት	2(2), 2(3)
4	Project to enhance and consolidate community-based crime prevention system	ኅብረተሰብ አቀፍ ወንጀል መከላከል ሥርዓት ማስፋፊያና ማጠናከሪያ ፕሮጀክት	Table 2(Item 5)
5	Project for the formulation and enhancement of a system for witnesses and crime victims	የምስክሮችና ወንጀል ተጎጂዎች ሥርዓት መመሥረቻና ማጠናከሪያ ፕሮጀክት	Table 2(Item 6)
6	Criminal and civil justice reform project	የወንጀልና ፍትሐብሔር ፍትሕ አስተዳደር ማሻሻያ ፕሮጀክት	Table 2(Item 7)
7	Project for registration of vital events	መሀረታዊ ኩነቶች ምዝገባ ሥርዓት መዘርጊያ ፕሮጀክት	Table 2(Item 8)
8	Forensic investigation and laboratory establishment and enhancement project	የፎረንሲክ ምርመራ ላቦራቶሪ ማቋቋምና ማጠናከሪያ ፕሮጀክት	Table 2(Item 9)
9	Prosecution file system improvement project	የዐቃቤ ሕግ የመዝገብ አያያዝ ማሻሻያ ፕሮጀክት	Table 2(Item 11)
10	National project to formulate performance evaluation system for prosecutors	አገር አቀፍ የሆነ የዐቃቤ ሕግ የሥራ አፈፃፀም ምዘና ሥርዓት መዘርጊያ ፕሮጀክት	New project
11	Project to establish General Prosecutor's Office	የጠቅላይ ዐቃቤ ሕግ ጽ/ቤት ማቋቋሚያ ፕሮጀክት	New project
12	Project for legal drafting in accordance with the Constitution, and consolidation of laws	ከሕገ መንግሥቱ ጋር የተጣጣሙ ሕጎችን የማርቀቅ፣ የማሰባሰብና ማጠቃለል ፕሮጀክት	Table 2(Item 12)
13	Project to establish a system for public evaluation of justice organs	ኅብረተሰቡ የፍትሕ አካላትን የሚመዘንበት አሰራር መዘርጊያ ፕሮጀክት	Table 2(Item 13)
14	Project to enhance the awareness of the public on law	የኅብረተሰብ ንቃተ ሕግ (ግንዛቤ) ማሳደጊያ ፕሮጀክት	Table 2(Item 14)
15	Project for the enhancement and consolidation of Alternative Dispute Settlement schemes	አማራጭ የመግት መፍቻ ማስፋፊያና ማጠናከሪያ ፕሮጀክት	Comparable to 2(16)
16	Project to enhance accessibility of courts	የፍርድ ቤቶች ተደራሽነት ማጠናከሪያ ፕሮጀክት	Table 1(Item 8)

²³⁵ Good Governance Reform Cluster Second Five-Year Growth and Transformation Plan 2015/16-2019/20, Supra note 62, p. 53

17	Project for premise construction and other facilities	የሕንጻዎች ግንባታና ሌሎች ፋሲሊቲዎች ማሟያ ፕሮጀክት	1(10), 2(15), 3(6)
18	Project for the enforcement of Alternative Dispute Settlement schemes	አማራጭ የመግት መፍቻና ግጭት ማስወገጃ ሥርዓት ማስፈጸሚያ ፕሮጀክት	Comparable to 2(16)
19	Free legal advising services improvement project	ነፃ የሕግ ምክር አገልግሎት አሰጣጥ ማሻሻያ ፕሮጀክት	2(17), 3 (5) Originally it was legal aid services which includes representation
20	Project for the rehabilitation, correction and administration of prisoners	የታራሚዎች ማገድ፣ ማረም፣ አያያዘና አስተዳደር ማሻሻያ ፕሮጀክት	Table 2(Item 18)
21	Federalism and inter-state relation enhancement project	የፌዴራሊዝምና መንግሥታት ግንኙነት ማጠናከሪያ ፕሮጀክት	Table 2(Item 19)
22	Project to enhance public participation in the justice system	በፍትሕ ሥርዓቱ የጎብኪተሰብ ተሳትፎ ማሳደጊያ ፕሮጀክት	Table 2(Item 22)
23	Justice sector organs coordination project	የፍትሕ አካላት ቅንጅታዊ አሰራር ማጠናከሪያ ፕሮጀክት	Table 2(Item 25)
24	Integrated Civil Service Human Resource Management Information System (ICSMIS) project	የተቀናጀ የሲቪል ሰርቪስ የሰው ሀብት ሥራ አመራር መረጃ ሥርዓት (ICSMIS) ፕሮጀክት	New project
25	Research project on reform implementation outcomes	የሪፎርም ትግበራ ውጤቶች ጥናት ፕሮጀክት	New project
26	Project to enhance the operations of justice organs by ICT	የፍትሕ አካሉን አሰራር በኢንፎርሜሽን ኮሙኒኬሽን ቴክኖሎጂ ማጠናከሪያ ፕሮጀክት	1(14), 2(26)
27	National Integrated Justice Information System (NIJIS) project	ብሔራዊ የተቀናጀ የፍትሕ ተቋማት መረጃ ሥርዓት መዘርጊያ ፕሮጀክት	Table 2(Item 27)
28	Justice Organs Integrated Information Centre establishment project	የፍትሕ ተቋማት የተቀናጀ የመረጃ ማዕከል ማቋቋሚያ ፕሮጀክት	Table 2(Item 28)
29	Project to dispose of dead files and documents	ለረጅም ጊዜ የተጠራቀሙ ሰነዶችና መዝገቦች ማስወገጃ ፕሮጀክት	Table 2(Item 29)
30	Project to enhance and strengthen performance in cross-cutting issues	ባለብዙ ዘርፍ ጉዳዮችን ትግበራ ማስፋፊያና ማጠናከሪያ ፕሮጀክት	1(16), 2(30), 3(8)
31	Capacity building project to training and research institutes of federal and state justice sector institutions	የፌዴራልና የክልል የፍትሕ አካላት ባለሙያዎች የሥልጠናና የምርምር ተቋማት አቅም መገንጠያ ፕሮጀክት	Table 3(Item 3)
32	Construction expansion project for education and training centres	የትምህርትና ሥልጠና ማዕከል ተቋማት ግንባታ ማስፋፊያ ፕሮጀክት	Comparable to 3(6)
33	Civil service admission and competence verification framework project	ወደ ሲቪል ሰርቪስ መግቢያና የሙያ ብቃት ማረጋገጫ ማዕቀፍ ፕሮጀክት	New project
34	Project for comparing the performance of public institutions	የመንግሥት ተቋማት ማወዳደሪያ ሥርዓት ፕሮጀክት	New project

35	Research project to reform the organizational structure of public institutions	የመንግሥት ተቋማት አደረጃጀት ማሻሻያ ጥናት ፕሮጀክት	New project
36	Outcome-based automaton project	የውጤት ተኮር ኦቶሜቲን ፕሮጀክት	New project
37	Federal Police media reform project	የፌዴራል ፖሊስ መገናኛ ብዙሀን ማሻሻያ ፕሮጀክት	New project
38	Police Aviation capacity building project	የፖሊስ አቪዬሽን አቅም ግንባታ ማሳደጊያ ፕሮጀክት	New project
39	Organizational culture and image building and enhancement project	ተቋማዊ ባህልና ገጽታ ግንባታን የሚያጠናክርና የሚያስፋፋ ፕሮጀክት	New project
40	Cost administration and resource utilization reform project	የወጪ አስተዳደርና የሀብት አጠቃቀም ማሻሻያ ፕሮጀክት	New project

Table 5

Nine Justice Sector GTP I Projects under the Sub-Program for the Reform of Courts (የፍርድ ቤቶች ማሻሻያ ንዑስ ፕሮግራም) that are not included in the list of Governance Cluster Projects for the GTP II period

3	Judgement Execution Enhancement Project	የፍርድ አፈፃፀም ሂደትን ማጠናከሪያ ፕሮጀክት
4	Project to ensure the constitutionality of judgements and decrees	ፍርዶችና ብይኖች በሕገ መንግሥቱ መሠረት መሰጠታቸውን የማረጋገጥ ፕሮጀክት
5	Project to enhance the system that ensures the independence, transparency and accountability of judges	የዳኞች ነፃነት፣ ግልጽነትና ተጠያቂነት ሥርዓትን ማጠናከሪያ ፕሮጀክት
6	Project to strengthen Judicial Administration Council	የዳኞች አስተዳደር ጉባዔ ማጠናከሪያ ፕሮጀክት
7	Project to formulate procedures for public assessment on courts	ኅብረተሰቡ ፍርድ ቤቶችን የሚመዘንበት እሠራር መዘርጊያ ፕሮጀክት
9	Project to enhance and strengthen Alternative Dispute Resolution	አማራጭ የሙግት መፍቻ ማስፋፊያና ማጠናከሪያ ፕሮጀክት
11	Project to support city courts, Sharia courts, military courts, and administrative tribunals.	የከተማ ነፃ ፍርድ ቤቶች፣ ሸሪዓ ፍርድ ቤት፣ ወታደራዊና አስተዳደራዊ ፍትሕ የሚሰጡ አካላትን ማጠናከሪያ ፕሮጀክት
12	Project to improve public defender's services	ነፃ ተከላካይ ጠበቃ አገልግሎት አሰጣጥ ማሻሻያ ፕሮጀክት
13	Project to enhance public participation in courts	በፍርድ ቤቶች የኅብረተሰብ ተሳትፎ ማሳደጊያ ፕሮጀክት

Table 6:

Eight Justice Sector GTP I Projects under the Sub-Program for Law Enforcement (የሕግ አስከባሪ አካላትን ማሻሻያ ንዑስ ፕሮግራም) that are not included in the list of Governance Cluster Projects for the GTP II period

4	Project for community police capacity building and assignments	የሚሊሺያ ኃይል አቅም ግንባታና ስምሪት ፕሮጀክት
10	Project for firearms and armaments administration and procedures	የትጥቅና ጦር መሣሪያ አስተዳደር አሠራር ማሻሻያ ፕሮጀክት
11	Prosecution file system project	የዐቃቤ ሕግ የመዘገብ አያያዝ ፕሮጀክት
16	Project for the enforcement and enhancement of Alternative Dispute Settlement schemes	አማራጭ የሙግት መፍቻና ግጭት ማስወገጃ ሥርዓት ማስፈጸሚያ ማጠናከሪያ ፕሮጀክት-ፕሮጀክት
20	Project to enhance values of peace	የሰላም እሴት ግንባታ ማስፋፊያ ፕሮጀክት
21	Project to enhance systems for pre-conflict interventions and post-conflict responses	የግጭት ቅድመ ማስጠንቀቂያና ፈጣን ምላሽ ሥርዓት ማስፋፊያ ፕሮጀክት
23	Project to strengthen lawyers associations	የሕግ ሙያተኛ ማኅበራትን ማጠናከሪያ ፕሮጀክት
24	Project for follow up and support system of charities, civic societies and private security guard entities	የበጎ አድራጎት ድርጅቶች፣ ሲቪክ ማኅበራትና የግል ጥበቃ ድርጅቶችን የመከታተልና የመደገፍ ሥርዓት መዘርጊያ ፕሮጀክት

Table 7:

Three Justice Sector GTP I Projects under the Sub-Program for Enhancing Legal Education, Training and Research (የሕግ ትምህርት፣ ሥልጠናና ምርምር ማጠናከሪያ ንዑስ ፕሮግራም) that are not included in the list of Governance Cluster Projects for the GTP II period

2	Project to strengthen and reform of legal education	የሕግ ትምህርት መገንቢያና ማሻሻያ ፕሮጀክት
4	Project to establish a system to evaluate the effectiveness of education and training institutions	የትምህርትና ሥልጠና ተቋማት ውጤታማነት የሚመዘንበት አሠራር መዘርጊያ ፕሮጀክት
7	Information technology enhancement project	በኢንፎርሜሽን ቴክኖሎጂ ማጠናከሪያ ፕሮጀክት

Annex 3
Targets of the Justice Sector in the Earlier Draft GTP II (April 2015 Version)

Table 1- **Draft GTP II earlier version, April 2015**, pages 173-174, Paragraph 1

Targets		Code	Reform Category
1	Full implementation of FDRE Criminal Justice Policy by preparing instruments of enforcement	1(i)	Criminal Justice (Law enforcement)
2	Processes and structure for the protection to witnesses and informants (ወንጀል ተቋሚዎች)	1(ii)	Criminal Justice (Law enforcement)
3	The preparation and implementation of a system which ensures and evaluates the effectiveness and efficiency of the criminal justice system with particular attention to attrition rates, conviction rates etc.	1(iii)	Criminal Justice (Law enforcement)
4	The reduction of file closures and attrition rates caused by the absence or nonappearance of accused persons or witnesses	1(iv)	Criminal Justice (Law enforcement)
5	Resolution of minor offences (at all levels) that do not affect the state and public interest through conciliation'	1(v)	Criminal Justice (Law enforcement)
6	Confiscation of property that are fruits of offences	1(vi)	Criminal Justice (Law enforcement)
7	Capacity enhancement in the investigation, prosecution and conviction of persons accused of corruption and confiscation of property obtained by corrupt practices	1(vii)	Criminal Justice (Law enforcement)

Table 2- Pages 173-174, Paragraph 2

Targets		Code	Reform Category
8	Research and implementation of a judicial policy in tune with the concept of the developmental state that can serve the demands of a developmental state, developmental investors and citizens	2(i)	Judiciary
9	Ensuring the propriety of tax appeal decisions	2(ii)	Law enforcement & judiciary
10	Research and putting in place specialized benches for cases that have significant impact on development';	2(iii)	Judiciary
11	Finalizing the revision of the Commercial Code in accordance with the concept of democratic developmental state and implementing it to facilitate the pursuits of accelerated development',	2(iv)	Lawmaking
12	System that provides compensation to crime victims	2(v)	Lawmaking
13	Reduction of attrition rates and attention to summary and accelerated proceedings';	2(vi)	Judiciary & Law enforcement
14	Correct and enforceable judicial decisions;	2(vii)	Judiciary
15	Publication and distribution of binding cassation decisions'	2(viii)	Legal Information
16	Ensuring that judicial decisions are in conformity with the Constitution	2(ix)	Judiciary

Table 3- Pages 173-174, Paragraph 3

	Targets	Code	Reform Category
17	Reduction of attrition rates	3(i)	Law enforcement
18	Increase in the number of decided cases	3(ii)	Judiciary
19	Enhance current capacity of case investigation	3(iii)	Law enforcement
20	Increase in conviction rates	3(iv)	Criminal Justice
21	Reduce congestion of cases and the current level of case loads	3(v)	Judiciary
22	Reduce duration until judicial decision to at least below six months	3(vi)	Judiciary
23	Adequate and effective performance by opening additional benches for cases that need particular attention due to state and public interest'	3(vii)	Judiciary
24	Sustain the tasks that are underway toward due process of law	3(viii)	Law enforcement & Judiciary
25	Reduce the percentage defendants on trial in comparison with the percentage of convicted prisoners	3(ix)	Law enforcement & Judiciary
26	Putting in place alternative penalties other than imprisonment	3(x)	Lawmaking

Table 4- Pages 173-174, Paragraph 4

	Targets	Code	Reform Category
27	Improve case flow management	4(i)	Judiciary & Law enforcement
28	Implementation of sentencing guidelines throughout the country' and preparation of directives to that comparable sentences can be imposed on offences that are not covered in the sentencing guidelines'	4(ii)	Judiciary
29	Full implementation of the tasks that are underway toward authentic data on execution of judgements	4(iii)	Legal Information (Access to Justice)
30	Due support that encourages the public to use Alternative Dispute Resolution (ADR) schemes such as conciliation and arbitration	4(iv)	ADR (Access to Justice)
31	Building the capacity of institutions that are in charge of registration of vital events, enhancing the system of registration and full implementation of the registration of vital events (birth, marriage, death, etc.) during the plan period'	4(v)	Legal Information (Access to Justice) & Law enforcement

Table 5- Pages 173-174, Paragraph 5

	Targets	Code	Reform category
32	Enhance rule of law by enacting laws that are drafted in conformity with the Constitution and current global and local realities	5(i)	Law making
33	Strengthen the joint performance of police and prosecutors and enhance the efficiency and effectiveness of current case investigation capacity	5(ii)	Criminal Justice (Law enforcement)
34	Prepare and implement standards in the effective administration, handling, reform and rehabilitation of prisoners'	5(iii)	Prison reform (Law enforcement)
35	Elevate the standards of prison wards and other service facilities commensurate with the required thresholds'	5(iv)	Prison reform (Law enforcement)
36	Conduct pardon and parole on the basis of reliable data that has the requisite quality'	5(v)	Criminal Justice, Prisons (Law enforcement)

Annex 4
Targets of the Justice Sector in GTP II, December 2015, pp. 168, 169

Targets		Para & Item in Sec.3.2.2 of this study	Reform category
1	Strengthening the effectiveness of justice through enabling the justice system to obtain valid and truthful evidence;	Para 1, Item i	General
2	Ensuring that the drafting, revision, enforcement and interpretation of laws are in conformity with the Constitution;	Para 1, Item ii	Lawmaking
3	Ensuring the independence, transparency and accountability of the judicial system and courts;	Para 1, Item iii	Judiciary
4	Strengthening the capacity of justice system institutions with regard to human resources, knowledge, skills and equipment;	Para 1, Item iv	General
5	Undertaking coordinated tasks to enhance public awareness about the Constitution and the law	Para 1, Item v	Legal information (Access to justice)
6	Enhancing the culture and habit of peaceful resolution of conflict.	Para 1, Item vi	General
7	Adequate legal framework required for development and democratization	Para 2, Item i	Lawmaking
8	Ensure rule of law through the implementation and interpretation of laws based on their purpose	Para 2, Item ii	General
9	Bring about institutional reform towards the attainment of [the objectives here-above, i.e., democratization and rule of law] and toward the pursuit of accelerated and sustainable development	Para 2, Item iii	General
10	Establish public empowerment structures which encourage comprehensive public participation and enhance law-abiding and peaceful citizenry	Para 2, Item iv	General
11	Efficient dissemination and distribution of laws to the public	Para 2, Item v	Legal information (Access to justice)
12	Provision of efficient and modern judicial services	Para 2, Item vi	Judiciary
13	Tasks that strengthen the processes, organization and human resource toward effective justice system	Para 2, Item vii	General
14	In collaboration with the public, combat the tendencies of corruption and gaps in fair trial, and enable the justice system to win public confidence	Para 2, Item viii	General

Targets		Para & Item in Sec.3.2.2 of this study	Reform category
15	Planned and institutionalized capacity building to justice system institutions and their human resource through training to enhance capacity in attitudes, integrity, knowledge and skills;	Para 3, Item i	General (with regard to training)
16	ICT support to judicial services, plasma services for court proceedings, expansion of circuit and other benches, court services throughout the year, etc. shall be enhanced.	Para 3, Item ii	Judiciary
17	The tasks that are underway toward adequate independence, transparency and accountability of the justice system shall be strengthened, and this aims at ensuring the efficiency, effectiveness, accessibility, fairness, independence, transparency and accountability of the justice system.	Para 3, Item iii	General
Laws that will be drafted and submitted to the relevant organs:			
18	The Criminal Procedure Code	Para 4, Item i	Lawmaking
19	Administrative Law	Para 4, Item ii	Lawmaking
20	Private international law (conflict of laws)	Para 4, Item iii	Lawmaking
21	Alternative Dispute Resolution draft laws	Para 4, Item iv	Lawmaking; ADR; (Access to justice)
22	Draft proclamation for the licensing and administration of advocates	Para 4, Item v	Lawmaking
23	Proclamation to protect witnesses and informants (ጠቁሚዎች) in criminal cases, and the corresponding regulations and directives; (along with the formulation and implementation of a system for the protection of witnesses and informants	Para 4, Item vi	Lawmaking
24	Draft Proclamation to amend the Criminal Code	Para 4, Item vii	Lawmaking
25	Draft Regulations on Advocate Licence fee	Para 4, Item viii	Lawmaking
26	Amendment regulations for the administration of federal prosecutors	Para 4, Item ix	Lawmaking
27	Amendment of the Labour Proclamation in accordance of the Labour Policy and in accordance with Ethiopia's interest in development and investment	Para 4, Item x	Lawmaking
28	Amend the law on extra contractual liability (torts) based on research to evaluate its current state	Para 4, Item xi	Lawmaking

	Targets	Para & Item in Sec.3.2.2 of this study	Reform category
29	The preparation and implementation of crime prevention strategy	Para 5, Item i	Law enforcement
30	The preparation and implementation of Manual for legal drafting	Para 5, Item ii	Lawmaking
31	Gathering and consolidating and publishing federal and state laws in a manner they are accessible to the public	Para 5, Item iii	Legal information (Access to justice)
32	Gathering and organizing laws enacted since 1931 ²³⁶ [1923 EC] and make them accessible to the public	Para 5, Item iv	Legal information (Access to justice)
33	Monitor and support the effective implementation of the National Human Rights Action Plan to ensure respect for human rights	Para 5, Item v	Law enforcement
34	Enhancing public awareness on the law, by various means including direct-contact dissemination and the media with a view to enabling the public to be partner in the justice system beyond its compliance with the law	Para 5, Item vi	Legal information (Access to justice)
35	Enhance good governance through awareness against corruption and raising awareness about its adverse social and economic impact so that the society does not tolerate corruption	Para 5, Item vii	General
36	Establish a system to ensure that advocates satisfy the competence and professional ethics required of them	Para 5, Item viii	The Bar (Access to justice)
37	Enhance the positive contribution of practicing lawyers in the justice system	Para 5, Item ix	The Bar (Access to justice)
38	Ensure that international agreements are signed and ratified based on their conformity with Ethiopia's national, foreign and security policies and ensuring their contribution to the political, social and economic interests of the country	Para 5, Item x	Lawmaking

²³⁶ The year 1931 EC (1931 ዓ . ም.) in GTP II, Amharic Version, p. 169, second paragraph is apparently typographical error. It can be interpreted as 1931 (1923 EC).