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List of Acronyms

ADR	Alternative Dispute Resolution
CBA	Cost Benefit Analysis
CSOs	Civil Society Organizations
DGF	Democratic Governance Facility
JCU	Justice Centres Uganda
JLOS	Justice Law and Order Sector
LASPs	Legal Aid Service Providers
LASPNET	Legal Aid Service Providers Network
LC	Local Council
LAC	Legal Aid Clinic
LDC	Law Development Centre
MMT	Means and Merit Test
NGBS	National Governance Baseline Survey
NGOs	Non-Governmental Organizations
NLAB	National Legal Aid Board
NLAP	National Legal Aid Policy
PAS	Paralegal Advisory Services
RDC	Resident District Commissioner
RLP	Refugee Law Project
RSA	Resident State Attorney
SA	State Attorney
SBS	State Brief Scheme
UBoS	Uganda Bureau of Statistics
UHRC	Uganda Human Rights Commission

Acknowledgment

This study was commissioned by the Legal Aid Service Providers Network (LASPNET) and was funded by Democratic Governance Facility (DGF). It assesses the costs and benefits of implementing the national legal aid policy and is partly an analysis of what needs to be done to establish a publically funded national legal aid scheme.

The report is underpinned by significant contributions, including previous studies examining issues of legal aid in Uganda by: the LASPNET, Justice Centres Uganda (JCU), Paralegal Advisory Services (PAS), Foundation for Human Rights Initiative (FHRI), the Justice Law and Order Sector (JLOS), Uganda Police Force (UPF), Court of Judicature, and Legal Aid South Africa. In addition, the authors are grateful to the Uganda Bureau of Statistics (UBOS) for permission to access the 2013 National Governance Baseline Survey.

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Any errors that remain in this report are the sole responsibility of the author.



Foreword



A large section of the Ugandan society cannot afford legal services due to conditions of extreme deprivation. For instance, women from the poorest households are more likely to be victims of domestic violence and, as such, are in dire need of Legal Aid. Over the years, the poor have benefited from legal aid services, mainly through non-state actors; nonetheless, only about one out of every five persons seeking legal aid received the services. In a bid to comprehensively address the legal aid needs of Ugandans, the Justice Law and Order Sector (JLOS) and its partners developed the National Legal Aid Policy (NLAP) in 2012.

The policy proposes to change the current legal aid architecture through the adoption of a mixed legal aid delivery model as well as the expansion of access to legal aid services through use of paralegals and students in law clinics and in partnership with civil society. A major hallmark for the policy is the establishment of an independent National Legal Aid Body (NLAB) to oversee the rollout and delivery of a comprehensive legal aid package across Uganda. The legal aid body would have a governing board composed of both state and non-state actors. The delivery of legal aid services by the NLAB could be either directed through established structures or non-state cooperating partners. The NLAP places great emphasis on promoting early access to dispute resolution mechanisms. As such, community paralegals are highlighted as one of the key mechanisms that offer the best opportunity for quick dispute resolution.

Adoption of the NLAP undoubtedly would be a turning point—that triggers public investment in the provision of legal aid services. There are immense benefits from implementing the proposed NLAP. First, it would reduce the average cost of providing legal aid services. Second, with an expanded publically provided legal aid scheme, it is unlikely that the case backlog in the judiciary will be substantially reduced. Finally, having legal aid service providers accessible across the country would reduce the perceived or actual corrupt practices associated with the courts.



The proposed NLAP is currently in the pipeline for its adoption by the Government of Uganda (GoU), and it has not progressed to Parliament for the last two years. It is awaiting the certificate of financial implication from the Ministry of Finance and Economic Development before its adoption by the Cabinet. The Legal Aid Service Providers Network (LASPNET) through its activities of supporting policy reform and promoting evidence based advocacy in setting the legal aid agenda undertook a Cost Benefit Analysis (CBA) study of the NLAP. The objective was to provide information for the government to make an informed decision. The study outlines some of the major costs and benefits of investing in legal aid in the medium term.

Success in the implementation of this NLAP and Bill will fully depend on every actor's commitment to the roles envisaged by the policy. From the LASPNET perspective, I am convinced that adoption and implementation of the NLAP would greatly expand legal services to a large section of the impoverished population. Furthermore, the proposed costs for implementing the NLAP are affordable and in line with prevailing public expenditures on similar legal service providers such as the Directorate of Public Prosecutions.



Samuel Herbert Nsubuga
Board Chairperson, LASPNET.



Executive Summary

In a bid to comprehensively address the legal aid needs of Ugandans, the Justice Law and Order Sector (JLOS) and its partners developed the national legal aid policy (NLAP) in 2012. The policy proposes to change the current legal aid architecture through the adoption of a mixed legal aid delivery model as well as the expansion of access to legal aid services through use of paralegals and students in law clinics. This study undertakes a cost-benefit analysis of the NLAP. It analyses the status of legal aid delivery as well as the benefits of legal aid in Uganda. In addition, based on consultations with key stakeholders, the study examines the challenges and opportunities for expanding legal aid in the country. Based on a quantitative data analysis of household surveys relating to access to legal aid, the study establishes the extent of the reach of legal aid services in Uganda. Finally, the study estimates the cost of establishing a national legal aid body as well as the required restructuring of the oversight body (The Law Council).

The Legal Aid Service Providers Network (LASPNET) is a member-based organization focused on strengthening and sustaining collaborations among Legal Aid Service Providers (LASPs) in supplementing Government of Uganda's efforts of expanding access to justice. Within this realm, LASPNET synchronizes the execution of shared activities among LASPs with major emphasis on improving the quality of service delivery, monitoring and evaluation frameworks, supporting policy reform, capacity building initiatives, and promoting evidence-based advocacy in setting the legal aid agenda. Within its medium-term strategy, LASPNET in partnership with JLOS and other key stakeholders working on access to Justice, is advocating for the adoption of a NLAP as key ingredient for establishing a national public legal aid service scheme.

A major hallmark for the policy is the establishment of an independent National Legal Aid Body (NLAB) to oversee the rollout and delivery of a comprehensive legal aid package across Uganda. The legal aid body would have a governing board composed of both JLOS and non-JLOS actors. The delivery of legal aid services by the NLAB could be either directed through established structures or non-state cooperating partners. Finally, the NLAB working in conjunction with the Law Council would also be responsible for the accreditation of all LASPs, including paralegals; regulating LASPs; setting the standards for service delivery; setting the means-merit test criteria; and monitoring and supervising of LASPs. The policy also proposes to establish a separate Legal



Aid Fund to finance public legal aid services and to ensure that legal aid services are available throughout the country. In addition, the policy proposes to adopt a mixed legal aid system whereby the new legal aid body and existing non-state actor or cooperating partners will continue to co-exist.

Also, because legal aid is traditionally labour intensive and there are relatively fewer lawyers available in comparison to the demand for legal services, it is necessary to consider the adoption of community paralegals to substantially reduce the cost of service provisions. For the NLAP, the focus should be on access to legal aid services rather than deciding on who should be providing the service. The focus should be on promoting early access to dispute resolution mechanisms, and community paralegals offer the best opportunity for quick dispute resolution.

The proposed NLAP is currently in the pipeline for its adoption by the Government of Uganda (GoU), and it has not progressed to Parliament for the last two years. It is awaiting the certificate of financial implication from the Ministry of Finance and Economic Development before its adoption by the Cabinet. In anticipation of its adoption, the Ministry of Justice and Constitutional Affairs has proposed the restructuring of the Law Council, the institution that is charged with providing oversight for LASPs. The major lacuna in the advocacy for the legal aid policy lays squarely in the lack of information on the cost benefit of legal aid to the government. The CBA is therefore a means of providing information for the government to make an informed decision as well as an advocacy tool for all stakeholders for the legal aid policy. At the same time, there is limited appreciation among key decision makers of the benefits of providing legal aid — especially in terms of reducing the overall costs of judicial administration.

There are immense benefits from providing legal aid as well as implementing the proposed NLAP. First, the cost of maintaining the status quo is very high to indigents and vulnerable persons. The current model supported by donors is relatively expensive in comparison to the average costs of public legal services. Additionally, without expanded and publically provided legal aid, it is unlikely that the backlog in the judiciary will be substantially reduced. Finally, having LASPs accessible would reduce the perceived or actual corrupt practices associated with the courts.

Despite the presence of numerous laws targeting the provision of legal aid in Uganda, access to legal aid remains limited, especially outside the formal



justice system. Furthermore, available legal aid services, as mentioned earlier, are restricted to urban and pre-urban centres. Partly due to the urban bias, the number of people receiving legal services remains low. There is also evidence to show that most Ugandans are unaware of the location or availability of legal aid providers. National surveys show that at least one in ten adults can cite knowledge of a legal aid institution. This relatively lower awareness may be partly explained by the limited presence of legal aid institutions at the lower levels of local government, i.e., below the district level. Overall, the limited knowledge partly reflects the distance between legal aid service providers and citizens.

On the other hand, as Uganda's population has expanded, disputes that require free legal assistance have expanded. For instance, contests over scarce resources — e.g., land — have increased. Additionally, the rates of family disputes — e.g., domestic violence and defilement cases — have remained very high and, as such, the need for legal aid services has increased. Furthermore, recent reports indicate a surge in the demand for legal aid services whereas, as mentioned earlier, only 18% of those who seek legal aid receive it.

We estimate the cost of implementing the NLAP in the medium term and consider a 5-year horizon to be consistent with the current medium term expenditure framework for the government budgeting process. The national legal aid body that is envisaged is similar in stature to the current Directorate of Public Prosecutions (DPP), which is staffed by either state attorneys or public defenders. Unlike the DPP, it is envisaged that the NLAB will have a mandate beyond defending prosecution to the provision of legal advice as well as psycho-social support. We consider the establishment of public defenders offices (similar to current JCU's) at the 13 High Court circuits and having a Resident State Defender similar to Resident State Attorney. Furthermore, we use the current Inspectorate of Government (IIG) salary structure as the basis for staff wages assigned under the NLAB. For the legal aid oversight role, we envisage a restructured Law Council with salaries similar to the current IGG rates.

Based on the above proposed staff and salary structure for both the NLAB and Law Council, we estimate the costs of operationalizing the NLAP in the first 5 years of operation. In addition to the salaries for staff, the proposed costs take into consideration the capital expenditures that are required to either (i) establish the agency (NLAB) or (ii) expand an existing institution (Law Council). In addition, we take into consideration the running costs of NLAB, Law Council,



and legal aid field offices. We estimate the costs of operationalizing the NLAP in the first year as **UGX 17.8 Billion**. The largest share of the initial costs will be wages, approximately 68% would be salaries for the various recruited legal aid and Law Council staff, 7% would be set-up costs, and 24% would be operating expenses.

The cost is affordable as it is in the range of what the government spends on similar legal service providers annually, such as the DPP. The proposed wages are bench-marked on current public sector wages for legal service providers, notably the DPP. The initial cost is relatively low due to our proposal to roll out legal aid field offices to only the existing High Court circuits. As such, in the first 5 years, only 13 legal aid field offices are to be established. Nonetheless, the number of offices can be gradually increased in the long run. Furthermore, in line with the prevailing complementarities offered by the judiciary to JCU, we assume no capital costs for establishing legal aid field offices. As such, it is possible to implement the proposed NLAP in its current form.

In terms of the costs and benefits, the net social benefits are positive for five years and will increase over time due to expected gains in employment benefits. Apart from individual employment benefits, the other sources of benefits of operationalizing the NLAP arise from reducing court time as well as public wage gains from tasking more paralegals instead of lawyers with offering legal advice. The study also notes that a substantial proportion of legal aid services is donor financed and is likely to continue even after the implementation of NLAP. At the moment, what is required from the government is a framework through which both state and non-state legal aid will be provided. Specifically, the government has to establish the nature of the minimum legal aid package provided by the different LASPs as well as the level at which the local governance structure will improve the individual's access to legal aid.



1. Introduction

The Legal Aid Service Providers Network (LASPNET) is a member-based organization focused on strengthening and sustaining collaborations among Legal Aid Service Providers (LASPs) in supplementing Government of Uganda's efforts of expanding access to justice. Within this realm, LASPNET synchronizes the execution of shared activities among LASPs with major emphasis on improving the quality of service delivery, monitoring and evaluation frameworks, supporting policy reform, capacity building initiatives, and promoting evidence based advocacy in setting the legal aid agenda. Within its medium term strategy, LASPNET in partnership with JLOS and other key stakeholders working on access to Justice, is advocating for the adoption of a National legal Aid Policy (NLAP) as key ingredient for establishing a national public legal aid service provision system.¹

The Ugandan justice system faces a number of challenges that affect its performance and delivery of justice, especially for those who cannot afford the services of lawyers. A large percentage of Ugandans cannot afford legal services due to conditions of extreme deprivation. The 2013/14 Uganda National Panel Survey by the Uganda Bureau of Statistics (UBoS) showed that at least 18% of Uganda are chronically poor—i.e., have been poor during more than one time period— and on average spend less than US\$ 1.20 (UGX 4,000) per day.² The same report shows that a substantially large population (31%) is vulnerable to poverty — i.e., their welfare status changes frequently as they live on the margins. At the same time, this large, impoverished population requires legal aid. For instance, women from the poorest households are more likely to be victims of domestic violence and, as such, are in dire need of Legal Aid (LA).³ At the moment, the poorest individuals are more likely to use informal means of dispute resolution.⁴ Over the years, the poor have benefited from legal aid services, mainly through non-state actors. However, by 2014/15, only

¹ According to LASPNET (2015), the concept of access to justice is considered as “a process which enables people to claim and obtain justice remedies through formal or informal institutions of justice, and in conformity with human rights standards”....” In a comprehensive or holistic manner, access to justice includes elements entailing contact, entry and use of justice delivery system.”

² Uganda Bureau of Statistics (2015).

³ According to the 2011 Uganda Demographic and Health Survey, women from the poorest quintile have a higher probability of experiencing domestic violence (63%) compared to their counterparts in the richest quintile at 47% (Uganda Bureau of Statistics and ICF International, 2012).

⁴ The 2013 National Governance Baseline Survey (NGBS) shows that for individuals who report losses of property against their will and are able to report it to the authorities, at least 96% of such individuals from the poorest quintile report to Local Councils (LCs) compared to only 60% of the richest quintile.



18% of persons seeking legal aid received the services.⁵

The study conducts the Cost Benefit Analysis(CBA) of the NLAP for Uganda using a variety of approaches. First, we conduct a desk review of the status of legal aid delivery as well as the benefits of legal aid. Within this realm, we review the legal aid landscape through interviews with various stakeholders. Second, we estimate the extent of the reach of legal aid services through national surveys. This entailed a secondary analysis of the 2013 National Governance Baseline Survey (NGBS), which collected information on the awareness of the community's rights to justice as well as knowledge of LASPs at the sub-county level in Uganda.⁶Third, we also provide a review of the literature on the benefits of legal aid based on the African experience. Fourth, we estimate the cost of establishing a national legal aid body as well as the required restructuring of the oversight body (The Law Council). Finally, we estimate the net social benefits of the proposed NLAP.

The rest of the study is organized as follows. In the next section two, we provide the justification for the study. Section three profiles the legal landscape in Uganda—including legal aid. This section describes the modes of delivery and provides statistics on the extent of the reach. Section four outlines some of the current challenges of legal aid delivery in Uganda. Section five reviews the literature to show that an investment in legal aid by the state provides value for the money and is a viable vehicle that will deliver economic development in tandem with the national development priorities. Section six describes the methodology for undertaking the CBA for the NLAP and presents the results. Section seven concludes.

⁵ The Justice Law and Order Sector Annual Performance Report 2014/15 (JLOS, 2015).

⁶ The National Governance Baseline Survey 2013 (UBoS, 2014).



2. Justification for the study

In a bid to comprehensively address the legal aid needs of Ugandans, the Justice Law and Order Sector (JLOS) and its partners developed the NLAP in 2012. The policy proposes to change the current legal aid architecture through the adoption of a mixed legal aid delivery model as well as the expansion of access to legal aid services through use of paralegals and students in law clinics. We outline the key highlights of the proposed policy below.

A major hallmark for the policy is the establishment of an independent National Legal Aid Body (NLAB) to oversee the rollout and delivery of a comprehensive legal aid package across Uganda. The legal aid body would have a governing board composed of both JLOS and non-JLOS actors. The body would be led by the Director of Legal Aid Services, who would be the accounting officer reporting to the Parliament of Uganda. It is envisaged that the NLAB would develop a means and merit test (MMT) to identify and select the most deprived Ugandans that deserve to receive legal aid. The delivery of legal aid services by the NLAB could be either directed through established structures or non-state cooperating partners.⁷ Finally, the NLAB working in conjunction with the Uganda Law Council (ULC) would also be responsible for the accreditation of all LASPs, including paralegals; regulating LASPs; setting the standards for service delivery; setting the MMT criteria; and monitoring and supervising of LASPs.

The policy also proposes to establish a separate Legal Aid Fund to finance public legal aid services and to ensure that legal aid services are available throughout the country. Contribution to the fund will take place through parliamentary appropriation, donor funds and court awards with respect to costs. The policy proposes to limit the proportion of administrative costs to 30% of the budget, which is in line with international practice. The fund is partly meant to address the challenge unpredictability of public finance—sometime occasioned by volatile budget cuts. In addition, the fund will address limited public funding for legal aid. Presently, most of the legal aid in Uganda—even for publically provided legal aid—is financed through the donor-supported trust fund—the Democratic Governance Facility (DGF).⁸

⁷ The National Legal Aid Policy defines cooperating partners as ‘public interest non-state legal aid providers, law clinics and/or private law firms, involved in civil work’.

⁸ The DGF is a five-year (2011-2016), 103.5 million Euro fund supported by the governments of Austria, Denmark, Ireland, the Netherlands, Norway, Sweden, the UK and the European Union. It replaced both the Legal Aid Programme (LEP) and Legal Aid Basket Fund financing mechanisms that were operational during the 2007-2010 period. Under the sub component of rights, justice, and peace, the DGF supports activities that enhance access to justice in Uganda. During FY 2011/12-2014/15, at least 17.2% of the total DGF expenditures (UGX 187.5 Billion) was spent on improvements for access to justice.

In addition, the policy proposes to adopt a mixed legal aid system whereby the new legal aid body and existing non-state actor or cooperating partners will continue to co-exist. Therefore, the reform proposals will in time lead to greater opportunities for non-state actors to support the delivery of public legal aid services. Public financing would reduce the reliance of non-state actors on donor financing. Finally, the additional state funding could be used to extend legal aid services, especially in rural areas.

Under the proposed NLAP, the use of paralegals in dispute resolution will be increased. Paralegals are employed by NGOs and are non-lawyers who provide information about laws, procedures, advice and assistance on how and where to apply for aid as well as counselling and providing an alternative dispute resolution—instead of relying on the Courts. Under the NLAP, paralegals would be deployed to all magistrate districts to facilitate quick access to justice. Apart from paralegals at magistrate courts, it is envisaged that the national legal aid body would employ paralegals to complement legal officers. The proposal for an expanded role for paralegals in Uganda’s justice system is in line with the international best practices of using paralegals to provide legal aid services. Previous assessments from other developing countries recommend that countries with a limited number of lawyers should enact legislation to allow paralegals to appear in court.⁹ However, the current framework in Uganda does not allow paralegals to appear before a magistrate or judge. Nonetheless, paralegals can provide very valuable advice to indigents within court premises, even when not appearing before a judge. Furthermore, paralegals are much more cost effective than legal officers, especially when handling cases for non-capital offences.

The proposed NLAP is currently in the pipeline for its adoption by the Government of Uganda (GoU), and it has not progressed to Parliament for the last two years. It is awaiting the certificate of financial implication from the Ministry of Finance and Economic Development before its adoption by the Cabinet. In anticipation of its adoption, the Ministry of Justice and Constitutional Affairs has proposed the restructuring of the Law Council, the institution that is charged with providing oversight for LASPs. The major lacuna in the advocacy for the legal aid policy lays squarely in the lack of information on the cost-benefit of legal aid to the government. The CBA is therefore a means of providing information for the government to make an informed decision as well as an advocacy tool for all stakeholders for the legal aid policy. At the same time, there is limited appreciation among key decision makers of the benefits of providing legal aid—especially in terms of reducing the overall costs of judicial administration.

⁹ Sandefur, J., B. Siddiqi and A. Varvaloucas (2012).

3. The legal aid landscape in Uganda

3.1 Legal aid schemes in Uganda

Legal Aid is an integral component of the obligation by the state to provide access to justice, equality before the law, the right to counsel and the right to a fair trial. The right to a fair hearing is a key component of Article 14 of the International Convention on Civil and Political Rights. The State has a duty to respect, protect, promote and fulfil the human rights of citizens through the provision of legal aid (including legal advice and representation) to those who are unable to afford paid legal services.

Over time, the definition of 'legal aid' has moved beyond mere representation by a lawyer in a court. The 2004 Lilongwe Declaration on Accessing Legal Aid in Criminal Justice Systems in Africa states that a legal aid programme should include legal assistance at all stages of the criminal process, including investigation, arrest, pre-trial detention, bail hearings, trials, appeals, and other proceedings to ensure that human rights are protected.¹⁰ *Suspects, accused persons, and detainees should have access to legal assistance immediately upon arrest and/or detention wherever such arrest and/or detention occurs. Furthermore, a person subject to criminal proceedings should never be prevented from securing legal aid and should always be granted the right to see and consult with a lawyer, accredited paralegal, or legal assistant. The declaration, in effect, broadened the meaning 'to include legal advice, assistance, representation, education, and mechanisms for alternative dispute resolution'.* In addition, legal aid extends equally to civil and criminal matters. Legal aid encompasses access to legal assistance (legal information, advice, dispute resolution and representation in courts and tribunals). The assistance received may include preventative justice measures—e.g., education, information or advice; diversion from the courts through alternative dispute mechanisms; or representation in court.

Uganda has a number of state-funded legal aid mechanisms (e.g., the State Brief Scheme, Law Development Centre Clinics, and pilot programmes such as Justice Centres Uganda). The Justice Centres Uganda (JCU) is by far the largest current state-associated provider, operating 7 centres across Uganda that are all on court premises. JCU offer a 'one-stop' legal aid service based on the South African model of legal aid service provision (i.e. having an

¹⁰The Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System in Africa

independent legal aid agency)¹¹ and the Paralegal Advisory Services (PAS) in Malawi (i.e. involving paralegals to ensuring access to the formal justice system to indigent and vulnerable persons).¹² The JCU model bridges the gap between the supply and demand sides of justice by providing legal aid services across civil and criminal areas of justice for indigent, marginalized and vulnerable persons while at the same time empowering communities to claim their legal rights. JCU is staffed by lawyers, paralegals and personnel trained in the provision of psycho-social services with three complementary approaches: the delivery of legal aid through the legal aid clinics; the community outreach model; and human rights advocacy (Table 1 compares the South African and the current Ugandan legal aid models).



¹¹ Legal Aid South Africa (2014)

¹² Anderson, H (2006)

Table 1: A comparison of South Africa and Uganda's legal aid schemes

	South Africa	Uganda
1	Structure of legal profession	2,500lawyers serving a population of 34.6 million in 2014
2	Constitutional provisions for legal aid	The 1995 Uganda Constitution and the Poor Persons Defense Act, 2000 provides for the provision of legal assistance during trial for offences of capital nature.
3	Available public legal aid schemes	<ul style="list-style-type: none"> Justice Centres Uganda established in 2009 In 2014, JCU operated 5 centres Based on a means and merit test to identify indigents (30 item questionnaire administered) Based on public and private defenders as well as NGOs

4	Public budget	Annual budget of 2014/'15 was 1.6 Billion Rands (US\$ 115 million).	Estimated annual budget of UGX 3.1 Billion in 2011/'12 (US\$ 1.2 million)
5	Modes of delivery	<p>(a) Pro bono legal aid work;</p> <p>(b) State-funded judicare or referral to private lawyers;</p> <p>(c) State-funded public defenders; (d) State-funded interns in rural law firms;</p> <p>(e) State-funded law clinics;</p> <p>(f) State-funded justice centres; (g) State-funded impact litigation units;</p> <p>(h) State-funded legal advice telephone services;</p> <p>(i) Privately funded public interest law firms;</p> <p>(j) University law clinics; and</p> <p>(k) Privately funded para-legal advice offices.</p>	<p>(a) Pro Bono Services to Indigent Persons</p> <p>(b) Legal aid clinic</p> <p>(c) Law clinic of LDC</p> <p>(c) Paralegals</p> <p>(e) Outreach activities, sanitizations meetings, legal aid open days</p> <p>(f) Psycho-social support</p> <p>(g) Toll free telephone helpline</p> <p>h) University law clinic</p> <p>g) State brief scheme – private practitioners paid for by the state</p>

Sources: McQuoid-Mason (2014), Legal Aid South Africa (2015) and Uganda Law Society (2015)

To ensure that legal aid services are offered to those who need it most, the selection of beneficiaries under the JCU model, similar to the earlier models of service, such as that provided by LASPNET members i.e., Uganda Law Society's Legal Aid Project, FIDA Uganda and many more, depend on the MMT case profiling mechanism. Specifically, indigents are identified based on a 30-item empirical test questionnaire administered to all new applicants. Those who pass the MMT are provided with full JCU services while those who do not pass are appropriately advised and/or referred to other service providers to ensure continuity and completeness of service. Apart from the one-stop shop, JCU maintains a toll-free line through which clients can be contacted and assisted free of charge. One of the major concerns with the JCU model is the high expenses involved in running a multidisciplinary team of professions that offer a holistic service. The bulk of the current JCU funding is from the donor consortium—DGF (estimated at UGX 3.1 billion per annum) hence posing a sustainability crisis.¹³ Overall, the JCU model draws on best practices that have been proven and tested both internationally and nationally and thus offers a promising model for delivering legal aid in Uganda.

3.2 State Brief Scheme

Prior to the initiation of JCU in 2010, the public provision of legal aid was predominantly conducted through the State Brief Scheme (SBS).¹⁴ State Briefs take place at the High Court and Chief Magistrate Courts (for criminal cases that involve a death sentence or life imprisonment) and in the Court of Appeal and the Supreme Court (for appeals resulting from these cases). In practice, State Briefs constitute the co-option of the services of an advocate in private practice to offer legal services to accused persons (charged with capital offences) who cannot afford to pay for them. Under this arrangement, the Government of Uganda identifies legal service providers and pays for their services on behalf of accused persons charged with offences that meet the eligibility criteria referred to above.¹⁵ The SBS derives its mandate from Article 28 of the Ugandan Constitution, which underpins the right to a fair hearing by stating, *'Every person who is charged with a criminal offence shall in the case of any offence which carries a sentence of death or imprisonment for life be entitled to legal representation at the expense of the State'*.¹⁶ The concept of

¹³ Estimates of the JCU annual budget are based on the 2011/2012 audit report of DGF JCU, which accounted for about 50% of the DGF expenditures for enhancing access to justice in Uganda (KMPG, 2012).

¹⁴ Other established public providers of legal aid include the Uganda Human Rights Commission (UHRC), which only addresses human rights violation by public officials.

¹⁵ Bamugemereire, G and J.C. Sseremba (2013)

¹⁶ The aim of this provision is to limit the scope of legal representation to the most serious cases (i.e., where the offender's life is at stake) in the practical recognition of the reality that not everyone can be provided with free legal representation by the state in all cases.

‘the state brief’ is articulated further by a number of other laws— namely, the Trial on Indictment 3 Act; the *Poor Persons Defence Act, 2000*; the *Magistrates’ Court Act* and the *Advocates Act*.

At least 20,000 to 30,000 cases are ‘processed’ through the SBS system annually in 13 High Court Circuits and 37 magisterial areas in Uganda. Most people who access legal aid under the SBS are young, poor and vulnerable. The 2013 review of the SBS noted that young people (aged between 20-35 years) account for the largest proportion of beneficiaries of the SBS (up to 75% of the persons surveyed).¹⁷ These people were described by advocates and prison officials as poor, illiterate and largely ignorant of the trial process in courts. The costs of operating the SBS annually is at least UGX 860 million.¹⁸

Nonetheless, there is a general dissatisfaction with the SBS in the delivery of state legal aid by the majority of stake holders. A review of the scheme in 2013 concluded that the scheme has been reduced to a ‘*box-ticking exercise*’ in the long checklist of establishing a Chief Magistrate or High Court Criminal Session.¹⁹ According to the review, whereas the spirit of the SBS is appreciated by the majority of stakeholders in the scheme, the inherent ambiguity of the SBS process fuels various omissions and ‘*excesses*’, which in turn undermine the quality of justice delivered to accused persons under the SBS. The challenges of the implementation of the SBS range from financial, systemic (organizational structures and frameworks) to logistical dimensions (planning and delivery) as well as the supervision and quality of the services rendered. The net effect of the interaction between these difficulties is to create an SBS mechanism that merely delivers the bare minimum measures of justice demanded but leaves all the stakeholders dissatisfied and ‘*stuck*’ with an otherwise vital and well-intentioned but dysfunctional legal process.

3.3 Providers of legal aid and nature of services

There are also a variety of non-state mechanisms for providing legal aid. For instance, the Uganda Law Society offers pro bono services under the *Advocates (Pro Bono Services to Indigent Persons) Regulations, 2009*, which requires that lawyers provide a minimum of 40 hours annually of free legal services to indigent persons each year. Failure so to do so results in a fine of UGX 400,000 or a withdrawal of the lawyer’s practicing license. The pro bono scheme is a delegated function of the Law Council to the Uganda Law Society due to the former’s structural challenges, such as resources and manpower.

¹⁷ Supra note 14

¹⁸ JLOS Annual Performance Report 2012/13.

¹⁹ Supra note 14



The advantages of the pro bono legal aid services include its low cost and services delivered by professionals with adequate training. The disadvantages include the fact that the service is predominantly urban-centred and that there are no incentives to encourage lawyers to take on more cases, as it is perceived as a form of hard labour. Furthermore, the current delivery of pro bono services is donor funded. The proposed legal aid policy recognizes that pro bono services will remain part of the mixed model for delivering holistic legal aid in Uganda. According to the Uganda Law Society, at least 63% of the society membership is enrolled in to the pro bono scheme, and in 2014, the scheme handled 5,690 clients.²⁰

The Law Development Centre (LDC) operates a law clinic model of service delivery where post-graduate bar students and legal officers provide legal aid to indigent juvenile and petty adult offenders by representing them in Magistrates Courts under the guidance and supervision of a senior practicing lawyer. Apart from legal representation, the LDC clinic has programmes where offenders are diverted from the formal justice system to informal systems of dispute resolution. These include the diversion programme for juvenile offenders and reconciliation for petty adult offenders. It also operates mobile legal camps and is able to reach many indigent people at the grass root level. Awareness creation is also promoted in the camps. Although LDC is a public institution, the law clinic scheme is funded by development partners. The advantage of law clinics identified in the NLAP include providing useful training to law students and encouraging a public interest approach in young lawyers for their work. On the other hand, the model is constrained in Uganda because there is no tradition of law clinics in various universities in Uganda, primarily due to the lack of funding. In addition, University law clinics are not provided for under the regulations for provision of legal aid services for indigents.

There is also the Paralegal Advisory Services (PAS) that has been operational since 2005 in the criminal justice system under the Foundation for Human Rights Initiative. The service aims to educate persons who are in conflict with the law as well as communities with regard to the criminal justice system, procedures, basic laws relating to common offences, suspects'/ prisoners' rights and obligations; follow-up cases through the criminal justice agencies to increase case disposal; and link suspects and prisoners to their relatives and friends to facilitate quick access to justice. Prior to the PAS, paralegals were mainly community-based paralegals employed by various CSOs who addressed the focused needs and areas of the CSO's mandate. A 2007

²⁰ Uganda Law Society 2014 Annual Report (Uganda Law Society, 2015).

external evaluation of the PAS programme concluded that PAS has carved out a strategic niche in the criminal justice system.²¹ While interventions such as the *Chain Linked* and *Case Backlog* clearance programmes focus primarily on the supply side of the justice system, PAS has focused on ‘*chain linking*’ the demand side for indigents. Specifically, the paralegals in Uganda have innovatively engaged with higher justice agencies, such as the Resident State Attorneys (RSAs), the Court Registrars and the Magistrates.²²

PAS has made the criminal justice process ‘*user-friendly*’, thus reducing the distance between the poor and access to legal aid. The consultation conducted as part of this study in Northern Uganda revealed that in most cases, suspects, witnesses and potential sureties find it easier to confide in paralegals than law enforcement agents. In 2011/2012, the paralegal advisory services at the FHRI cost an estimated UGX 1.125 billion.²³ The proposed legal aid policy advocates the inclusion of paralegals in the delivery of legal aid to harness the advantages cited for holistic service delivery. This focus on paralegals under the NLAP is in line with legislation that is being developed in other African countries, including Malawi, Nigeria, and Tanzania.²⁴

Finally, civil society LASPs are associated under the Legal Aid Service Providers Network (LASPNET), which provides a coordinating role for over 47 organizations in over 70 districts.

The members of LASPNET include FIDA-Uganda, which has provided legal aid for the past 41 years and whose main target population are women and children, as they are considered more vulnerable. Indeed, due to its long-established reputation, according to national surveys, FIDA-Uganda is most frequently cited institution known for providing legal aid in Uganda.²⁵ Other LASPNET members include the Legal Aid Project (LAP) of ULS, which was founded in 1992 and currently runs 10 legal aid clinics across Uganda. The LAP offers representation as well as training for community paralegal service providers. The annual cost of running the LAP was UGX 1.02 billion, and at the end of 2014, the LAP had a staff of 74, which was composed of 32 lawyers,

²¹ PAS Evaluation, (2007).

²² The current activities of the PAS programme include support for (i) accessing police bond; (ii) diversion of cases away from the formal justice system; (iii) sensitization on legal matters and procedures for accessing justice; (iv) tracing sureties to assist the accused in obtaining bail; and (v) sensitizing communities (JLOS, 2015b).

²³ KPMG (2012) Democratic Governance Facility (DGF) Audit Report

²⁴ Moy (2012).

²⁵ Based on the 2013 NGBS, at least 38% of Ugandans who indicate knowing a legal aid institution cite FIDA Uganda (UBoS, 2014).



6 paralegals, 11 law clerks and 25 support staff members.²⁶ Criminal cases account for a substantial share of the cases handled by the LAP. In 2014, at least 30% of the 11,763 cases handled by the 10 LAP clinics were criminal in nature.²⁷ More recent legal aid providers, such as JCU, adopted the LAP model but have included additional services such as psycho-social support and operating a toll-free telephone service for JCU service..

LASPNET provides a range of primary and secondary legal services to members, including information sharing and management as well as capacity building. LASPNET has established itself as an effective and trusted co-ordination mechanism and central repository of accurate information on legal aid in Uganda. The proposed legal aid policy seeks to harness the efforts of civil society as complementary to state-funded legal aid to ensure that all persons in need of legal aid have access to it. As mentioned earlier, selected CSOs will receive resources under the proposed legal aid fund under the private public partnership arrangement.

The nature of services provided by LASPs in Uganda is much wider than the services offered by JCU. Table 2 shows the types of services offered by the 14 of the 16 LASPs supported by DGF in 2014/15. It is clear that most LASPs concentrate on a few major services using the primary approach.²⁸ The two leading services provided under the primary approach are mediation/legal assistance and court representation (at least 11 of 14 listed LASPs indicated provided these two specific services). The other major services are mobile legal aid clinics and training and coaching in self-representation. Only a few institutions go beyond primary approach to provide additional services such as psycho-social support, the training of community leaders and members of other JLOS institutions (e.g., police, judiciary and DPP) and the provision of legal information through SMS-based platforms. With regard to secondary approach, Table 2 shows that the provision of community outreach and raising awareness predominates in 9 of the 14 listed institutions providing this particular service. This is followed closely by both the conducting/sponsoring of radio programmes and distribution of Information, Education, and Communication (IEC) materials.

²⁶ Legal Aid Project of the Uganda Law Society Annual Report 2014 (Legal Aid Project, 2015)

²⁷ The focus on criminal cases is partly a result of the 2009 Supreme Court Ruling, which made serving more than 3 years on death row unconstitutional (Attorney General Vs Susan Kigula and 417 others). As result, the LAP has been working with various JLOS stakeholders to achieve the re-sentencing of 417 petitioners.

²⁸ Legal aid has primary and secondary approach. Primary involves mediation and court representation while secondary is the community outreach and empowerment programme.

Table 2: Type of services provided by DGF supported LASPs in 2014/15

Direct Services Provided	Legal Service Provider														
	PILAC	MCJL	PLA	FIDA	ULS	RLP	LDC/ LAC	UCLF	JCU	NUDIPU	ULA	PAS	FHRI	ULS Pro Bono	
Legal Aid															
Court representation															
Legal Assistance/ Advice/ Plea Bargaining/Pro-Bono Day															
Alternative Dispute Resolution															
Mobile Legal Aid Clinics															
Training/Coaching in self-representation															
Psycho-Social support /Counselling															
Legal aid by Human Rights advocates/ Volunteers/Paralegals															
Juveniles diverted at Court															
Assistance to get Prison bail/Police Bond															
Legal advice through toll free line															

Source: DGF Annual Report and interviews from stakeholders

Direct Services Provided	PILAC	MC-JL	PLA	FIDA	ULS	RLP	LDC/ LAC	UCLF	JCU	NUDIPU	ULA	PAS	FHRI	ULS Pro Bono
Prison visits/ Detention Decongestions														
Resettlement														
Detention monitoring (prison)														
Police follow up														
Prison visits/ Detention Decongestions														
Rural Self-Reliance Development Centre														
Training of Persons With Disability on Access to Justice														
Training of members District Land Boards/Area Land Committees (ALCs)														
Securing Community Service Orders														
Sentence Confirmation at Prisons														
Sentence mitigation														
Payment of fines														

Source: DGF Annual Report and interviews from stakeholders

Direct Services Provided	PILAC	MC-JL	PLA	FIDA	ULS	RLP	LDC/ LAC	UCLF	JCU	NUDIPU	ULA	PAS	FHRI	ULS Pro Bono
Referral for Pro Bono and LASPs														
Referrals from Court														
Former Death Row/ Kigula beneficiaries														
Duty Counsel scheme														
Sensitization/ Raising Awareness/ community outreach														
Radio programs														
Distribution of IEC Materials														
Training of staff/ Lawyers/ Labour Officers (e.g. under Pro Bono and LAP)														
Outreach in prisons/ Sensitization on Plea Bargaining														
Training of Community Leaders (e.g. LCs and Traditional Leaders)														
Radio Spots/Jingles/ Messages														
TV programs/Talk Shows														

Source: DGF Annual Report and interviews from stakeholders

Direct Services Provided	PILAC	MC-JL	PLA	FIDA	ULS	RLP	LDC/ LAC	UCLF	JCU	NUDIPU	ULA	PAS	FHRI	ULS Pro Bono
Provision of Legal info through SMS/Internet platforms														
Training for Police and Prisons Officers														
Issuing of policy statements in Newspapers/Pullouts														
Training of Post graduate Bar students/Sensitization of Law Students														
Mobile Legal Aid Clinics/Paralegal Clinics														
Training of community paralegals/leaders														
Conducting School Outreach														
Prison Outreach Programmes														
Training on Alternative Dispute Resolution														
Training on Psychotherapy														

Source: DGF Annual Report and interviews from stakeholders

Direct Services Provided	PILAC	MC-JL	PLA	FIDA	ULS	RLP	LDC/ LAC	UGLF	JCU	NUDIPU	ULA	PAS	FHRI	ULS Pro Bono
Partnership in Leadership Training														
Work-based awareness sessions 4 employees														
Legal aid bonanza														
Outreach by Human Rights advocates														
Training of Community Interpreters														
Training of Judiciary/DPP staff														
Psycho-Social support to groups														
Legal awareness at Police Stations														

Source: DGF Annual Report and interviews from stakeholders

4. Challenges in legal service provision in Uganda

Despite the presence of numerous laws targeting the provision of legal aid in Uganda (e.g., 1995 Ugandan Constitution, *Poor Persons Defence Act, 2000* and 2009 *Advocates (Pro Bono Services to Indigent Persons Regulations)*), access to legal aid remains limited, especially outside the formal justice system. Furthermore, available legal aid services, as mentioned earlier, are restricted to urban and pre-urban centres. The 2013 National Governance Baseline Survey showed that at least 19% of urban residents know at least one legal aid service provider, compared to only 10% for rural residents. Partly due to the urban bias, the number of people receiving legal services remains low. For instance, according to the 2014/15 DGF Annual Report, the 15 supported LASPs collectively handled 141,000 indigent clients directly and assisted 458,000 persons indirectly in 2014/2015 (see Table 3).



Table 3: Extent of Reach of DGF supported Legal Service Providers in 2014/15

Name of LASP	Number of direct beneficiaries			Number of indirect beneficiaries		
	Total	Male	Female	Total	Male	Female
1 Uganda Law Society Pro-bono	9,021	5,502	3,519	1,269	470	799
2 Uganda Law Society Legal Aid Project (LAP)	1,536	987	549	4,055	771	944
3 Muslim Centre for Justice and Law	785	374	411	69,823	367	508
4 Uganda Christian Legal Fellowship	1,902	1,576	326	19,485	9,584	7,348
5 Platform for Labour Action	11,664	7,014	4,650	35,281	12,013	23,268
6 Uganda Women Lawyers (FIDA)	3,986	937	3,049	846	293	510
7 Paralegal Advisory Services (PAS)	83,488	72,850	10,638	30,962	18,172	3,340
8 Justice Centre Uganda	21,904	13,891	8,013	250,825	93,087	75,566
9 Legal Aid Clinic of the Law Development Centre	2,721	1,582	1,139	3,524	1,833	1,291
10 Public Interest Law Clinic (PILAC)	61	38	23	1,636	864	771
11 Uganda Land Alliance	181	95	86	9,884	5,071	4,073
12 National Union of Disabled Persons of Uganda (NUDIPU)	169	93	76	26,958	530	328
13 Foundation for Human Rights Initiative	1,777	1,148	629	2,200	1,064	736
14 Refugee Law Project (RLP)	2,224	1,647	577	1,292	804	475
15 International Law Institute (ILI-ACLE)	208	132	76			
Total number of beneficiaries	141,627	107,866	33,761	458,040	144,923	119,957

Source: DGF Annual Report 2014/15

Notes: ¹ One supported institution (LASPNET) does not feature in the table due to the nature of activities it undertakes i.e. being a membership organization

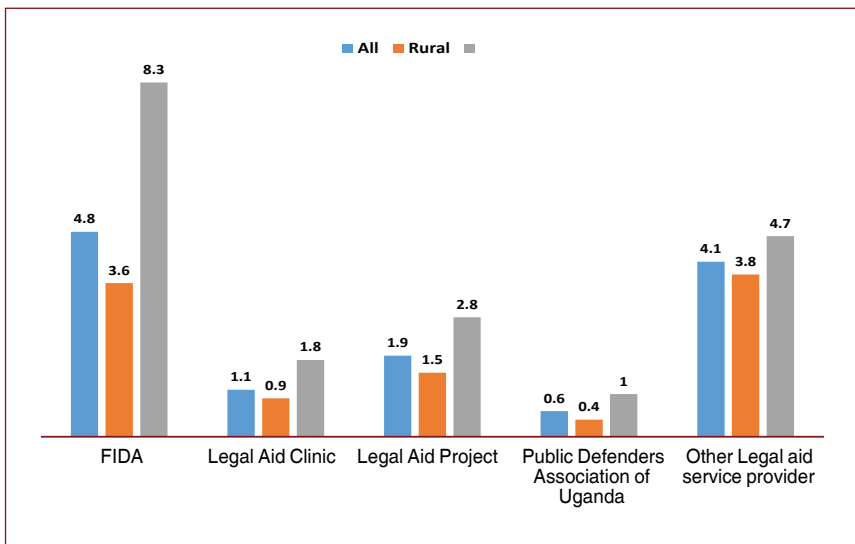
² The male and female numbers for indirect beneficiaries do not necessarily add up to the total due to challenges of establishing the gender of recipients of particular services e.g. Radio/TV programmes and Radio spot messages.

As mentioned earlier, the proposed NLAP has remained a draft for more than two years after its initiation. This partly indicates the limited appreciation of the benefits of legal aid from the central governments, despite the fact that legal aid has appeared twice as priority in the National State of the Nation Address. This may be due to the fact— unlike other publically provided social services e.g., education and health that are collectively provided— that legal aid is provided to individuals. As such, there is a lack of aggregation of collective voices to demand free legal services. Nonetheless, at the local level, there is appreciation of the benefits of legal aid. For instance, a number of district-level institutions provide various services e.g., Resident District Commissioners (RDCs) work with the Legal Aid Clinic of LDC, Uganda Prisons work with PAS, and the courts work with JCU. The above institutions provide free space to the listed legal service providers to operate within their premises. In this instance, lower-level government institutions offer complimentary legal services. Given the limited appreciation of legal aid at the central level, the expectation is that legal aid would grow from the lower levels, i.e., the local government, to the top. At this point, a framework through which legal aid is provided is required from government, i.e., to determine the level of service at the district/field office; (ii) the nature of the legal aid package; and finally, (iii) accessibility of LASPs. Overall, for the NLAP, the focus should be on access to legal aid services rather than determining who should be providing the service. Specifically, the focus should be on promoting early access to dispute resolution mechanisms.

There is also evidence to show that most Ugandans are unaware of the location or availability of legal aid providers. Figure 1, based on the 2013 NGBS, shows the extent to which Ugandans are aware of institutions that offer legal aid at the sub-county level. It is indicated that at least one in ten adults can cite knowledge of a legal aid institution. This relatively lower awareness may be partly explained by the limited presence of legal aid institutions at the lower levels of local government, i.e., below the district level (LC 5). Awareness of legal aid institutions is lowest in Western Uganda—approximately 5% of adults in the region report knowing of any legal aid organization. The relatively very low knowledge of legal aid in Western Uganda suggests that the proliferation of both state and non-state legal aid service provisions has been extremely unbalanced in Uganda. Overall, the results reported in Table 2 may partly reflect the distance between legal aid service providers and citizens.

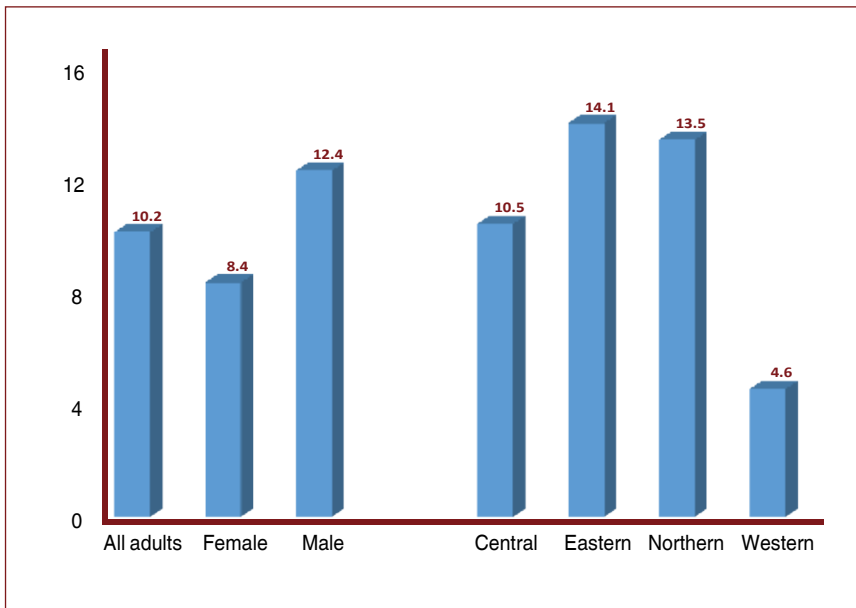


Figure 1: Awareness of legal aid service providers at the sub-county Level



Source: Author’s calculations from the 2013 NGBS by UBoS

With regard to knowledge of legal aid institutions, Figure 2 shows that most frequently cited institution that offers legal aid is the Uganda Association of Women Lawyers (FIDA). The relatively high awareness of FIDA by women may be explained by the fact that this particular institution focuses on indigent women—especially those in family disputes—where women are more likely to be the primary victims. Furthermore, urban residents are more likely to report knowledge about FIDA than rural counterparts. Apart from FIDA, the other legal aid providers cited include the Uganda Law Society Legal Aid Project (LAP) and LAC of the Law Development Centre, LASPNET, the Refuge Law Project (RLP), among others. At a regional level, knowledge of the legal aid project and clinics by males is highest in Northern Uganda—4% and 7%, respectively. The relatively higher knowledge of these institutions in Northern Uganda may be partly explained by the presence of a large number of NGOs in the regions that provide psycho-social support to communities previously affected by the Lord’s Resistance Army (LRA) conflict. Overall, males in Northern Uganda are generally the most knowledgeable of legal aid service providers—at least 26% of adult males in Northern Uganda cite knowledge of at least one legal aid service provider compared to 20%, 12%, and 10% for males in Eastern, Central and Western Uganda.

Figure 2: Most frequently cited organizations known that offer legal aid services, 2013 (%)

Source: Authors' calculations from the 2013 National Governance Baseline Survey by UBoS

On the other hand, as Uganda's population has expanded, disputes that require free legal assistance have expanded. For instance, contests over scarce resources—e.g. land — have increased (Deininger and Castagnini, 2006; Mabikke, 2011).²⁹ Additionally, the rates of family disputes — e.g., domestic violence and defilement cases — have remained very high and, as such, the need for legal aid services has increased (Uganda Police Force, 2015).³⁰ Furthermore, recent reports indicate a surge in the demand for legal aid services whereas, as mentioned earlier, only 18% of those who seek legal aid receive it.³¹ According to the 2013/14 JLOS Annual Performance Report, the JCU registered an increase in the number of people reached from 25,083 to 160,204. Furthermore, there was an increased number of women and people with disabilities seeking services from JCU. The Paralegal Advisory Services (PAS) assisted 7,071 petty offenders access justice; the Law Development Centre (LDC) Legal Aid Clinic helped 1,419 clients resolve cases through

²⁹ Deininger, K. and R. Castagnini (2006); Mabikke, S.B (2011).

³⁰ Uganda Police Force Annual Crime Report 2014 (Uganda Police Force, 2015)

³¹ Supra note 4

reconciliation; and the Uganda Law Society reached out to a total of 44,429 people, out of which 12,555 cases were registered and handled. However, the challenge of sustainability remains because the majority of service providers are donor dependent, hence the need for the government to seriously consider the provision of legal aid services.

As mentioned earlier, Uganda, similar to other low income countries, has very few lawyers. On the other hand, legal aid is traditionally labour intensive, but most institutions may have legal officers at every duty station. The NLAP proposes to extensively use paralegals as means of addressing the shortage and reducing the cost of legal aid service provision. Beyond the proposals offered by NLAP, there is need to consider the use/adoption of community paralegals to substantially reduce the cost of service provision. In the case of failure to resolve a dispute, community paralegals can refer cases to higher LASPs. Previous evidence shows that there is huge demand for services offered by community paralegals. Given that community paralegals are mainly volunteers, the overall cost of their engagement is lower in comparison to wage costs of maintaining paralegals.³²

³² Based on interviews conducted as part of this study, a typical community paralegal can be facilitated by way of providing (i) a bicycle; (ii) UGX 20,000 per month for communication; UGX 50,000 per month for transportation; and stationary to enable him or her to draft judgments. On the other hand, as shown in Table 3, a paralegal's salary in public service costs average UGX 670,000.

5. Benefits of legal aid

5.1 Addressing land conflicts

One of the most important benefits of legal aid relates to addressing land rights, especially for women. In Uganda, similar to most agrarian countries, land is the most important asset held by poor households. However, the process of land acquisition is predominantly conducted through inheritance, and in a patriarchal setting, women are less likely to inherit land or other resources from either their own family or from the husband's family.³³ Consequently, land disputes are everyday occurrences in Uganda, and in some instances, these disputes result in clans conflicting with vulnerable groups, such as women and children relatives. According to the 2013 NGBS, at least 2.3 % of adults report having had land disputes in the 12 months prior to the survey, and this translates to 95,300 land cases annually.³⁴ As such, land matters feature prominently among cases handled by legal aid service providers.³⁵ The poverty and social impact analysis of the Uganda national land use policy showed that female-headed households are the most profoundly affected by land conflicts, either through concerns about future conflicts (14%) or involvement in current (3.3%) and resolved conflicts (5.7%).³⁶ The same study further shows that half of all land-related conflicts involve family members—either the head of household or the spouse's family or other relatives. Apart from family-related land conflicts, land appropriation by powerful and well-connected individuals has been associated with evictions, and forceful evictions have, in some instances, resulted in deaths among warring parties. This affects overall land tenure security across the country and affects development—as the threat of eviction impacts of realized investments on land.³⁷ In addition, it exacerbates social exclusion—given that some of the affected groups (e.g. widows and orphans) are the most vulnerable sections of society. Finally, a substantial proportion of the transfers do not have documentary evidence, and this can result in different interpretations of wills.

³³ Deininger and Castagnini (2006).

³⁴ The NGBS survey asks each individual aged 18 years and above whether any property was taken against his or her will. We define a land-related conflict as one in which either party cites land as one of properties taken.

³⁵ Based on the 2014 evaluation of Justice Centre Uganda, the three most frequent type of cases handled are (i) family disputes (e.g., matters relating to administration of estates and issues dealing with the maintenance and custody of children); (ii) land disputes; and (iii) criminal cases as well as petty offences (Hatchile Consult, 2014).

³⁶ The Poverty and Social Impact Analysis of the Uganda National Land Use Policy (Economic Policy Research Centre, 2009).

³⁷ Deininger and Ayalew (2008)

Indeed, a number of government departments have recognized the challenges created by land conflicts and have established specialized units dealing with land matters. For instance, since 2008, the Uganda Police Force has had a land protection unit, and the State House has a Directorate of Land to handle such matters. Despite the presence of such organs to address land conflicts, the challenge persists. Previous studies show that land conflicts in Uganda negatively impact land-related investments, as neither of the warring parties can effectively utilize the land under dispute until settlement.³⁸ Furthermore, overtime, the time required to handle land cases has nearly doubled – especially in the High Court and Chief Magistrate Courts. According to the 2014/15 JLOS Performance Report, the average time of disposal of land cases at the High Court increased from 26.7 months in 2012/13 to 43.7 months by 2014/15, while those in the Chief Magistrate Courts increased from 5 to 10.3 months in the same period. Indeed, only 22% of the 29,118 land cases were resolved in 2014/15.³⁹ In the interim, people commit many crimes (e.g., murders) arising from non-settlements or improper settlements relating to land disputes in Uganda.⁴⁰ As a consequence, a number of ‘un-qualified’ officials – e.g., RDCs – have handled civil disputes involving land, sometimes to the detriment of contesting parties. As such, there is an urgent need for legal aid to support vulnerable groups engaged in land conflicts. It is not only the courts of law that are overwhelmed by land cases— even the Local Council (LC) system is inundated with land cases. The 2014/15 JLOS Annual Performance Report indicates that the Ministry of Local Government survey of LC courts in 30 districts revealed that land was the most frequently registered topic of civil cases, followed by debt recovery and marital separation.⁴¹

There is extensive evidence to show that legal aid— especially alternative dispute resolution (ADR)— has supported the strengthening of land rights for vulnerable groups. For instance, a study based in Uganda and Tanzania shows that community-based legal aid activities were able to change cultural norms and attitudes that affects women’s access to land rights as well as improved access to services and information.

³⁸ Deininger and Castanagini, 2006; Mwesigye and Matsumoto, 2016

³⁹ Supra Note 25.

⁴⁰ According to the 2015 Annual Police Crime Report, the 26% increase in the number of registered homicides between 2012 and 2014 (from 1911 to 2421) is partly attributed to land and property disputes as well as dissatisfaction with the legal process or delayed/omission of justice (Uganda Police Force, 2015).

⁴¹ Supra note, 4

5.2 Supporting vulnerable group access justice

The provision of legal aid is key to the access to justice in any country, and there are numerous benefits of providing such services. According to the World Bank, the availability of publically provided legal aid, especially in developing countries, is associated with minimal occurrences of due process violations and the reduced duration of both pre-trial detention and case resolution.⁴² Furthermore, in some instances, legal aid is targeted at vulnerable groups, such as women and children, who generally face impediments in accessing legal services. Evidence shows that legal aid services to such vulnerable groups reduce social exclusion and increase the likelihood of family maintenance and the reduction in re-occurrences of domestic violence.⁴³ Other studies show that legal aid interventions empower communities and this indirectly improves their welfare status through the allocation of more resources to productive activities.⁴⁴

5.3 Providing protection under the law

One of the major benefits of access to legal aid is that it enables a substantial proportion of the citizens to access protection under the law. Globally, an estimated 4 billion people (approximately 55% of the world's population) live outside the protection of the law.⁴⁵ Previous studies show that a large population 'without legal identity' cannot participate fully in national development. A growing body of evidence shows that access to justice can lead to noticeable benefits, including greater personal safety and welfare for the billions excluded from the protection of the law.⁴⁶ In the case of Uganda, although a large proportion of the citizens are aware of the right to access justice, they are nonetheless unaware of the institutions that may offer help in case of disputes. Specifically, according to the 2013 NGBS, nine out of every ten Ugandans are aware of their right to seek justice.⁴⁷ On the other hand, most of those who are aware of their rights predominantly cite informal dispute resolution mechanisms such as Local Councils (LCs) as opposed to courts of law. Generally, the poorest Ugandans are less likely to be aware of judicial institutions or if they do have adequate means to access the institutions and their services. Consequently, the poorest sections of society are less likely to use the courts due to the lack of knowledge of their presence.

⁴² World Bank (2003)

⁴³ Farmer, A and J. Tiefenthaler (2003)

⁴⁴ Golub, S and K. McQuay (2001)

⁴⁵ UN Commission on Legal Empowerment for the Poor (2008)

⁴⁶ Sandefur, J and B. Siddiqi (2013)

⁴⁷ Supra Note, 5.

On the economic front, legal aid contributes to upholding the rule of law and national development in many ways – through providing free services to poor litigants, saving the courts from hearing unresolvable cases, and reducing the backlog on detention. Furthermore, global evidence shows that legal aid service providers often operate in areas where private lawyers are missing and focus on sections of society that face specific vulnerabilities, e.g., women, children, and persons with disabilities (PWDs).⁴⁸ In addition, there is compelling evidence that the investment in legal aid by the state is cost effective as well as a viable vehicle that will deliver economic development in tandem with the national development priorities. For instance, previous authors have argued that this may not necessarily be true, especially for legal aid in the pre-trial stage.⁴⁹ They propose that there are instances where the proportion of defendants held in detention before trial as opposed to being released minimizes costs. They contend that if there is a significant increase in the number of defendants held in detention pre-trial, the cost of incarceration and loss of freedom (e.g., employment, education, and family) exceed the benefits of freedom and the averted costs of new crimes and failure to appear while on pre-trial release. In Uganda, this has been affirmed by reports of the Paralegal Advisory Services (PAS) with regard to habitual offenders who are always in and out of detention to the extent that services are denied to such defendants.

There are immense advantages to extending legal aid across the country, especially in low-income settings. A survey of legal aid in Africa⁵⁰ observed that a low number of lawyers, together with the high cost of their fees, made it unlikely that low-income individuals could afford to retain the services of a lawyer in court. Presently in Uganda, legal services are concentrated in the urban centres. As mentioned earlier, at the end of 2014, Uganda had approximately 2,088 advocates registered with the Uganda Law Society; however, the number in actual practice is much lower. There is an acute shortage of legal practitioners in rural areas of the country, with the vast majority of lawyers (estimated 85%) being concentrated in Kampala and most of the others serving the other main towns. It is estimated that approximately 16% of the entire country has access to full-time legal representation by lawyers. This means that approximately 84% of the population in Uganda does not have adequate access to lawyers and have to rely on other forms of legal support. On the other hand, attempts at self-representation hinders court processes and is associated with numerous adjournments leading to increased court-cases backlog.

⁴⁸ United Nations (2011)

⁴⁹ Bowlesand Cohen (2008)

⁵⁰ Supra note 47.



5.4 Empowerment and Accountability

A major outcome of receiving legal aid is empowerment. According to NAMATI, legal empowerment is defined as *'giving people the power to understand and use the law'*.⁵¹ There is extensive evidence to show that legal empowerment benefits vulnerable groups. For instance, a study in Mexico showed that NGOs in the country resulted in significantly higher applications for early release based on awareness of the various provisions of the Mexican Law for Transparency and Access to Information and the fact that it is possible to receive parole for good behaviour. Based on the law, prisoners were able to acquire personal information on their behavioural status and anticipated process for release. By 2009, at least 40% of the prisoners aided by the NGO were able to secure early release from prison.⁵² As such, legal empowerment can significantly improve the welfare of detainees. Even in Africa, it has been shown that the provision of independent legal aid services in prison enables prisoners to understand their position, reduces tensions and helps propel cases that have become stuck or overlooked.⁵³ Indeed, the 2004 Lilongwe Declaration recognizes the societal benefits that result from the elimination of unnecessary detention, including the speedy processing of cases, fair and impartial trials and the reduction of prison populations.⁵⁴

Beyond increasing the possibility of parole, legal aid— especially legal aid provided by paralegals — has been documented as increasing accountability among citizens. A study in Liberia showed that its mobile paralegal service reduced bribes paid to police officers or other public officials by 10 percentage points.⁵⁵ There is also evidence from Uganda to show that the paralegal system offers considerable benefits. According to the 2010 evaluation of the implementation of the PAS strategy, paralegals enabled an average of 2,425 detainees per month to be released from police cells and prisons, either temporarily or permanently, thus aiding decongestion of detention centres.⁵⁶ Furthermore, the PAS was able to catalyse changes within criminal justice institutions, e.g., ensuring daily suspect parades at police stations and opening duplicate files when prisoners are transferred to minimize file loss. Perhaps the most significant achievement of the PAS was to demonstrate that it is possible to provide legal advice and assistance to detainees in the criminal justice system— individuals who would otherwise have no such access— at

⁵¹ Godwin and Maru (2014)

⁵² Amparán (2009)

⁵³ Supra note 47.

⁵⁴ Supra note 9

⁵⁵ Supra note 8

⁵⁶ Law and development Partnership (2010)



a reasonable cost, estimated at US\$2.60 per person per advice session. As mentioned earlier, there are calls for countries with very few lawyers to enact legislation to allow paralegals to represent clients in court.⁵⁷

5.5 Improving the efficiency of the court system

The provision of legal aid leads to considerable direct benefits to the justice system by increasing the efficiency of the system and the courts. Those accessing legal aid assistance do not have the funds and often do not have the information to adequately navigate the justice system. There are a number of areas where legal aid provides efficiency benefits to the justice system, including the resolution of legal issues at an early stage and the appropriate streamlining of matters through the provision of legal advice, information and education; the diversion of cases from the courts toward dispute resolution mechanisms, e.g., mediation; and the increased speed of court processes by having duty lawyers on hand to help potential self-represented litigants address the court and present relevant information. As such, the avoidance of costs to the justice system represents a considerable benefit from legal aid. In Malawi, the introduction of the paralegal programme significantly reduced the rate of excessive pre-trial detention. Specifically, the proportion of the prison population on remand declined from 35.4 % in 1999 to 17.2% by 2007.⁵⁸

The current performance of the Ugandan judiciary indicates that it is not functioning efficiently, as evidenced by the huge case backlog. The 2014 annual police report indicates that by the end of 2013, a total of 44,087 cases were taken to court, out of which 13,099 cases secured convictions, 1,125 defendants were acquitted and 6,781 cases were dismissed, while 23,082 cases were still pending.⁵⁹ This large case backlog was exacerbated by high incidence of crime, which shows that the judiciary is not efficient.⁶⁰ As such, the development and implementation of a national legal aid policy alongside legal aid legislation would mean that more people have access to legal aid, which involves diversion from the formal justice system as well as expediting access to justice for those in the justice system. This would greatly contribute to the efficient and effective functioning of the Justice Law and Order Sector (JLOS), hence positively impacting the national development agenda. Furthermore, for

⁵⁷ Supra note 8

⁵⁸ Msiska, C (2008)

⁵⁹ Supra note 25

⁶⁰ Unfortunately, due to data constraints, it is not possible to accurately estimate the cost of the judiciary's inefficiency to Uganda's development. Additionally, an expected cost of inefficiency is the loss of employment opportunities. However, in an economy like Uganda, which is characterized by high rates of underemployment, one cannot accurately establish cases in which early release from detention would translate to immediate employment opportunities.

the judiciary in Uganda, legal aid provides an avenue for a fair trial. Without legal aid, the judiciary would continue to have a poor reputation regarding perceived corruption as perceived by the public, e.g., bush lawyers who create a perception among the accused that the judge has consented to receive a bribe.

5.6 Decongestion of detention facilities

Another major benefit of legal aid relates to reducing the overall costs of incarceration/detention. There are significant economic costs related to pre-trial detainees and their families, as measured by income and employment, education, incarceration-related expenses and long-term effects.⁶¹ People detained while awaiting trial cannot work or earn income while detained and frequently lose their jobs — often after only a short period of absence from work. If the period of detention is lengthy, the detainee’s future earning potential is also undermined. Many pre-trial detainees are young adults, some of whom will have their education interrupted as a result of their detention, making it more difficult to find a job upon release and limiting their lifetime earnings. From the state side, pre-trial detention costs money. The estimates for Uganda indicate the average daily cost of maintaining a prisoner at about UGX 3,000, and for the estimated 25,000 prisoners on remand, this translates to daily expenditures for remand prisoners of UGX 73 million or UGX 26.8 billion annually.⁶²

Furthermore, detention has huge social costs. For prisons in several African countries, incidents of vandalism and massive jailbreaks have been reported, which are often linked to overcrowding and long delays in prosecution.⁶³ These incidents were associated more with a cry for justice than poor living conditions. The provision of primary justice services in prisons in Africa has reduced the risk of such violence occurring, as alluded to in the 2004 Lilongwe Declaration. On the other hand, the results of police investigations inform the decisions of prosecutors and judges. Thus, a system providing legal aid at the pre-trial stage is likely to ‘raise the bar’ in terms of the quality of evidence gathered, reducing procedural errors in gathering evidence, abuse of discretion or mistreatment of suspects, timeliness of collecting data to match statutory limits, etc. Legal aid may serve as an incentive for the police to investigate cases more efficiently and with fewer errors.⁶⁴ This enables fair and impartial court trials.

⁶¹ OSJI & UNDP (2011) The socioeconomic Impact of Pretrial Detention.

⁶² 2015/16 JLOS Budget Framework Paper (JLOS, 2015a).

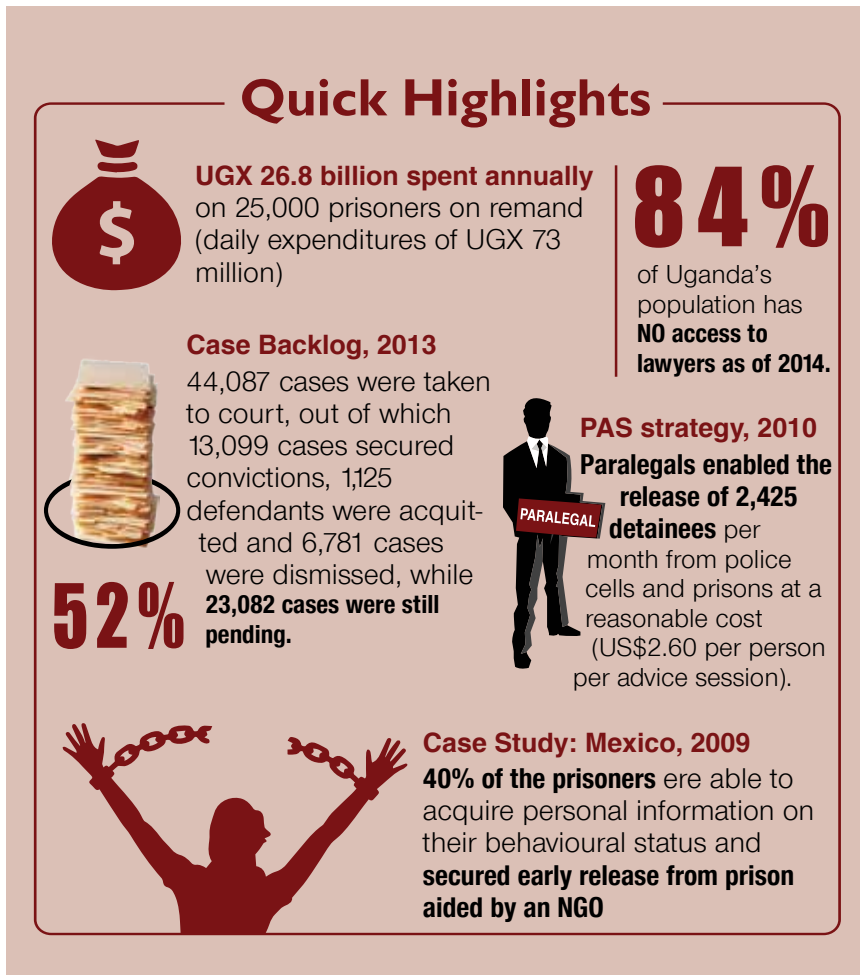
⁶³ Supra note 47

⁶⁴ UN Commission on Legal Empowerment for the Poor (2008)



5.7 Provision of employment

In addition to improving the efficiency of the court system and decongestion of detention facilities, providing legal aid as proposed in the NLAP could offer jobs. For instance, graduates leaving university and law schools getting employed in public service. The scheme will also increase the employment of non-lawyers e.g., staff and community paralegals and hence relieve part of burden of unemployment. Finally, once the NLAB is established, it can offer internship opportunities for training future legal practitioners.



6. Cost Benefit Analysis of the NLAP

6.1 Cost of operationalizing the NLAP

A second major objective of this study is to estimate the cost of implementing the NLAP in the medium term. We consider a 5-year horizon to be consistent with the current medium term expenditure framework for the government budgeting process. The national legal aid body that is envisaged is similar in stature to the current Directorate of Public Prosecutions (DPP), which is staffed by either state attorneys or public defenders. Unlike the DPP, it is envisaged that the NLAB will have a mandate beyond defending prosecution to the provision of legal advice as well as psycho-social support.

Second, in the medium term, we consider the establishment of public defenders offices at the 13 High Court circuits and having a Resident State Defender similar to Resident State Attorney. These offices will be staffed by variety of personnel, including the State Attorney or public defender, paralegals, and probation officers. Furthermore, we use the current Inspectorate of Government (IG) salary structure as the basis for staff wages assigned under the NLAB. For the legal aid oversight role, we envisage a restructured Law Council with salaries similar to the current IGG rates. The overall proposed structure and salaries are described in Table 4 below.



Table 4: Proposed Salary Structure for NLAB and Law Council

(A) National Legal Aid Body

	Staff Numbers Required	Individual Monthly Salary (UGX)	Monthly Salary all staff (UGX)	Annual Salary all staff (UGX)
Director of Legal Aid	1	15,005,000	15,005,000	180,060,000
Deputy Director of Legal Aid	1	11,253,750	11,253,750	135,045,000
Assistant Director of Legal Aid	1	8,684,193	8,684,193	104,210,316
Principal Legal Officers	2	6,219,216	12,438,432	149,261,184
Senior Legal Officers	3	4,723,551	14,170,653	170,047,836
State Attorney	4	3,646,429	14,585,716	175,028,592
Legal Assistant	4	1,527,118	6,108,472	73,301,664
Other Professional Staff	3	1,527,118	4,581,354	54,976,248
Administrative Staff	2	1,298,322	2,596,644	31,159,728
Administrative Staff	2	1,033,972	2,067,944	24,815,328
Sub Total	23		91,492,158	1,097,905,896

(B) Legal Aid Field Offices

	Required Number	Total Number of staff at 13 High Court Circuits	Monthly Salary (UGX)	Monthly Salary all staff (UGX)	Annual Salary all staff (UGX)
Principal Legal Officer (Head)	1	13	6,219,216	80,849,808	970,197,696
Senior Legal Officer	1	13	4,723,551	61,406,163	736,873,956
State Attorney	2	26	3,646,429	94,807,154	1,137,685,848
Paralegal staff	5	65	1,527,118	99,262,670	1,191,152,040
Psycho-Social officer	1	13	2,091,705	27,192,165	326,305,980
Probation officer	2	26	2,091,705	54,384,330	652,611,960
Administrative Staff	1	13	1,298,322	16,878,186	202,538,232
Administrative Staff	1	13	1,033,972	13,441,636	161,299,632
Sub Total	14	182		448,222,112	5,378,665,344

(C) Law Council

	Required Number	Monthly Salary (UGX)	Monthly Salary all staff (UGX)	Annual Salary all staff (UGX)
Director	1	15,005,000	15,005,000	180,060,000
Principal Legal Officer	1	6,219,216	6,219,216	74,630,592
Managers	1	8,684,193	8,684,193	104,210,316
Senior Legal Officers	6	4,723,551	28,341,306	340,095,672
Attorney	3	3,646,429	10,939,287	131,271,444
Administrative Staff	2	1,298,322	2,596,644	31,159,728
Administrative Staff	1	1,033,972	1,033,972	12,407,664
Sub Total	15		72,819,618	873,835,416

Sources: Salaries for NLAB and expanded Law Council are based on prevailing Inspectorate of Government (IGG) salaries

Based on the above proposed staff and salary structure for both the NLAB and Law Council, we estimate the costs of operationalizing the NLAP in the first 5 years of operation. In addition to the salaries for staff, the proposed costs take into consideration the capital expenditures that are required to either (i) establish the agency (NLAB) or (ii) expand an existing institution (Law Council). In addition, we take into consideration the running costs of NLAB, Law Council, and legal aid field offices. Table 5 shows that the estimated cost of operationalizing the NLAP in the first year are **UGX 17.8 Billion**. From this amount, approximately 68% would be salaries for the various recruited legal aid and Law Council staff, 7% would be set-up costs, and 24% would be operating expenses.



Table 5: Estimated cost of Establishing National Legal Aid Agency in Uganda (UGX)

Activity	Required Number	Estimated annual cost – initial year	Notes
A Capital costs of establishing secretariat	1	664,000,000	
B Capital costs for establishing field offices	13	0	(Cost neutral: to use existing JLOS premises at High Court Circuits)
C Capital costs for setting up field offices (at High Court Circuits)	13	585,000,000	Cost of furnishing new offices: Based on stated cost of UGX 45 million quoted by the DPP (Source MJCA Ministerial Policy Statement 2014/2015)
D Capital costs of expanding the Law Council	1	199,200,000	Cost of furnishing new offices: Based on Hatchliles, 2014
E Wages for Secretariat of the National Legal Aid Body	19	1,097,905,896	(Based on the current IGG salary structure)
F Wages for Law Council	15	861,427,752	(Based on the current IGG salary structure)
G Wage for Field Legal Aid Offices of NLAB	169	11,772,271,680	
H Running costs for the NLAB	1	426,165,250	Assumed 12.5% of DPP headquarter non-wage expenditures
I Running costs for the Law Council	1	324,385,000	Projected to increase by 150% from current running costs
J Running costs for the Legal Aid field offices	13	966,958,125	
K State Brief Scheme		933,200,000	Maintained at 1% of the judiciary budget
Estimated total cost of implementing the NLAP in the first year (UGX)		17,830,513,703	

Sources: 2014/15 JLOS Ministerial Policy Statement, 2015/16 Background to the Budget (MFPED, 2015) as well as own estimates based on the following

Notes: 1. Wages are based on rates in Table 2 using DPP salaries as bench marks

2. We assume that the allocation to cooperating partners is not more than 15% of total allocation to the national legal aid body

3. The cost of the State Brief Scheme is estimated as 1% of the Judiciary costs as stipulated in the JLOS Strategic Investment Plan. The statutory cost of the Judiciary was projected at UGX 93.3 Billion for the 2015/16 Financial Year.

6.2 Cost Benefit Analysis estimates

The following sub-section estimates the costs and benefits of implementing the national legal aid policy. Overall, the benefits of providing legal aid in Uganda can be summarized as follows:

- 1) Reduction in time spent in pre-trial detention facilities, e.g., in police and prisons
- 2) Reduced number of inmates on remand in prison
- 3) Reduction in both the direct costs of accessing the courts as well as the costs associated with punitive formal system remedies (e.g., by using paralegals instead of lawyers).
- 4) Reduction in court time (court time avoided+ court cases diverted)
- 5) Employment-related benefits (post-detention productivity)
- 6) Provision of psycho-social support to vulnerable groups
- 7) Proving access to justice can lead to greater personal safety and material well-being for citizens living outside the protection of the law.

Following previous studies examining the cost-benefit analysis of legislation (e.g., Shanahan, 2011), we estimate the Net Social Benefits (NSB) of the NLAP policy.⁶⁵ In particular, we estimate the following equation:

$$NSB_1 = \sum_{t=1}^n \frac{b_i(t) - c_i(t)}{(1 + r)^{t-1}}$$

Where $b_i(t)$ are the benefits in monetary terms derived in year t , and $c_i(t)$ are costs in money terms in year t ; $(1 + r)^{t-1}$ is the discount factor at annual interest rate r , and n = the lifetime of the policy (assumed to be 5 years in the medium term). Information used in the assessment relates to the cost of court time saved, the cost of setting up and running the National Legal Aid Agency, expanding the law council and supporting cooperating partners. Other information relates to the average cost of detention; the proportion of the prison population on remand and the effect size, i.e., expected reduction in detention rates as a result of implementing the NLAP. The above information was obtained from interviews of key stakeholders as well as from secondary sources (i.e., published reports from JLOS and LASPs). The assumptions used to estimate the CBA of implementing the NLAP are outlined below.

⁶⁵ Shanahan(2011)

Box 1: Assumptions – National Legal Aid Body

- There will be an initial cost for setting up the National Legal Aid Body Secretariat and legal aid field offices.
- A restructured Law Council will provide oversight to the NLAB as well as non-state legal service providers.
- Initially, 13 field offices will be established. The number of field offices can be gradually increased based on demand 5 years after establishing the NLAB.
- The number of legal aid field offices is guided by the available 13 High Court circuits.
- Finally, in addition to the costs of running the National Legal Aid Body, we also consider the costs of continuing to operate the State Brief Scheme and providing psycho-social support in each magisterial area using paralegals.

Source: Based on various interviews of legal aid practitioners.



Table 6: Key inputs into the calculation of benefits

(A) Civil Land Cases	
Estimated number of reported civil cases annually	34,832
Estimated cost of resolving a civil dispute (UGX: 2015 prices)	87,500
Estimated Benefits of resolving civil cases	3,047,800,000
(B) Prisons	
Total Prison population (Daily population)	45,534
Proportion of inmates on remand	55%
Average length on remand (Capital: Months)	10.95
Average length on remand (Petty offences: Months)	2.5
Average daily cost of maintaining inmates in Prison	2,929
Estimated Annual Cost of maintaining remand prisoners (UGX)	26,775,650,000
Effect size: Reduction in population under detention	7%
Estimated reduction in spending due to released inmates from remand (UGX)	1,874,295,500
(C) Courts	
Proportion of cases that are more than 2 years	63%
Crime Rate per 100,000 persons	270
Warder/Prison Rate	10
Case load per Judge	1250

(D) Police	
Number of cases investigated annually	99,959
Number of cases submitted to DPP	60,853
Estimated number of detainees in police custody	39,106
Effect size: Reduction in population under detention	7%
Estimated Reduction in spending due to detainees released (UGX)	2,926,732,065
(E) Employment	
Released Police Detainees: Employment Benefits (Assuming daily wage of UGX 5,000)	4,995,791,500
Prison Inmates Released Employment benefits (UGX)	3,199,332,675

Notes: The estimated number of civil land cases are based on calculations from the 2013 NGBS for persons who experienced conflicts regarding land/property with either family or community member. We consider those who report such conflict to established authorities and not either clan heads or religious leaders. We assume that it is this category that will seek legal aid services. Cost per case is based on the IFPRI survey of 2012 that reported an average cost of US\$ 25.

The costs and benefits of the proposed NLAP discussed in the preceding sections are summarized in Table 7. The combined cost of the analysed proposals is UGX 17.8 billion in the first year of the implementing the policy. The costs decrease to UGX 17.4 billion for the subsequent year. The difference is due to the capital and set-up costs for various legal aid institutions. Such expenditures are considered as one-offs in the analysis. On the other hand, expenditures increase slightly in the following years due to allowances for inflationary changes. Due to the large initial capital outlay, the net benefits are only accrued after the first year of implementation. Overall, 5 years after the implementation of the policy, the net present value is positive, i.e., the accumulated benefits outweigh the costs. The benefits increase from UGX 7.9 Billion in the first year to UGX 16.6 billion by the fifth year.



Table 7: Costs and benefits of implementing National Legal Aid Policy proposals (UGX, Millions)

Regulatory item	Description of cost/saving	Year 1	Year 2	Year 3	Year 4	Year 5
Estimated costs						
National Legal Aid Body Secretariat	Cost of set up and operation	2,188	1,616	1,696	1,781	1,870
Legal Aid field offices	Cost of set up and operations	13,324	13,504	14,179	14,888	15,632
Law Council	Cost of operation	1,385	1,257	1,320	1,386	1,455
State Brief Scheme	Cost of operation	933	989	1,049	1,111	1,178
Total cost		17,831	17,365	18,243	19,166	20,135
Estimated Benefits						
Individuals: Civil cases	Resolution and compensation as well as reducing the number of legal problems faced	3,048	3,142	3,240	3,340	3,444
Police	Reduction in detention in police cells	2,927	3,219	3,541	3,895	4,285
Prisons	Reduction in population on remand (i.e. pre-trial detention and remand)	1,874	2,062	2,268	2,495	2,744
Courts	Reduction in court time (Court time avoided+ Court cases diverted)	3,805	4,186	4,604	5,065	5,571

Individuals	Employment related benefits (Post detention productivity)	8,195	9,015	9,916	10,908	11,998
Individuals	Receipt of Psycho-social support	1,862	2,048	2,253	2,478	2,726
Government	Benefits of using paralegals instead of legal officers at magistrate districts	2,630	2,893	3,182	3,500	3,850
Uganda Law Society	Pro-Bono service	1,434	1,578	1,735	1,909	2,100
Total Benefits		25,775	28,142	30,739	33,590	36,718
Net Benefits		7,944	10,777	12,496	14,424	16,583

Sources: JLOS BFP 2015/16 for population under detention; Costs of court time saved based on Justice Centres Uganda (2014).

Notes: Our assumed effect size is a reduction in population under detention of 7%. For Prisons, we consider only the population on remand in the calculation. Assume civil cases increase by the rate of population growth of 3.01%

7. Conclusions

This study estimates the costs of operationalizing the proposed NLAP. We find that it will cost UGX 17.8 Billion to establish and run the various legal institutions proposed under the policy. The cost is affordable as it is in the range of what the government spends on similar legal service providers annually, such as the DPP. The largest share of the initial costs will be wages. The proposed wages are bench-marked on current public sector wages for legal service providers, notably the DPP and IGG. The initial cost is relatively low due to our proposal to roll out legal aid field offices to only the existing High Court circuits. As such, in the first 5 years, only 13 legal aid field offices are to be established. Nonetheless, the number of offices can be gradually increased in the long run. Furthermore, in line with the prevailing complementarities offered by the judiciary to JCU, we assume no capital costs for establishing legal aid field offices. As such, it is possible to implement the proposed NLAP in its current form.

In terms of the costs and benefits, the net social benefits are positive for five years and will increase overtime due to expected gains in employment benefits. Apart from individual employment benefits, the other sources of benefits of operationalizing the NLAP arise from reducing court time as well public wage gains from tasking more paralegals instead of lawyers with offering legal advice.

The paper shows that there are immense benefits from providing legal aid as well as implementing the proposed NLAP. First, as highlighted above, the cost of maintaining the status quo is very high to indigents and vulnerable persons. Additionally, without expanded and publically provided legal aid, it is unlikely that the backlog in the judiciary will be substantially reduced. Finally, having LASPs accessible would reduce the perceived or actual corrupt practices associated with the courts.

The study also notes that a substantial proportion of legal aid services is donor financed and is likely to continue even after the implementation of NLAP. At the moment, what is required from the government is a framework through which both state and non-state legal aid will be provided. Specifically, the government has to establish the nature of the minimum legal aid package provided by the different LASPs as well as the level at which the local governance structure will improve the individual's access to legal aid.



Finally, because legal aid is traditionally labour intensive and there are relatively fewer lawyers available in comparison to the demand for legal services, it is necessary to consider the adoption of community paralegals to substantially reduce the cost of service provisions. For the NLAP, the focus should be on access to legal aid services rather than deciding on who should be providing the service. The focus should be on promoting early access to dispute resolution mechanisms, and community paralegals offer the best opportunity for quick dispute resolution.



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Appendix

Appendix 1: Persons consulted during preparation of draft report

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14	Oyeruth Jerry	State Attorney Gulu
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16	Susan Alupo	Refugee Law Project
17	Rachel Odoi-Musoke	Justice Law and Order Sector
18	Agnes Wandera	Law Development Centre
19	Susan Okalany	Directorate of Public Prosecutions
20	LASPNET Secretariat	LASPNET

Appendix 2: Persons who validated this report



Attendance list for the Validation Meeting of the Research on the Cost Benefit Analysis for the National Legal Aid Policy Thursday 21st January 2016 at Hotel Africana, Kampala

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