

# THE LAW SCHOOL OF TANZANIA AND THE FUTURE OF LEGAL EDUCATION AND PRACTICE: PROSPECTS AND CHALLENGES<sup>1</sup>

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## Abstract

*The Law School of Tanzania (LST) is the only institution in Tanzania mandated to offer post-university vocational legal training. Compared with similar institutions in the East African region, the LST is relatively new, having started offering training just eight years ago in 2008. In this article, the two authors who have been involved in designing, managing and running training activities at the school since its inception, share their perspectives on the successes and challenges experienced so far, as well as offering some suggestions on issues that need to be addressed to enable the school play its role in legal education and practice more effectively, in collaboration with key stakeholders in the legal sector.*

**Key Words:** Law School of Tanzania, Training, Cohort, Students, Course

## 1.0 Introduction

This article discusses some key issues regarding the post-university vocational legal training in Tanzania offered by the Law School of Tanzania (LST or “the School”). It begins by stating the establishment of the LST, its underlying governance and regulatory structures. It then proceeds to the main part, which addresses the current admission criteria, capacity of enrolment, curriculum, learning by doing as the key training methodology and student performance at the LST. Finally, the article ends with a self-reflective discussion of challenges and recommendations for improvement of delivery of practical legal training at the School.

## 2.0 The Establishment of the School

The final report of the Judicial System Review Commission of 1977<sup>4</sup> (“the Msekwa report”<sup>5</sup>) recommended the establishment of an appropriate institution for provision of, *inter alia*, post-university vocational legal training (i.e., practical legal education). It was also indicated in the report that the then internship system for law graduates suffered a number of limitations that could not guarantee production of competent legal professionals. This recommendation was echoed in the Report of the Legal

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<sup>1</sup> This paper was originally prepared as a discussion note for a consultative meeting of the Council of Legal Education and Heads of Legal Training Institutions in Tanzania held on 19<sup>th</sup> December, 2012 at the Law School of Tanzania, under the title ‘Legal and Regulatory Framework Governing the Law School of Tanzania’. It has since been revised and updated. We would like to thank an anonymous reviewer for very useful comments on the revised and updated draft.

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<sup>4</sup> United Republic of Tanzania, *The Report of the Judicial System Review Commission*, Dar es Salaam: Government Printer, 1977.

<sup>5</sup> The report was named after Pius Msekwa who chaired the Commission. He later became Speaker of the National Assembly.

Task Force (FILMUP – Legal Sector Component) of 1996<sup>6</sup> (the Bomani Commission<sup>7</sup>). In relation to the shortcomings in the provision of legal education, the Bomani Commission had this to say: “the most glaring deficiency in the area of legal training is that unlike most other Commonwealth countries, Tanzania has never provided for a formal system of post LL.B. vocational training”<sup>8</sup>. The Report particularly recommended for the establishment of a Law School as an independent legal education centre with its own governing council<sup>9</sup>.

Over a decade later, the Law School of Tanzania Act<sup>10</sup> was enacted which, *inter alia*, formally established the LST<sup>11</sup> with an Independent Governing Board<sup>12</sup>. The LST’s mandate is to, *inter alia*, improve legal practice by providing relevant practical legal training, research and consultancy in legal matters<sup>13</sup>. In order to realise this mission, the LST offers, conducts, manages and coordinates practical legal training programmes to LL.B graduates in the country.<sup>14</sup>

Currently, the main programme offered by the School is a one-year course leading to the Postgraduate Diploma award in Legal Practice.<sup>15</sup> Others possible programmes are short courses and seminars under the auspices of, or in collaboration with, other stakeholders.<sup>16</sup>

At the commencement of its practical legal training on 27<sup>th</sup> March 2008, the LST had no necessary infrastructure of its own. In recognition of this fact, the Ministry of Constitutional Affairs and Justice (MoCAJ)<sup>17</sup> invited all Law Faculties of public and private universities in the country to host the programme as an interim arrangement. All, except the University of Dar es Salaam (UDSM), indicated lack of capacity to meet the demands of hosting the programme. Thereafter, MoCAJ entered into a Memorandum of Understanding with the University of Dar es Salaam so that the latter could temporarily host the programme while the LST developed its own

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<sup>6</sup>United Republic of Tanzania, *Financial and Legal Management Upgrading Project (FILMUP)-Legal Sector Report*, Dar es Salaam: The Legal Task Force, 1996.

<sup>7</sup> This Commission was named after Mark Bomani, who chaired it. Bomani is the former Attorney-General of Tanzania.

<sup>8</sup> FILMUP Report, *op. cit.*, at p. 18.

<sup>9</sup> *Ibid.*, at p. 140.

<sup>10</sup> Act No. 18 of 2007 which became operational on 2<sup>nd</sup> May 2007. The Act is now cited as Cap. 425 of the Laws of Tanzania Mainland.

<sup>11</sup> *Ibid.*, Section 4.

<sup>12</sup> *Ibid.*, Section 15.

<sup>13</sup> *Ibid.*, Section 5.

<sup>14</sup> *Ibid.*, Section 4.

<sup>15</sup> *Ibid.*, Section 12.

<sup>16</sup> For example, Continuing Legal Education (CLE) seminars offered in collaboration with Tanganyika Law Society; Arbitration courses offered in collaboration with the Tanzania Institute of Arbitrators; and other capacity building programmes for State Attorneys and other lawyers in public service.

<sup>17</sup> The parent Ministry under which the school is, for purposes of governance and administration (See, for instance, Section 15(1) of the Law School of Tanzania Act under which the Deputy Attorney General is automatically the Chairman of the School’s Governing Board).

capacity by, among others, recruiting staff and constructing buildings. UDSM tasked its School of Law (UDSOL) (Formerly Faculty of Law) to manage the programme on its behalf. Through that arrangement, 2,630 students in eleven cohorts received their training at UDSM. From mid-July 2012, the LST opened its new campus at Plot No. 2005/2/1, Off Sam Nujoma Road, Behind Mawasiliano Towers, Dar es Salaam. Since then, the School has been hosting and running all its training activities at the campus.

### **3.0 Governance Structures and Regulatory Issues**

Although the day to day running of the School is entrusted to the School's management and its staff under the leadership of the Principal, in terms of the provisions of Section 15 of the Law School of Tanzania Act, the LST's governance is vested in the Governing Board. The Board is chaired by the Deputy of Attorney General and members are the following:

- (a) The Registrar of the Court of Appeal of Tanzania;
- (b) The President of the Tanganyika Law Society;
- (c) The Dean of the University of Dar es Salaam School of Law;
- (d) One member representing the Tanganyika Law Society, appointed by the Minister responsible for legal affairs;<sup>18</sup>
- (e) One member representing Legal Aid Schemes, appointed by the Minister responsible for legal affairs; and
- (f) One member representing the students' body.

Apart from the Board's powers and duties to provide directions in terms of Section 16 of the Act, it is empowered to appoint members to the LST's Practical Legal Training and Examinations Committee in terms of Section 9 of the Law School of Tanzania Act. Section 9 (1) (a) states that the Committee, whose secretary is the School's Principal, is composed of the following:

- (a) one member from the Judiciary;
- (b) one member from Tanganyika Law Society;
- (c) one member from the Attorney General's Chambers; and
- (d) two members representing faculties of law of accredited Universities in Tanzania being: one representing public Universities; and another representing private Universities.

Section 10 of the aforesaid Act stipulates that the Committee shall be responsible for:

- (a) conducting all examinations;
- (b) ensuring that relevant professional standards are abided by;

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<sup>18</sup> This is in addition to the President of the Society.

- (c) advising the Governing Board on the standards of proficiency required for each examination;
- (d) recommending to the Governing Board the names of the candidates who have satisfied the required professional standards; and
- (e) advising the Governing Board on matters relating to the practical legal training, and Code of Conduct and Etiquette of the legal profession.

It is clear that the establishing Act envisages that the LST must operate under the guidance and regulation of the Council of Legal Education (to be referred to as “CLE” or “Council”) established under Section 5A of the Advocates Act.<sup>19</sup> The Act takes cognizance of the fact that the Council is mandated under Section 5B of the Advocates Act <sup>20</sup> to “exercise the functions conferred upon it by or under this or any other law and to exercise general supervision and control over legal education in Tanzania for the purposes of this Act and to advise the Government in relation thereto.”

Although it is not clearly provided for either in the Advocates Act or in the LST Act, it is our submission that in order for the CLE to regulate post-university practical legal training as envisaged in the two Acts, it must perform the following functions<sup>21</sup>:

- (a) to approve Bachelor’s degree in law qualifications obtained in Tanzania or overseas eligible for admission into the LST’s programme;
- (b) to recognize and approve qualifications equivalent to the Bachelor’s degree in law obtained in Tanzania or overseas;
- (c) to consider whether the LST’s curriculum and rules governing the conduct of practical legal training meet the required standard; and
- (d) to regularly review the performance of the LST (e.g., admission of students, delivery of training, administration of examinations).

In discharging its day to day functions, the CLE is required to have a Permanent Secretariat “responsible for the day to day administration and management of the Council”<sup>22</sup>. Unfortunately, the Council is yet to establish its permanent secretariat with its own full-time employees. With the exception of two members appointed by the Tanganyika Law Society, all the members are *ex officio*, holding equally or more demanding substantive offices.<sup>23</sup> Given this scenario, it is doubtful whether the Council would be able to discharge its regulatory and supervisory functions in the

<sup>19</sup> [Cap. 341 R. E. 2002].

<sup>20</sup>*Supra*.

<sup>21</sup> Section 30 of the LST Act introduced Section 5D to the Advocates Act. The new section provides: “the functions of the Permanent Secretariat shall be to provide logistical and technical support to the Council in monitoring and control of practical legal training programmes in Tanzania”.

<sup>22</sup> Section 5C(1) of the Advocates Act (introduced by Section 30 of LST Act).

<sup>23</sup> These are the Chief Justice, the Attorney General and the Dean, Faculty of Law. See particularly Section 5A (1) of the Advocates Act; and Mushi, E.G., ‘Harmonisation of Legal Training Curricula in Tanzania,’ *The Tanzania Lawyer*, Vol. 1 No. 2 (2013), pp.104-131, at p. 122.

absence of personnel specially employed to discharge its mandate<sup>24</sup>. For, it appears that the Council membership stipulated in the Advocates Act was intended to serve like a governing board whose function is primarily directive or policy-making.<sup>25</sup>

#### **4.0 Admission Criteria and Capacity of Enrolment**

Admission is governed by the Law School of Tanzania (Admission, Fees and Conduct of Practical Legal Training) Rules, 2011<sup>26</sup>. The Rules provide for admission requirements, payable fees, and, generally, the conduct of the practical legal training programme. In terms of Rule 3 (1), an applicant is required to have the following minimum qualifications to be admitted to the programme:

- (a) a Bachelor of Law Degree holder or a person who has become eligible for the conferment of the Bachelor of Laws Degree of an accredited higher education institution in Tanzania Mainland; or
- (b) a Bachelor of Law Degree holder or a person who has become eligible for the conferment of the Bachelor of Laws Degree of a higher education institution recognized in Tanzania and approved by the Council; or
- (c) equivalent qualifications approved by the CLE obtained from any institution within or outside Tanzania. The purpose of this criterion is to allow for recognition of degree qualifications which might have a different name but whose content is substantially the same as that offered in the Bachelor of Laws.<sup>27</sup>

In addition to the criteria mentioned under Rule 3 (1) above, a student is eligible for the programme if he or she has passed all the Bachelor of Laws Degree core subjects namely: (a) Criminal Law and Procedure; (b) Legal Method; (c) Constitutional Law; (d) Law of Contract; (e) Law of Evidence; (f) Law of Torts; (g) Land Law; (h) Civil Procedure; (i) Law of Business Associations; (j) Family Law; (k) Public International Law; (l) Tax Law; (m) Administrative Law; (n) Labour Law; and (o) Jurisprudence<sup>28</sup>. The purpose of this requirement is to ensure candidates joining the LST are well grounded in at least the theoretical aspects of these core courses to allow the training at LST to focus only on the practical aspects, especially considering that classroom training at the School is offered in only one semester. Without the theoretical foundations, it will be difficult to bridge in the practical aspects.

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<sup>24</sup> It must be noted that even the members appointed by the President of Tanganyika Law Society would either be in private legal practice or employed elsewhere on a full-time basis.

<sup>25</sup> See generally, Section 30 of the LST Act.

<sup>26</sup> G.N. 173 of 2011.

<sup>27</sup> For example the American Juris Doctor (J.D.) degree.

<sup>28</sup> Rule (2).

The LST has established many cases of applicants for admission into its training programme who did not pursue and pass certain core courses at the LL.B degree level. Some of them have presented requests for exemptions (under Rule 3 (4)) from the requirement under sub-rule (3) of Rule 4 that they be required to pursue and pass the missing core courses.

At a consultative meeting between the CLE and the LST Governing Board<sup>29</sup>, it was noted that the core courses mostly missed by the students were Public International Law, Private International Law, Alternative Dispute Resolution and Labour Law. This shortcoming was a transitional matter as Faculties/Schools of Law in the country appeared to be steadily reviewing their curricula to accommodate all the core courses prescribed by the CLE. It was also noted that, the procedure under the aforementioned sub-rule (3) entailed consultation between the LST's Governing Board and the Council for Legal Education before an exemption was granted.<sup>30</sup> Presently, however, with the exception of very few foreign trained applicants, cases of applicants without required core courses criterion are rare.

To date, the LST has not had any applicant seeking enrolment whose qualifications are "equivalent" to the LL.B rather than the LL.B itself. Should that happen in future, guidance would be sought from the CLE which is mandated to determine acceptable equivalent qualifications in terms the provisions of Section 8 of the Advocates Act and Section 11 (1) (b) of the Law School of Tanzania Act.<sup>31</sup> It is expected that "equivalent qualifications" would be determined on a case by case basis.

By 8<sup>th</sup> December 2015, a total of 6,506 students had been enrolled.<sup>32</sup> Enrolment rates have ranged between 167 and 575 in a cohort<sup>33</sup>. It is worth noting that all applicants who met the admission criteria were offered a place regardless of their degree classifications or grades and the institutions where they did their undergraduate studies. The main criteria, as it is with the candidates appearing for the Bar Examination before the Council for Legal Education, is for one to be a holder of an LL.B degree, be it a 3 or 4 years programme. But, as it will be shown later in this

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<sup>29</sup>Held on 27<sup>th</sup> June 2008 at the Protea Oysterbay Hotel, Dar es Salaam.

<sup>30</sup> *Ibid.*

<sup>31</sup> Section 11 (1) of the Law School of Tanzania Act, Cap. 425, provides that: "A person is eligible to undertake a programme of practical legal training conducted by the School for the purposes of this Act if that person has obtained - (a) a bachelor's degree in law; or (b) other qualifications from an accredited institution which the Council considers to be equivalent to a bachelor's degree in law." The Council may wish to explore the possibility of promulgating rules for recognition of equivalent professional qualification.

<sup>32</sup> See Table 1 below.

<sup>33</sup> In 2008 when the School started to offer training, the number of local Universities offering the LL.B programme was relatively smaller. Presently, the number is much higher. With the increase of government financial support for students enrolled in both public and private universities, LL.B admission rates have also increased both exponentially and rapidly. There has also been a gradual increase in the number of Universities offering the LL.B degree. For example, in 2008 when the School started to offer training, Muslim University, University of Dodoma, Sebastian Kolowa Memorial University and Saint Augustine University had not yet produced LL. B graduates. This explains the big range in the School's enrolment rates between the earlier cohorts and the later cohorts.

article<sup>34</sup>, it appears that training capacity and training processes amongst the Universities in the country are not uniform<sup>35</sup>. Therefore, students enrolled at the School have demonstrated notable variations in their abilities, despite most of them having an LL.B. from a Tanzanian University. This has forced the school to adjust its teaching approach from a purely practical one of *Learning By Doing* (LBD), so as to accommodate also some theoretical teaching methods such as the traditional lecture methods. But still pass rates are not that impressive. Instructors have attributed this relatively low pass rate to the students' academic record prior to joining the School<sup>36</sup>.

Following the relocation of training activities from the University of Dar es Salaam main campus to the LST's new campus, the LST has capacity to enrol up to 600 students in one cohort. Currently, the school enrolls three cohorts of around 550 students each in a year. While it is possible to register a more expanded intake of students (say, up to 1,000 students) per cohort, the inherent constraints in imparting knowledge and skills through the LBD model militates against enrolment of students beyond manageable levels. As it will be discussed below, the LBD model is labour-intensive as it requires at least one instructor for every sub-group of 15 students in a class to lead them in simulations, role-plays and drills. Consequently, with a class size of 1,000 students, there will be a demand of not less than 60 instructors in any given day of running modularized courses. Such courses are not lecture-based but student-centred. Financially, such huge number of instructors would require a great deal of budgetary allocations per each module, which the School might find itself not in a better position to afford.

**Table 1:** Summary of student enrolment from March 2008 to December 2015

Cohort	Date of Enrolment	Number of Students Enrolled
1 <sup>st</sup> Cohort	March 2008	274
2 <sup>nd</sup> Cohort	August 2008	210
3 <sup>rd</sup> Cohort	February 2009	211
4 <sup>th</sup> Cohort	April 2009	310
5 <sup>th</sup> Cohort	November 2009	196
6 <sup>th</sup> Cohort	April 2010	196
7 <sup>th</sup> Cohort	August 2010	239
8 <sup>th</sup> Cohort	February 2011	181
9 <sup>th</sup> Cohort	May 2011	167

<sup>34</sup> See a discussion on assessment and student performance in part 8 of this article.

<sup>35</sup> Of course, it is not suggested here that training across Universities should be uniform in all respects. But at least students are expected to demonstrate basic understanding of all the key aspects of the law in all the core courses. Lack of this understanding could indicate inadequacy of training facilities (such as library resources) or deficiencies in the delivery of instructions at the university level.

<sup>36</sup> This is discussed in more detail in part 8.

10 <sup>th</sup> Cohort	November 2011	246
11 <sup>th</sup> Cohort	April 2012	240
12 <sup>th</sup> Cohort	August 2012	343
13 <sup>th</sup> Cohort	February 2013	393
14 <sup>th</sup> Cohort	June 2013	275
15 <sup>th</sup> Cohort	January 2014	386
16 <sup>th</sup> Cohort	May 2014	450
17 <sup>th</sup> Cohort	October 2014	434
18 <sup>th</sup> Cohort	February 2015	575
19 <sup>th</sup> Cohort	June 2015	540
20 <sup>th</sup> Cohort	November 2015	543
	<b>Total</b>	<b>6,409</b>

Source: LST Registrar's Office

As it could be seen in the Table above, the number of students has been varying in the intakes. Specifically, as explained earlier, the School has recorded low in initial intakes but higher in later cohorts.<sup>37</sup> To cope with this upward trend, the School has been recruiting more teaching staff as well as improving teaching facilities and procuring teaching equipment to meet the increasing demands.<sup>38</sup>

## 5.0 The Practical Legal Training Curriculum

The LST's curriculum is governed by the Law School of Tanzania (Curriculum) By-Laws.<sup>39</sup> These By-Laws provide a detailed curriculum that includes the courses to be taught and their content, as well as outlining briefly the evaluation/assessment criteria.<sup>40</sup> The programme comprises of two semesters, covered in one year. In the first semester, students receive classroom instruction on the courses listed in the Table below:

**Table 2:** Courses offered in the Postgraduate Diploma in Legal Practice Programme

<b>Cours e Code</b>	<b>Course</b>	<b>Nature of the Course</b>	<b>Weight of the Course</b>
LS 101	Advocacy Skills	Core	2 Units
LS 102	Professional Conduct and Practice	Core	2 Units
LS 103	Legal Drafting Skills and Techniques	Non-Core	2 Units

<sup>37</sup> See fn. 32.

<sup>38</sup> For example, the School has recently procured a supersize LCD projection screen to cater for up to 800 students attending a lecture at its Multi-Purpose Hall.

<sup>39</sup> G.N. No. 171, 2011.

<sup>40</sup> Evaluation and assessment criteria are provided in detail in the Law School of Tanzania (Students' Performance Assessment and Awards) By-Laws 2011 (G.N. No. 172, 2011).



LS 104	Criminal Procedure and Practice	Core	2 Units
LS 105	Civil Procedure and Practice	Core	2 Units
LS 106	Practical Aspects of Commercial Law	Core	2 Units
LS 107	Conveyancing	Core	2 Units
LS 108	Probate, Administration of Estates and Trusts	Core	2 Units
LS 109	Basic Leadership, Management and Accounting for Lawyers	Non-Core	2 Units
LS 110	Legal Aid and Human Rights Advocacy	Non-Core	1 Unit
LS 111	Basic Health and Social Skills for Lawyers	Non-Core	1 Unit

*Source: LST Curriculum By-laws 2011.*

As indicated in the Table above, some courses are treated as core and others as non-core. This dichotomy is clearly reflected in the mode of assessment for the two categories. Whereas, a core course has 3 examinable components spread over two semesters, a non-core course has only one examinable component which is done at the end of the first semester<sup>41</sup>. However, for both core and non-core courses, classroom instructions are offered only in the first semester.

In the second semester, students are placed in various law offices and Courts for clinical training.<sup>42</sup> These include the Resident and District Magistrates' Courts, the Attorney General's Chambers, private law firms, legal aid organizations and legal units in Ministries or other public and private institutions. The conduct and mode of assessing clinical law<sup>43</sup> is detailed in the Law School of Tanzania (Students' Performance Assessment and Awards) By-Laws, 2011<sup>44</sup>. A student who does not pass the Clinical Law course is not entitled for the award of the Post-Graduate Diploma in Legal Practice<sup>45</sup>. In determining performance in Clinical Law, the following elements will be looked at:

- (a) Student's Log Book countersigned and verified by the field placement supervisor;
- (b) The assessment report of the internal supervisor;
- (c) The assessment report of the field placement supervisor; and

<sup>41</sup> A detailed discussion on assessment and performance is provided in part 8.

<sup>42</sup> I.e. LS 100: Clinical Law Course with 5 units.

<sup>43</sup> This is also called Field Placement.

<sup>44</sup> G.N. 172 of 2011, specifically the Third Schedule to the By-Laws (entitled Rules Governing Placement). This is further discussed in Part 9.

<sup>45</sup> Rules Governing Placement, Rule 12.

(d) The student's final report.<sup>46</sup>

A student will be considered to have passed the Clinical Law only if performance in the four elements above will be assessed as 'satisfactory'.<sup>47</sup>

### **6.0 Training Method – Emphasis on Learning By Doing**

Whereas, in some courses, a cursory look at the curriculum would reveal apparent similarities with an undergraduate curriculum, the training objectives, and methods of training and assessment are entirely different. This is because, the School uses the "learning by doing" approach in which students learn various skills and techniques of a legal practitioner by performing the various tasks a practitioner would perform in real world, only that in this case, they are performed in a classroom setting. Commenting on appropriate training methods in legislative drafting, Professor Crabbe rightly observed:

"[...] The most advanced form of training is the time honoured system of apprenticeship. It allows for guidance and advice - learning by doing has never been surpassed in any discipline."<sup>48</sup>

Whereas the apprenticeship method is more appropriate in 'on the job' trainings, the closest semblance to it in a classroom setting is learning by doing through simulations, mock trials, case studies replicating workplace scenarios, etc. To achieve these, most of the courses are taught in a modular method. Courses that are currently being taught in modules are Advocacy Skills; Civil Procedure; Criminal Procedure; Professional Conduct and Ethics; Conveyancing, Probate, Administration of Estates and Trusts; and Legal Drafting Skills and Techniques.

Presently, the only core course yet to be offered as a module is Practical Aspects of Commercial Law. This, it is hoped, will also be modularized by the end of the current calendar year. An example from the Criminal Procedure module would illustrate how the 'learning by doing' is done at the LST. In the first session, students would be given a number of witness statements from purported police interviews. These would be carefully drafted, in most cases based on a real criminal case, depending on the level of complexity that trainers find appropriate in tandem with the students level. From these statements, students would be asked to draft appropriate charges or information. As is the case with all the tasks, while drafting the charges/information, instructors would be around ready to offer any assistance

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<sup>46</sup> *Ibid*, Rule 11.

<sup>47</sup> *Ibid*.

<sup>48</sup> V.C.R.A.C. Crabbe, 'The Ethics of Legislative Drafting', *Commonwealth Law Bulletin*, Vol. 36 Iss. 1 (2010), at p. 12.

when appropriate<sup>49</sup>. Thereafter the instructor would go through the student drafts and give them feedback. At the end of the exercise, students would be handed a properly drafted charge sheet/information as part of the feedback for the exercise.

In the next session, on the assumption that the accused has been properly arrested and taken to court, students would be asked to prepare for plea taking. At this stage, they would have been assigned different roles as prosecutors, defence counsel and magistrates. The class would then be set up, as far as is practically possible, like a real court for plea taking and bail consideration. Then plea taking and bail consideration would be done entirely by the students<sup>50</sup>. In the subsequent session, students would prepare and conduct preliminary hearing with prosecutors drafting the facts in the same approach as they did with the charges/information. As was the case with charges drafting exercise, at the end of the session students are given the proper summary of facts that should have been prepared by the prosecution and the proper memorandum of facts that should have been prepared in accordance with the provisions of Section 192 of the Criminal Procedure Act<sup>51</sup>.

In the next session, students are trained on examination of witnesses. A short lecture on how to conduct the three stages of witnesses' examination is given, usually by a senior practitioner or a judge. Thereafter, based on the witness statements issued earlier, students play their appropriate roles in examination in chief, cross-examination and, in appropriate cases, re-examination. After this, they will make or respond to, a submission of 'no case to answer'. The following session students would be guided in preparing closing speeches in the right order.

The highlight of the two weeks module is a day-long mock trial which is conducted on the final day.<sup>52</sup> The trial is presided over by a judge, magistrate or senior practitioner<sup>53</sup> most of whom did not participate in teaching the module. Students are also required to be in proper court attire. Using the same charge sheet/information handed to them in the first session; students prosecute or defend the case starting from plea taking to making the closing speeches. The 'presiding judge/magistrate' may then give judgment and feedback. In the mock trial, feedback for all the students is given at the end so as not to interrupt the 'trial'.

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<sup>49</sup> It should be noted that the instructor-student ratio is 1:15 (as provided for under item 8 of the First Schedule to the Curriculum By-Laws). For example, in a class of 30 students, there would be 2 instructors to assist the students in performing the tasks.

<sup>50</sup> Although occasionally instructors would stage a demonstration of plea taking either by way of introduction or as a feedback method. But with most of the cohorts, students have been able to conduct a simulated plea taking without needing any demonstration.

<sup>51</sup> [Cap. 20 R.E. 2002].

<sup>52</sup> Different 'court rooms' conducting the same trial would be set up, depending on the number of students, to ensure maximum participation.

<sup>53</sup> 'Presiding judges' in the past trials have included the late Hon. Judge (rtd) B.D. Chipeta, Justice Dr. Fauz Twaib, Prof. Angelo Mapunda, Hon. I. Mgeta - PRM, Mrs. Jessie Mnguto (Advocate), Mr. Mutabaazi Lugaziya (Advocate), among others.

## 7.0 Trainers

The LST employs both full-time and part-time trainers. For obvious reasons, all the LST's trainers are required to be active practitioners. Aware of the fact that the method of training the LST is embarking upon is new in Tanzanian legal training institutions, the LST has been running a 'Learning by Doing' Trainer Training Programme for the past 6 years. The programme has been conducted by experienced trainers of trainers from the UK-based BPP Law School, led by Prof. John Irving. Throughout that period, the programme has involved over 60 Law School instructors (both full-time and part-time). Topics that are covered in the training programme include the designing of student materials for learning by doing, facilitating and assessing learning by doing activities.

## 8.0 Student Assessment, Examinations and Performance

The LST examinations are governed by the Law School of Tanzania (Curriculum) By-Laws 2011<sup>54</sup> and the Law School of Tanzania (Students' Performance, Assessment and Awards) By-Laws 2011.<sup>55</sup> According to the Curriculum By-Laws, there are four (4) types of examinations/assessments, namely:

- (i) Individual Continuous Assessments (ICAs).  
These are conducted in respect of seven core subjects/courses (i.e., LS 101, LS 102, LS 104, LS 105, LS 106, LS 107 and LS 108).<sup>56</sup> Assessment for all of these subjects are done during the first semester.  
*Practical exercises*  
This type of assessment is done in respect of all seven core subjects/courses and is divided into two components:
  - a) Written Practical Exercises (WPEs), which are conducted during the first semester; and
  - b) Oral Practical Exercises (OPEs) done at the end of the second semester.
- (ii) Clinical Law or Field Placements (FPs)  
Students are required to attend 18 weeks field attachments immediately after the 1<sup>st</sup> semester.<sup>57</sup>
- (iii) Final examinations  
Candidates sit for these examinations for all courses. Examinations for LS 103, LS 109, LS 110 and LS 111 are conducted at the end of the first semester while examinations for LS 101, LS 102, LS 104, LS 105, LS 106, LS 107 and LS 108 are conducted at the end of the second semester.

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<sup>54</sup> GN No. 171 of 2011.

<sup>55</sup> GN No. 172 of 2011.

<sup>56</sup> See Table 2 for the key to the course coding.

<sup>57</sup> Detailed guidelines on the conduct and evaluation of Field Placement (Clinical Law) are provided for in the Third Schedule to the Law School of Tanzania (Student's Performance Assessment and Awards) By Laws, 2011, GN No. 172.

Table 3 below provides a summary of results of 4,767 candidates who sat for their examinations from the 1<sup>st</sup> Cohort up to the 17<sup>th</sup> Cohort. It should be noted that, the rules governing the conduct of examinations were reviewed and amended in June 2011 to allow candidates to resit failed examinations if they passed at least three of the seven core courses. Following this change, the number of failed candidates dropped from around 50% of candidates in a particular cohort to about 10%.<sup>58</sup> This means that while up to 31% would now pass at first sitting, about 60% would have to resit their failed examination papers.

While the examinations for the 1<sup>st</sup> up to the 6<sup>th</sup> Cohorts were administered under the past regime of rules, the examination results of the subsequent cohorts were conducted and processed according to the new rules. It is important to note that the LST's results appear consistent with the trends in the East African region. Results from the Kenya School of Law<sup>59</sup> and the Law Development Centre in Uganda<sup>60</sup> indicates a similar trend.

Much as the trend of examination performance is relatively common in the East African region, the School and the general public have been concerned with the unsatisfactory performance. Some students have on several occasions expressed their dissatisfaction through the print and the social media.<sup>61</sup> While the negative complaints with regard to poor performance negatively portray the image of the School, instructors, on the other hand, have consistently lamented of the students' level of knowledge expected of them. This is especially so considering that applicants to the School are all LL.B graduates required to have sufficient knowledge of the basic undergraduate law subjects. If this theoretical knowledge is inadequate, so the argument goes, it is difficult to master the practical aspects within the short period of instruction offered at the School.

The challenge the School has had to grapple with, is to produce graduates with necessary skills of practice within the quality assurance framework, and, at the same time, improving the student performance in examinations.

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<sup>58</sup>See for example results of the 7<sup>th</sup> or 8<sup>th</sup> or 9<sup>th</sup> Cohorts.

<sup>59</sup><http://www.nation.co.ke/news/Law-students-admissions-tightened-over-mass-failure/-/1056/2892468/-/40wy9t/-/index.html> (accessed on 20 June 2016. where it is reported of the 2015 results, "Mass failure has hit the Kenya School of Law in the past few years, a situation that is worrying students and the legal fraternity. Last year 1,600 students sat for their exams but only about 300 passed."

<sup>60</sup>[http://www.newvision.co.ug/new\\_vision/news/1318878/300-lawyers-fail-ldc-exams](http://www.newvision.co.ug/new_vision/news/1318878/300-lawyers-fail-ldc-exams) (accessed on 20 May 2016.

<sup>61</sup> See for example several threads on one of the most popular online discussion portals in Tanzania, Jamii Forum ( <http://www.jamiiforums.com/threads/kufeli-kwa-watu-shule-ya-sheria-law-school.657149/> (accessed on 20 May 2016 and *Jamhuri* Newspaper (April 12-18, 2016) all complaining of, among others, failure rates at the School.

**Table 3: Summary of Examination Results - 1<sup>st</sup> to 17<sup>th</sup> Cohorts**

COHORT	PASS	SUPP	FAIL	ABSCONDMENT	DEFERMENT	TOTAL	Pass rate (%)
COHORT 1	38	211	15		24	288	14.4
COHORT 2	50	146	7	4	3	210	24.6
COHORT 3	35	137	22		17	211	18
COHORT 4	35	221	35	4	16	311	12
COHORT 5	33	114	30	1	17	195	18.6
COHORT 6	41	128	14	1	8	192	22.4
COHORT 7	46	161	19	1	12	239	20.4
COHORT 8	54	108	16		5	183	30.3
COHORT 9	51	103	10		6	170	31.1
COHORT 10	58	160	15		13	246	24.9
COHORT 11	55	138	36		11	240	24
COHORT 12	56	232	45		11	344	16.8
COHORT 13	95	262	25		11	393	24.9
COHORT 14	41	219	6		9	275	15.4
COHORT 15	77	265	29		15	386	20.8
COHORT 16	66	347	26		11	450	15
COHORT 17	73	273	74		14	434	17.4
TOTAL	904	3,225	424	11	203	4,767	

Source: LST, Special Task Force Report on Students' Performance, February 2016.

### 9.0 Conduct and Supervision of Field Placement

The Law School of Tanzania (Curriculum) By-Laws 2011<sup>62</sup> and the Law School of Tanzania (Students' Performance, Assessment and Awards) By-Laws 2001<sup>63</sup> require each student to undergo practical training, a form of placement which, forms part of the component of assessment.<sup>64</sup> In this regard, students are placed in law firms, courts, legal aid centres, and legal units in government departments and the Attorney General's Chambers.

While in the field, the students are supervised by both internal and external field supervisors who, on completion of the exercises prepare their respective reports for

<sup>62</sup> Supra.

<sup>63</sup> Supra.

<sup>64</sup> Supra Reg. 8(1).

the LST. Students are as well required to submit reports regarding their placements, to the Clinical Law Committee for assessment. Generally, students have revealed following common remarks:

- (i) Students find it difficult to secure placement posts and/or move from one field placement post to another;
- (ii) Some field/external supervisors do not have adequate tasks to assign them and/or they take long time before entrusting them with independent portfolios to be accomplished by themselves;
- (iii) Placement stations face acute shortage of space, furniture and other facilities necessary for the training;
- (iv) The statutory duration of the field placement is very short; and
- (v) Allowances paid to them are inadequate in the circumstances.

To address some of these concerns, and as part of the School's duty of offering services to the community, plans are underway to establish a legal aid clinic that will be stationed at the School's campus. Students may then opt to their field placement at the clinic. Once in operation, it is expected that students in their second semester will serve as legal aid providers under the supervision of the School's instructors and experienced practitioners sourced from the Tanganyika Law Society.

## **10.0 Challenges**

The LST programme has experienced, and still experiences, a number of challenges, some of which are as itemized here:

- (i) LST was made to commence its training activities before staff were recruited or teaching and learning facilities and training manuals had been procured;
- (ii) LST admits graduates from various universities with different teaching backgrounds. Some of the setbacks found in this pattern include difference in duration of LL.B. studies, student-staff ratios, teaching staff qualifications, availability of learning facilities (such as libraries, computer labs, teaching manuals and hangouts);
- (iii) Short duration of the teaching component of the programme at about sixteen weeks causes many problems in respect of timetabling. Students have it on record that they are overworked because they attend many lecture/seminar hours per day. They also complain about the lack of time to make use of the library. Instructors as well have complained that the duration of the programme is too short for them to cover the prescribed syllabi; and
- (iv) Uncertainty regarding students' access to loans on repeated occasions interfere with the smooth running of the LST's programme.