



LASPNET
LEGAL AID SERVICE PROVIDERS' NETWORK

REPORT ON COST-EFFECTIVE LEGAL AID MODELS



2021

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LIST OF ACRONYMS

APP	Africa Prisons Project
ASF	Avocats San Frontiers
BFL	Barefoot Law Uganda
CJAF - UG	Community Justice and Anti-Corruption Forum
CLV	Community Legal Volunteer
CSO	Civil Society Organization
FIDA (U)	Federation of Uganda Women Lawyers
FHRI	Foundation For Human Rights Initiative
HiIL	Hague Institute for the Internationalization of Law
HRAPF	Human Rights Awareness and Promotion Forum
IEC	Information, Education, Communication
IJS	Informal Justice Systems
IRCU	Inter-Religious Council of Uganda
JCU	Justice Centers Uganda
JLOS	Justice, Law and Order Sector
KCOBPA	Kamuli Community-Based Paralegal's Association
KIU	Kampala International University
KKA	Ker Kwaro Acholi
LASP	Legal Aid Service Provider
LASPNET	Legal Aid Service Providers Network
LCC	Local Council Court
LDC-LAC	Legal Aid Clinic of the Law Development Centre
LEMU	Land and Equity Movement Uganda

LIP	Litigant In Person
MCJL	Muslim Centre for Justice and Law
NGO	Non-Government Organization
PLA	Platform for Labor Action
PILAC	Public Interest Law Clinic
PLE/I	Public Legal Education and Information
SGBV	Sexual and Gender-Based Violence
TERELEPAR	Teso Religious Leaders' Efforts for Peace and Reconciliation
ULS	Uganda Law Society
UMSC	Uganda Muslim Supreme Council
WVU	World Voices Uganda

ACKNOWLEDGEMENT

LASPNET with support from the Democratic Governance Facility (DGF) commissioned a study to identify cost-effective and sustainable legal aid models implemented by different LASPs during execution of their mandates. The study aimed at recognition and replication of such models including among others; Legal Aid Clinics and use of Pro bono Lawyers.

The findings of the research were validated on 24th August, 2020 where a wide range of stakeholders including LASPs and Strategic Partners provided their input to enrich the report. We hope that the research can be used by the different LASPs to replicate the Legal Aid Models in the other regions of the country in which they operate.

On that note, I would like to extend my gratitude to Dr. Ruth Nalumaga for provision of expertise, and technical support as the Lead Consultant for this research supported by Mr. Andrew Kahuma. Additionally, we commend all the Stakeholders who devoted their time and knowledge towards improving the content of the Research.

Finally, our sincere appreciation goes to our esteemed Development Partner; the Democratic Governance Facility (DGF) that provided financial and logistical support without which this study would not have been realized.



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Dr. Sylvia Namubiru Mukasa
Chief Executive Officer

EXECUTIVE SUMMARY

Legal Aid Service Providers Network (LASPNET) is a National member based Non-Government Organization that was established in 2004 to provide strategic linkages and a collaborative platform for legal aid service providers (LASPs) and boosts of 54 organizations spread in 80 Districts in Uganda. The Network currently has 7 honorary members of good standing who include Judges of the High Court, Founding members and Local Government. The Network maintains a common front to interface with the Justice Law and Order Sector and other like-minded stakeholders on issues of Access to Justice and the rule of law. It targets four critical aspects of: coordination bringing together different LASPs for solidarity in strategizing, sharing lessons and experiences, while minimizing duplication; capacitating them through collaborative research and analysis; as well as documenting, providing feedback and amplifying their voice on key issues regarding access to justice and legal aid at regional, national and international level.

With support from DGF, LASPNET commissioned a study to identify cost-effective and sustainable legal aid models implemented by different LASPs to provide legal aid across the country, to ensure recognition and replication of such models. This research has considered various methodologies for delivering legal aid services in Uganda, their cost, efficiency and sustainability. Among the methodologies are Legal Aid Clinics which operate under the framework of the Advocates (Legal Aid to Indigent Persons) Regulations, 2007. The Clinics provide the most professional legal aid services, as well as individualized services for legal aid clients. However, the costs associated with operating a legal aid clinic are high; and they may have limited reach to people in rural areas. Furthermore, lack of a legal aid law and corresponding government funding for legal aid has rendered legal aid service provision reliant on donor funding, which is unsustainable. To mitigate the costs of operating a legal aid clinic, it is recommended that LASPs take advantage of legal provisions which allow them to recover some costs and/or expenses incurred in delivering legal aid in the event that they successfully handle a case.

The study established that the use of pro bono lawyers is another cost-effective Legal Aid Model of providing legal aid. In addition to the Pro bono program managed by the ULS, other LASPs engage their members to provide pro bono services. Pro bono services complement

LASPs who face the challenging task of providing legal aid to millions of Ugandans who cannot afford to hire a lawyer. However, pro bono services are mainly provided by advocates in private practice; and there is need to find ways of involving the participation of lawyers who are not full-time advocates.

On the other hand, the high demand for legal aid services coupled with the limited availability of the legal aid providers has led to many clients representing themselves in formal or informal justice processes. LASPs are increasingly coaching their clients to enable them to represent themselves. Many legal aid beneficiaries reported having represented themselves after being coached by LASP staff. It is however noted that there is need to carefully determine which cases should be self-represented; and cases where the presence of a lawyer is necessary. Self-representation may be appropriate for simple in substance and procedure or uncontested cases rather than complex cases where a Litigant in Person is expected to have the same standard of substantive legal knowledge as a professional advocate and is expected to adhere to the procedural aspects of the Courts of Law. The presence of duty counsel at the Courts of Law would greatly help in providing support services for Litigants in Person.

The study has further established that Clinical Legal Education (CLE) has been increasingly adopted by Law Schools as a method of enabling law students to appreciate broader social justice goals. CLE enhances the students' capacity to understand and apply the law to real life situations through regular interacting with under-served communities and vulnerable groups. CLE's emphasis on social justice contributes to inculcating a commitment to pro bono work by law graduates. Law students provide human resources to supplement and complement LASPs, especially in areas or situations where the combined efforts of government and LASPs are not sufficient to meet the legal aid needs of the communities. LDC-LAC and PILAC are seconding Law students to LASPs, to support them in the provision of legal aid services, under the supervision of an advocate. Having law students as part of the legal aid clinic's team enables them to handle simple legal aid issues, which frees up time for advocates to handle more complicated cases and/or litigation. The increasing number of law schools in Uganda provides good opportunity to scale up the establishment of CLE programs in more Universities.

Many LASPs also use Public Legal Education/Information (PLE/I) as a method of providing legal aid. Information on people's legal rights and legal processes enables community members to defend their rights and/or use the knowledge acquired to avoid legal problems; or deal with legal problems. PLE/I is undertaken in a variety of ways and is cost effective. Increased innovation and availability of internet services has led to an increase in use of digital media to provide legal information to the public. ICT is a cost-effective legal information dissemination strategy because the main costs involved are with developing and hosting the various applications, while costs of accessing the information are borne by the user. However, internet connectivity is not available in many parts of Uganda, which limits beneficiaries' capacity to access online legal information. Furthermore, effective use of the internet for legal aid requires the user to be able to frame his/her legal problem in a way that enables him/her to search for what s/he wants. The user needs to also have the capacity to assess the quality and veracity of online information and whether the information is relevant to the Ugandan jurisdiction. Internet connectivity costs are also high for many indigent persons. Nevertheless, the costs of accessing online legal aid are less than the costs and time spent in trying to physically access the LASP. To ensure effective use of online platforms for accessing legal aid, LASPs are encouraged to popularize and translate the apps to local languages to enhance their accessibility and user-friendliness. LASPs also need to identify the various legal aid beneficiary demographics and establish how they best consume knowledge; and tailor legal information to enable each category of beneficiary to easily access.

Legal information hotlines are also increasingly being used to deliver legal information. Legal hotlines are a cost-effective and time-saving method of delivering front-line, or initial legal assistance. For the client, it removes the costs and time associated with accessing a LASP and for the LASP, dedicated use of a few staff can provide advice and assistance to many people. Legal aid beneficiaries can get information in real-time, providing them with methods of handling a legal problem. The increasing availability of mobile phones makes this a cheaper and time-saving option.

Informal Justice Systems (including traditional leaders, religious leaders; and community paralegals) are also widely used in the provision of legal assistance. Informal Justice Systems (IJSs) play an important role in enhancing access to justice especially in rural areas where people face

challenges in accessing the formal justice system due to its complexity and technicalities. WVU beneficiaries indicated that they were satisfied with the use of informal Justice Systems because of the speed of dispute resolution and cost-effectiveness. With majority of legal disputes not going to the formal justice system, these systems provide a solid option for access to justice at community level. They can be more cost-effectively used to assist community members in cases where a lawyer's presence is not necessary. However, some categories of people or groups like women and children may not be equitably represented in the IJSs due to ethnic, religious and traditional cultures which have deeply embedded gendered attitudes towards women and children; and the IJS is more likely to uphold rather than challenge those traditional attitudes and patterns of discrimination. LASPs who use IJSs to deliver legal assistance need to effectively build the capacity of the IJSs to resolve disputes in line with national and international human rights norms and standards.

The report recommends that LASPNET and LASPs continue to lobby and advocate for government funding for legal aid to enhance sustainability and equitable access to legal aid services. LASPs are also encouraged to continue exploring public-private partnerships with government to mitigate costs of providing legal aid services. LASPs are also encouraged to organize legal aid services to enhance efficiency and economies of scale. LASPs would need to map a typical legal aid client's journey; and identify the client's needs at every stage, as well as the most appropriate method of supporting a client at each stage. IJSs are recommended to be first responders in legal aid cases, and there is need to build their capacity to support legal aid clients. Other first responder services include toll free lines, legal aid Apps and duty counsel as appropriate providers of legal first-aid.

LASPs are further encouraged to pursue recovery of costs of legal aid service delivery in cases where a legal aid client is successful, and acquires compensation and/or damages as a result of the case. Such monies could enable the LASP to support other legal aid clients.

PLE/I remains a cost-effective method of legal aid service delivery and it promotes agency and self-help by legal aid clients by empowering people to become self-sufficient in addressing and resolving their legal problems. However, LASPs would need to profile their clients and identify the way these clients consume knowledge; and thereafter identify and use multi-dimensional approaches for PLE/I targeting particular groups

and legal issues.

The study further recommends for the re-organization of the Pro bono program to enhance the participation of advocates who are not in full time private practice, who also need to be allowed to undertake piecemeal pro bono work. The pro bono program also needs to be linked up with other LASPs so that they can supplement their human resource requirements with pro bono lawyers. Finally, the study recommends for the rolling out of the university CLE programs, which play an important role in orienting law students on social justice and pro bono legal assistance.

CHAPTER 1: INTRODUCTION

1.1 Background to the study

Legal Aid Service Providers Network (LASPNET) is a National member based Non-Government Organization that was established in 2004 to provide strategic linkages and a collaborative platform for legal aid service providers (LASPs) and boosts of 54 organizations spread in 80 Districts in Uganda. The Network currently has 7 honorary members of good standing who include Judges of the High Court, Founding members and Local Government. The Network maintains a common front to interface with the Justice Law and Order Sector and other like-minded stakeholders on issues of Access to Justice and the rule of law. It targets four critical aspects of: coordination bringing together different LASPs for solidarity in strategizing, sharing lessons and experiences, while minimizing duplication; capacitating them through collaborative research and analysis; as well as documenting, providing feedback and amplifying their voice on key issues regarding access to justice and legal aid at regional, national and international level.

LASPNET's vision is a free and just society and its mission is to provide effective networking and collaboration to enhance legal aid service delivery and access to justice for the most vulnerable and marginalized people.

LASPNET has undertaken key research assignments aimed at supporting reforms and practice changes within JLOS agencies, as well as enhancing standards and quality of legal aid services and access to justice. Key researches include: The Assessment on Implementation of the JLOS Anti-Corruption Strategy; an Annual Trends Analysis on Access to Justice (2017&2018); Poverty, Vulnerability and Marginalization in the Context of Access to Justice; and, a Cost Benefit Analysis of the Legal Aid Policy. In addition, and with support from development partners like UNDP / UNHCR and Voice – OXFAM, LASPNET conducted related researches such as the Assessment on Rule of Law, Access to Justice and Security Needs of Refugees in Arua and Isingiro districts and Situational Analysis on Compulsory Land Acquisition in Uganda. LASPNET has also played a key role in mobilizing LASPS and the public to lobby and advocate for the enactment of the Legal aid Law, to ensure equitable access to legal aid services by all people in Uganda.

With support from the Democratic Governance Facility (DGF) LASPNET is implementing a 3-year project titled "Strengthening Collaborative

Advocacy Platforms to Enhance Rule of Law, Legal Aid and Access to Justice for the Poor, Vulnerable and Marginalized in Uganda.” As part of this project, LASPNET has undertaken an in-depth study on Cost-Effective Legal Aid Models implemented by LASPs in Uganda, with the following objectives:

- a) To identify existing cost-effective legal aid models developed and being implemented among LASPs in the provision of legal aid;
- b) To establish the cost effectiveness and sustainability of such models in legal service provision;
- c) To identify any hindrances experienced in the implementation of these cost-effective legal aid models;
- d) To identify existing opportunities and modalities for scaling up sustainable cost-effective legal aid models in other parts of the country;
- e) To provide sustainability for recommendations on models that can be piloted with an intention of scaling up.

It is imperative to note that government provision of legal assistance in Uganda is limited to the State Brief scheme, for people accused of committing capital offences. Under this scheme, a capital offender is provided legal representation at the expense of the state. Most legal aid provision in Uganda is undertaken by non-government organizations who play a significant role in enabling poor and vulnerable people to access justice. According to the Uganda Law Council, there are 44¹ registered non-state legal aid providers in Uganda, with the Uganda Law Society operating more than 10 out of the 44 legal aid clinics ². LASPs provide a wide range of legal aid services which include: legal advice, Alternative Dispute Resolution, legal representation, public legal education and information; among others. These services are provided through various models which include operating legal aid clinics, pro bono legal services, Clinical Legal Education; Informal Justice Systems; Information Communication Technology and hotlines; among others.

With most legal aid service provision being donor funded and thereby unsustainable, there is need to identify methods of legal aid

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¹ <https://lawcouncil.go.ug/page-approved.html> (website indicates 47, but 3 locations were repeated)

² Some LASPs operate in some districts but are not registered with the Law Council.

provision that are cost-effective and sustainable. LASPNET and other stakeholders have lobbied for government funding for legal aid but even if government is to agree to fund legal aid, this funding will compete with other government priorities and therefore, may be insufficient to cover the demand for legal aid services.

In 2017, LASPNET convened an inaugural Legal Aid Conference in partnership with Barefoot Law and the Hague Institute for the Internationalization of Law (HiIL) with an aim of providing a platform for LASPs to showcase their Legal aid innovations so that they are recognized and/or scaled up by LASPs. At this conference, LASPs showcased legal aid innovations which included the PILAC-Student Lawyer approach, Social Empowerment Model by FIDA and Lwengo legal aid model implemented by tripartite between LASPNET, FIDA and PILAC. In addition, there are other legal aid methods which include Paralegal Advisory Services' (PAS – FHRI) use of the First in First Out principle (for capital offenders) to determine beneficiaries of High Court sessions; and a practice of ensuring that prisoners move with their files whenever they are moved from one prison to another. These initiatives enhanced transparency and fairness in the criminal justice system. The Government of Uganda has also established several innovative programs to enhance access to justice, including mandatory Mediation, Plea-bargaining, Small Claims Procedures, State Brief Scheme, and National Community Service Program amongst others. There is therefore need to establish the effectiveness, cost-effectiveness, sustainability of these models; and their benefit to legal aid beneficiaries. Based on the above, LASPNET commissioned this study, with the aim of identifying cost-effective and sustainable legal aid models which can be replicated.

1.2 Methodology

Information for the study was obtained through primary and secondary sources. The study involved a desk review of national and international models for legal aid service delivery; as well as field work assignments to selected LASPs. LASPs which were selected for the interview were purposefully sampled based on the following criteria:

- (i) Geographical representation of the LASP – this included national and sub-national legal aid providers.
- (ii) Mode of delivery of legal aid services – this criterion considered LASPs that provide comprehensive legal aid through fully fledged legal aid clinics; Pro bono program, provision of legal aid through community/

traditional/religious structures; use of Clinical Legal Education; Information Communication Technology (ICT) and hotlines to provide legal assistance.

Interview questions were mainly on several subthemes, including; forms of legal aid services, types of cases, methods of provision of legal aid, cost and affordability, challenges and ICT usage. The list of LASPs which were interviewed is included in this report.

In addition to interviewing LASPs, consultants also interviewed legal aid beneficiaries to establish their experiences in receiving legal aid services through particular methods. Interviewing beneficiaries enabled an assessment of cost-effectiveness and sustainability from the beneficiaries' perspective to ensure that what is cost-effective and sustainable to the LASP, delivers a corresponding cost-effective and timely benefit for beneficiary. An analysis of the primary and secondary information was undertaken, which culminated into this report.

CHAPTER 2: LEGAL FRAMEWORK FOR LEGAL AID SERVICES IN UGANDA

2.1 National Legal Framework

Most countries which operate legal aid programs have a legal framework for providing legal aid services. The framework defines who is entitled to legal aid; types of legal cases which are eligible for legal aid is; and the type of legal assistance which is available for particular cases. The legal framework has a corresponding budgetary allocation to operationalize it. Common law and civil law countries take different approaches to the right to a lawyer in civil and criminal cases. Civil law countries are more likely to emphasize the right to legal assistance in civil cases while common law countries emphasize the right to legal assistance in criminal proceedings, as a result of the presumption of innocence.

Article 28 (3) (e) of the Constitution of Uganda 1995 provides that a person who is charged with a capital offence is entitled to legal representation at the expense of the State. This Constitutional provision is operationalized through the State Brief scheme under which an accused person is allocated an advocate to represent him/her. In addition, the Poor Persons Defense Act, Cap 20 provides that a judicial officer can certify that the prisoner requires receive legal assistance in case it appears, in the interests of justice, that a prisoner should have legal aid to enable him/her to prepare and conduct his/her defense and that the prisoner does not have sufficient means to enable him or her to obtain such aid . The payment for the advocate under this arrangement is determined by the Judge, and is payable from monies provided by Parliament ³.

To expand the scope for legal aid service provision, **The Advocates (Legal Aid to Indigent Persons) Regulations, 2007** were put in place to provide a framework for legal aid service provision, including registration of legal aid providers, eligibility for legal aid; quality of services, client care and supervision of legal aid service delivery by the Uganda Law Council. These Regulations define legal aid as “the provision of legal advice or representation by a lawyer, an advocate or a paralegal, as the case may be, to a client at no cost or at a very minimal cost⁴”.

The **Advocates Act** was further amended in 2002 to make provisions

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³ Section 3 of the Act

⁴ Regulation 4

for Advocates to provide pro bono legal aid services. **The Advocates (Pro bono Services to Indigent Persons) Regulations No. 39 of 2009** made it a requirement for all advocates in Uganda to give at least 40 hours of pro bono services each year. The Regulations specify the nature of pro bono services to be provided; and empower the Uganda Law Council to establish a pro bono scheme; and a Board of Trustees to manage it. The amendment of the Advocates Act in 2002 further introduced the Advocates (Student Practice) Rules, 2004 to allow post-graduate Bar Course students, as part of their training, to provide legal aid by representing juveniles in Magistrates' Courts under the guidance of a senior practicing lawyer. A legal aid policy was developed in 2009 to provide a framework for delivery of legal aid services, but it has not been passed to date. Lobbying and advocacy efforts by non-government organizations spearheaded by LASPNET have currently led to the drafting of a Legal Aid Bill, which is due to be presented to Parliament.

To date, most legal aid services are provided by non-government organizations and are majorly funded by donors. This arrangement has partly created "supply-driven" legal aid services, as the legal aid provided by particular organizations is determined by their organizational mandate, not necessarily as a result of identified needs and/or actual demand. Partly as a result of the legal framework, legal aid is mainly driven by lawyers; and what lawyers can offer to meet the "legal needs" of those whom they have identified as poor, marginalized and vulnerable.

Legal aid and Access to justice in Uganda have evolved over time, from "access to litigation or access to lawyers" in the formal justice system, to justice initiatives at community levels. This evolution is partly in recognition of the fact that not all cases end up in the formal justice system; and that community justice initiatives provide accessible and cost-effective dispute resolution mechanisms. There is an increasing recognition of the role of informal justice systems in enhancing access to justice especially for poor and vulnerable persons. Within the judiciary, innovations to enhance access to justice have included changes in procedures to expedite the disposal of cases like plea bargaining, mandatory mediation and small claims courts. Within LASPs, there has been an increasing focus on out-of-court dispute resolution; and promoting non-adversarial approaches like Alternative Dispute Resolution (ADR). Access to legal information and legal literacy as a method of dispute prevention and self-help, have also gained prominence.

2.2 Why is legal aid important?

Access to justice refers to the ability of people to seek and obtain a remedy through formal or informal institutions of justice for grievances in compliance with human rights standards. Access to Justice has two components: a) **Access**, which relates to availability of avenues to help individuals to resolve their disputes; and b) **Justice**, which refers to outcomes of the dispute resolution process. To date, the notion of access to justice takes into consideration the fact that poor, vulnerable and marginalized persons especially women, children, elderly, People with Disabilities and the youth face formidable barriers in seeking justice. Disparities in social power can be the root causes of injustice. Legal aid is therefore an important component in enabling poor, vulnerable and marginalized persons to overcome the barriers to accessing justice.

The Advocates (Legal Aid to Indigent Persons) Regulations, 2007 define legal aid as the provision of legal advice or representation by a lawyer, an advocate or a paralegal, as the case may be, to a client at no cost or at a very minimal cost. Uganda's Constitution (1995) provides for protection and promotion of fundamental and other human rights⁵; that all people are equal before the law in all spheres of political, economic, social and cultural life and in every other respect; and shall enjoy equal protection of the law⁶. The Constitution provides for the right to a fair, speedy and public hearing⁷.

Legal problems occur in everyday life. For instance, when a spouse dies; when one buys land; when s/he has children; gets an accident; when a person loses a job; etc. When a person experiences a shock in his/her personal life, s/he is very likely to require access to justice in order to claim or defend his/her rights. This process can be complicated and costly especially for a person with limited financial means. Constitutional provisions on equality before the law and the right to a fair hearing pre-suppose that people are approaching the law from a level ground. However, political, economic and social factors present barriers to effective use of the law to enforce their rights. Legal aid is essential in guaranteeing equal access to justice for all by enabling equality before the law and the right to a fair trial especially for people who do not have sufficient financial means.

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5 Chapter Four

6 Article 21(1)

7 Article 28(1)

CHAPTER 3: SITUATIONAL ANALYSIS AND METHODS FOR DELIVERING EFFICIENT AND SUSTAINABLE LEGAL AID SERVICES

This section will consider the situational analysis of legal aid service delivery and the various methods for delivering legal aid services in Uganda, their cost, efficiency; and sustainability. It will also focus on the usability of the services by the beneficiaries.

3.1 Situational Analysis of Legal Aid needs

The HiiL Study on Justice Needs in Uganda (2016) found that about 88% of people (especially in rural areas) interviewed had experienced one or more serious and difficult to resolve justice problem in the preceding four years⁸. When faced with legal problems, people first seek advice from different sources - 53% from their social networks; 42% from legal sources and 16% from communal sources. Local Council Courts were indicated to be the most widely used sources of information and advice, followed by family members; and friends. The study further found that “courts and lawyers are marginal to the experience of day-to-day justice of people; with less than five percent of dispute resolution taking place in a court of law, and lawyers being involved in less than one percent of the cases. People with lower education and incomes find formal courts to be out of their reach, thus preferring to use community processes which are financially accessible⁹. However, even when problems are not brought to the formal justice system for resolution, they remain legal problems and should not be ignored or assumed not to be serious or not deserving of assistance¹⁰ because they may be serious for the person involved with grave consequences. The study notes that the use of different approaches to dispute resolution may be as a result of the existence of “mixed legal spaces where both statutory and customary law regulate dispute resolution”¹¹

People require access to justice in respect of the legal problems they face. For government and LASPs, the key issue is: “What is the best way to spend money for people who need legal aid services”? Should funds go

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⁸ HiiL; “Justice Needs in Uganda: Legal problems in daily life”, 2016:40

⁹ HiiL; “Justice Needs in Uganda: Legal problems in daily life”, 2016:88

¹⁰ Currie, A. “The Legal Problems of Everyday Life: The Nature, Extent and Consequences of Justiciable Problems Experienced by Canadians”

¹¹ HiiL; “Justice Needs in Uganda: Legal problems in daily life”, 2016:90

to 10 hours of a lawyer; a modern customer-friendly procedure before formal court; to community legal aid programs or legal information and empowerment? The different legal aid methodologies complement each other but also compete for resources. It is also important to consider the benefits of a particular legal aid approach to the beneficiary. A cheaper and sustainable approach should also be beneficial to the recipient, otherwise there is a danger of developing a system which does not deliver better outcomes for the intended beneficiary.

3.1.1 Methods of providing Legal Aid – their costs and effectiveness

LASPs use various methods to deliver legal aid services which include legal aid clinics, Informal Justice systems (including community paralegals); Public Legal Education/Information; use of Law Students, Pro bono lawyers; and use of Information Communication Technology. These methodologies, as well as their costs, benefits and effectiveness to the provider and the legal aid beneficiary are indicated below:

A. Individualized legal aid service delivery (Legal aid clinics)

The Advocates (Legal Aid to Indigent Persons) Regulations, 2007 provide the regulatory framework for operating a legal aid clinic. Under Regulation 6, a person, organization and/or institution who intends to operate a legal aid clinic must register with the Uganda Law Council as a legal aid provider, and must have the following requirements¹²:

- (i) A desk for an advocate/lawyer and one for the paralegal. These should be accommodated in a separate room from non-legal staff – to ensure confidentiality
- (ii) A secretarial desk, computer or typewriter
- (iii) A reception with chairs or benches for clients, a book shelf; drawers or filing cabinet and properly kept files.
- (iv) A collection of reference materials including a full set of the Revised Laws of Uganda
- (v) Toilet and sanitary facilities

If the applicant is an NGO, it should be registered with the NGO Bureau, and having one of its objectives as “providing legal aid services”. The organization should also employ a lawyer and a paralegal.

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¹² Regulation 7 of the Advocates (Legal Aid to Indigent Persons) Regulations, 2007

3.1.1.1 Effectiveness and benefits; versus costs and sustainability of individualized legal aid clinics

Effectiveness and benefits

The requirements of the Advocates (Legal Aid to Indigent Persons) Regulations, 2007 are aimed at ensuring quality and standards in legal aid provision. Through the clinics, legal aid services are provided by qualified lawyers and paralegals; within the legal framework. The clinics also provide individualized services for clients which enables a clear net gain for the individual client. The direct benefits of legal aid consist of the added value that accrues to the client: money and assets recovered, the experience of procedural and outcome justice. In many cases, the benefits for the clients may be higher than the costs of legal aid.

Costs and sustainability

“Our models are not cost-effective – in the absence of donors, only the four government-funded centres would remain” – National Coordinator, JCU

Fulfilling the legal requirements for providing legal aid requires a financial investment by the LASP, which investment cannot be met by the indigent legal aid beneficiary. For the LASP, calculating the costs of providing legal aid services is straightforward. It includes costs of fulfilling the legal requirements, that is, employing a lawyer and paralegal; and administrative costs for running a legal aid office. LASPs also spend money on individual clients for items like transport refund, paying filing fees (for court cases), transporting witnesses, fuel to attend court and locus visits. Money spent on an individual client ranges from UGX 100,000/- 250,000/- per month¹³. The process of providing individualized services is inevitably expensive, as it serves only one person at a time. An estimate by ULS indicates that one lawyer handles about 40 cases per month.¹⁴

Other LASPs who operate legal aid clinics indicated that the average (modest) cost of operating a legal aid clinic (lawyer, legal assistant, paralegal; and administrative expenses) is about UGX seven million per month, which translates into UGX 72 million per annum. Justice Centers

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¹³ Interview with FIDA, LEMU, MCJL

¹⁴ Interview with ULS

Uganda (JCU) which was established as a pilot project to provide lessons in legal aid service delivery operates a holistic model of legal aid service delivery, operates 13 centers (nine of which are donor funded). Each center has four advocates, 4 interns and clerkship students, and a center manager. JCU spends approximately UGX 190,000,000/- on advocates salaries alone per month (excluding NSSF contribution, medical insurance, etc).

The aggregate costs of running a legal aid clinic are high and require government funding to ensure its sustainability. The legal aid clinic model can be said to be effective but costly and unsustainable if delivered without government financing.

Ensuring quality and standards as envisaged by the Advocates (Legal Aid to Indigent Persons) Regulations requires financial investment by government. To date most legal aid clinics are funded by development partners, which creates risks for sustainable service delivery in case donors stop funding the clinics. There are many instances where a LASP has had to close its office at the end of donor funding, which inevitably disadvantages the legal aid beneficiaries.

Accessibility of legal aid clinics

In terms of accessibility for beneficiaries, legal aid clinics may not provide the most accessible avenue for legal aid services. The modality of legal aid provision envisaged by the Regulations indicates that lawyers are the ones with the knowledge and skills to lead a client through the legal process. It also pre-supposes that legal aid may only be limited to the formal justice system. Legal aid providers usually operate in their offices, with some outreach activities undertaken during mobile clinics and/or community awareness sessions. Mobile clinics are an effort to enhance accessibility of legal aid services to areas that may be out of reach for legal aid clinics. However, the clinics are mainly supply-driven; and not always available as and when the beneficiaries would require legal aid services.

The Uganda Law Council lists 44 Legal aid providers in Uganda¹⁵ implying that registered LASPs occupy about a third of the districts in Uganda. Legal aid clinics are found in particular localities, which creates an advantage for the people living within the vicinity of the clinic. Most

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¹⁵ The Law Council website does not include some LASPs, so the number may be higher.

LASPs indicate that they cover several districts, but the effectiveness of this coverage may be limited – for the provider. For the client, moving from one district to another to access a LASP is usually difficult. The result is a phenomenon referred to as “post-code injustice”, which refers to an unfair advantage conferred to people living within the vicinity of a legal aid provider, at the expense of people who live far away; and either have to spend more time and money to access legal aid services; or abandon seeking for legal aid. A LASPs’ ability to provide accessible services to beneficiaries is limited by the barriers people face in accessing the services, because of where they live. “**Access**” is a key element in access to justice, meaning that as part of accessing justice, legal aid services need to be accessible to beneficiaries – either physically; or in another way – especially in a situation where most legal problems are not resolved through the formal justice system.

Opportunities for enhancing access and financing for legal aid

(i) Legal framework and cost-recovery

LASPNET has been at the forefront of mobilizing LASPs to lobby and advocate for a National Legal Aid Scheme to provide a framework for government to participate in and fund legal aid services. A legal aid law will contribute to ensuring equity in access to legal aid services and sustainability for legal aid service delivery. Nevertheless, it is worth noting that having a legal aid law may not solely address the overall funding needs for legal aid service delivery. Government legal aid Funding has to compete with other government priorities, which means that LASPs need to plan and implement cost-effective and complementary legal aid funding mechanisms.

One option for funding legal aid clinics is through the **cost-sharing** modality. Regulation 29 of the Advocates (Legal Aid to Indigent Persons) Regulations, 2007 makes provisions for contributions towards legal aid. Contributions are provided for as follows:

- (a) A LASP can require clients to contribute to the costs of providing legal aid. Such contributions will take the client’s means into consideration
- (b) A LASP can meet some costs and expenses incurred in the provision of legal aid by deducting any damages awarded to a client by court or making a deduction from any amount which has been received

through a settlement which has been negotiated through the legal aid services provided. The amount should not exceed 10% of the monies paid¹⁶

- (c) Where a court awards costs to a client, the costs can accrue to the legal aid provider, who must refund any monies previously paid by the client.

The above provisions create opportunities for LASPs to recover some of the costs and/or expenses incurred in delivering legal aid services, which will be used to support other clients. This is a realistic option because LASPs recover lots of money on behalf of clients every month. However, most LASPs interviewed indicated that the expenditures on legal aid are mainly met by the LASP. Muslim Centre for Justice and Law (MCJL) indicated that their clients do not pay anything – everything is donor funded, yet MCJL budgets about UGX 250,000/- for spending on a client each month to cover filing fees, communication and transporting the lawyer. CJAF-UG is not donor funded, and its legal aid clients are required to meet some of the expenses of taking a case to court, like filing fees and transport expenses for the lawyer to attend court. Upon successful determination of the case, CJAF-UG claims a refund of professional fees from the client in cases where the client is awarded compensation. The rationale is that on receiving compensation, the client is no longer indigent.

On its part, FIDA indicated that as a policy, it does not charge their clients even when they are able to pay the costs. However, when a case is completed in Court and FIDA taxes the Bill, then they recover their costs. For ULS, their clients meet expenses related to transport and lunch but do not seek costs recovery when the case is successful. Cost recovery should not be limited to cases that are completed in the formal justice system since many cases are resolved through ADR. Organizations like PLA complete about 80% of their cases through ADR and receive significant payments on behalf of their clients. LASPs have noted the reluctance of judicial officials to order for payment of costs for LASPs, based on the fact that LASP services are donor funded, and their expenses are therefore, fully covered. There is need to engage the judiciary on this issue, since cost-recovery enables the LASP to diversify its funding, and to assist more indigent persons.

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¹⁶ Regulation 30

Jurisdictions like Montenegro have laws which provide that where a legal aid client fully or partially succeeds in his/her case, then s/he is obligated to return/cover the cost of the legal aid¹⁷. In Slovenia too, if a legal aid client is fully or partially successful in the legal dispute (in court or outside court); and acquires property or revenue as a result of the case, then s/he is obligated to reimburse government for costs incurred as a result of providing legal aid¹⁸. LASPs have been supported to execute court judgments in favor of their clients. This opportunity can also be used to recover costs of providing legal aid.

(ii) Explore fee-paying clients

LASPs could also consider providing legal assistance to people who are referred to as “**nobody’s clients**” – these are working class people who can pay for some legal services, but cannot afford private legal practitioners. As of now, they are nobody’s clients; and are neither served by LASPs nor private advocates. Nevertheless, income from this class of people can contribute to meeting expenses incurred in providing legal aid.

Community Justice and Anti-Corruption Forum (CJAF - UG) uses this method to enhance sustainability of its legal aid program. CJAF does not receive donor funding, but it is registered as a LASP whereby it provides legal aid services in Kampala and Bushenyi. The organization has a dual operational model, with one section for legal aid clients; and another for fee paying clients. Cases received by CJAF-UG are categorized and treated as indigent or non-indigent. However, even the indigent clients are required to meet part of the expenses of the case, like filing fees and transporting the lawyer to court, which makes this a form of pro bono.

Some legal aid jurisdictions have a system where a LASP can ask a client to meet part of the legal aid costs. Under the Ontario legal aid scheme in Canada, the Department of Social Services can consider a legal aid applicant’s means, and decide how much of the projected cost of the case s/he can pay. This model is also used in South Africa where, clients who do not meet the Means Test can get a lawyer to assist them,

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¹⁷ Cross Country Comparison of Regional Mechanisms for Delivery Of Free Legal Assistance: World Bank Multi-Donor Trust Fund for Justice Sector Support January 2014:8

¹⁸ Cross Country Comparison of Regional Mechanisms for Delivery Of Free Legal Assistance: World Bank Multi-Donor Trust Fund for Justice Sector Support January 2014:30

and they pay part of the expenses.¹⁹ However, there would be need to ensure that LASPs do not pay more attention to fee-paying clients at the expense of people who cannot afford to pay.

B. Use of pro bono lawyers

The term “Pro bono” refers to professional work which is undertaken at no cost. A Pro bono service uses the specific skills of professionals to provide services to those that are not able to afford them. In 2008, the Uganda Law Council amended the Advocates Act, Cap 267 and enacted the ***Advocates (Pro bono Services to Indigent Persons) Regulations, 2009***. Under these Regulations, every advocate in Uganda is mandated to provide 40 hours of pro bono work to an indigent person annually. The Regulations indicate the nature of Pro bono services that can be provided.

A Pro bono scheme was established by the Law Council, and it is implemented by the Uganda Law Society on behalf of the Law Council. The pro bono program currently covers nine regions in Uganda. The Pro bono Regulations envisaged the establishment of a Pro bono fund to fund some pro bono activities, but this fund has not been established. The program has been donor funded since its inception. It was initially funded by the Legal Aid Basket Fund; and thereafter, by the Democratic Governance Facility.

Pro bono lawyers greatly complement LASPs who face the challenging task of providing legal aid to millions of Ugandans who cannot afford a lawyer. In this way, ULS Ugandan advocates have made important contributions to closing the justice gap. Furthermore, other LASPs implement their own kind of Pro bono work. For instance, FIDA assigns pro bono clients to its members at a small fee, while MCJL and UMSC also use the Uganda Muslim Lawyers Association to provide pro bono services. On its part, APP uses prisons officials and prisoners to provide legal aid and cases that require legal representation are assigned to Pro bono lawyers who also mentor prison paralegals. LASPs like FIDA, MCJL and UMSC utilize their network of members to provide pro bono services. FIDA uses its membership while MCJL and UMSC work with members of the Uganda Muslim Lawyers Association to undertake pro

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¹⁹ As, Hennie van (April 2005). “Legal aid in South Africa: making justice reality”. *Journal of African Law*. 49 (1): 54–72.

bono work. The Uganda Christian Lawyers Fraternity (UCLF) also uses its membership to provide pro bono services.

The **duty counsel scheme** is also implemented as part of the Pro bono program. Under the duty counsel scheme, lawyers are posted to some police stations and courts to provide legal advice and assistance to poor and vulnerable people who come to court without a lawyer. A similar scheme is also implemented by FIDA which established family justice desks located in five courts in Uganda through which FIDA lawyers provide legal assistance to people who go to court without lawyers. Since duty counsel are paid only for work done, this option provides a cost-effective method of legal aid service provision since it does not involve the administrative costs associated with operating a legal aid clinic.

Challenges of the Pro bono model

Firstly, the pro bono program is quite oriented to formal justice processes, and lawyers who are not full-time private advocates may find difficulties in participating in the program, especially if it interferes with their other career work. Not all lawyers have the time to take on cases in the formal justice system; yet many of these lawyers may wish to provide pro bono services. There is a missed opportunity in engaging all advocates who could provide pro bono legal aid in whatever way is convenient for them. LASPNET has created an opportunity for pro bono lawyers to participate in legal aid service provision. A call center established by LASPNET to provide first responder services to legal aid clients will be partly implemented with the ULS Pro bono program.

Secondly, a legal aid clinic model may have some advantages over the pro bono method in that a legal aid lawyer has the ability to specialize in legal aid cases. Lawyers who undertake pro bono work usually have other paying clients; and the amounts paid for pro bono work may have a significant effect on the quality and experience of the lawyer who will accept to do pro bono.

Thirdly, the pro bono model is based on the principle of increasing access to legal assistance for people who cannot afford lawyers, but this principle assumes that legal aid clients require the same type of services as non-legal aid clients. Legal aid clients usually seek assistance after a process of having tried to resolve a dispute through other means, and some may require psycho-social support, in addition to legal services,

which a pro bono lawyer may not be able to provide.

C. Self-help/Pro se

Pro se or Litigating in Person refers to a situation where someone presents or defends a legal claim without a lawyer. Any person can appear in *pro se* and anyone appearing in court without a lawyer is considered *pro se.*; or a Litigant in Person (LIP). LASPs are increasingly encouraging clients to try and use self-representation in court because LASPs are faced with a high demand for their services and are unable to meet all the demands for their services. LASP lawyers coach and/or train the litigants, thereby providing them with knowledge and confidence to handle their cases in court. ULS, MCJL, LEMU, FIDA, JCU and Justice Defenders (formerly known as African Prisons Project) indicated that they coach clients to represent themselves in court. Coaching can be done individually (depending on the nature of the case); or through group sessions. **Pro se** is a cost-effective measure for LASPs, as the role of the lawyer is mainly limited to providing advice and guidance to the litigant, which saves the lawyer's time and cost of going to court in a single trial. However, the overarching question is whether this approach is effective for the indigent litigant. Beneficiaries of World Voices Uganda widely indicated that they were coached by WVU staff and they gained confidence in representing themselves in court.

JCU indicated that the decision to coach a client on self-representation depends on the complexity of the matter – especially simple cases like bail applications, for which they have a high success rate. JCU also follows up with the self-represented clients to identify whether they need further assistance.

One female respondent of Kyaterekera B in Kibaale had this to say: *“Even if World Voices closes, I can go further to fight for my rights and properties since I learnt to represent myself”.*

A male beneficiary of PILAC indicated that PILAC did not provide a lawyer, but he was coached on how to represent himself in Court; and he successfully represented *himself* in Court. Another PILAC beneficiary (male), stated that he learnt to represent himself at LC courts and at police; and is currently assisting to coach other people who have to represent themselves.

In Kamuli, a female beneficiary of the services of Kamuli Community-

Based Paralegal's Association indicated that she had a land dispute and the community paralegals had trained her on self-representation. She further stated that she can confidently represent herself without a lawyer.

Within the criminal justice context, many LASPs create awareness amongst prisoners to represent themselves, especially on simple matters like applying for bail. MCJL trains prisoners in Mpigi, Kabasanda and Buwama prisons to represent themselves. The Legal Aid Clinic of the Law Development Centre also coaches people to represent themselves. APP auxiliary paralegals also train inmates to represent themselves in court. APP uses a toolkit which contains basic information which can be used by lay people to understand the law, the court system, and court etiquette.

One of the most effective *pro se* approaches is used by the Paralegal Advisory Services (PAS) in the criminal justice system whereby accused persons are empowered with knowledge about the criminal justice processes and what to do and/or expect at each stage. Through an approach referred to as "*forum theatre*" inmates act out a mock court session with a judge, prosecutor and accused person. The purpose of the forum theater is to enable accused persons to interact with 'mock' court settings in a way that empowers them to rehearse the criminal justice setting and to get a feel of the court system and how it operates. Inmates are enabled to examine in chief, cross-examine and re-examine "mock" witnesses. This method has enabled accused persons to master the art of advocacy and confidently apply for bail; and take charge of their court cases. In the current setting where there is no legal right to a lawyer for non-capital offences, *pro se* provides a viable alternative for un-represented litigants. In any case, a LIP is likely to put in more hours in preparing his/her case than a busy lawyer would do²⁰. Lawyers and paralegals can assist the *pro se* litigant by educating him/her about his/her legal situation; which can also increase the litigant's chances of success both in court and in settlement negotiations²¹.

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²⁰ Luban, D. "Self-Representation, Access to Justice, and the Quality of Counsel: A Comment on Rabeea Assy's Injustice in Person: The Right of Self-Representation", 2018:3-4

²¹ Kim, H. H; "Legal Education for the Pro Se Litigant: A Step Towards a Meaningful Right To Be Heard" Article 5, Issue 7, Volume 96, Yale Law Journal; 1987;1642

Litigating in Person would also be viable for people who may not be indigent, but for whom, lawyers' costs would create an economic loser. If the money to be paid to the lawyer is more than the amount claimed, a person may choose to give up the case rather than spend more money. A valid case that is economically rational to bring as a LIP can become economically unviable once a lawyer enters the picture. Moreover, the stakes for the litigant may be non-monetary, but could be punishingly high – for instance, if one is fighting for his/her land rights. Winning does not mean the litigant will get money; but s/he will get the right to remain on the land.

Challenges of Litigating in Person

Litigating in Person/*pro se* may be effective option in simple cases; or where there are not many points of contention between the litigant and his/her opponent. This is well summarized by Luban who noted that, *"The role of commentator is at once simpler ... when you find yourself largely in agreement with the author. Simpler, because all you really need to say is "well done!"; more complicated, if your assigned role is to raise points of doubt"*²².

Secondly, Uganda's formal justice system is adversarial and a person who interacts with this system needs to have sufficient knowledge of both sides of the case in order to focus, develop and present all relevant facts and legal arguments to court. The LIP has the burden of proving his/her case and adhering to the procedural aspects of the court. While ULS indicated that some judicial officials are sympathetic with LIPs, they also stated that some clients mess up their cases in the process of self-representation. Moreover, LIPs are likely to be held to the same standard of substantive legal knowledge as an advocate and the judicial official would not be in position to assist the LIP through the procedural and substantive aspects of his/her case because courts cannot assume the position of being adjudicators as well as counsel for the LIP. Furthermore, a LIP who is facing a person with a lawyer may be unable to bargain in the shadow of the law, especially if the opponent's lawyer misrepresents the law to the detriment of the LIP. **A legal aid lawyer may be able to coach the LIP on court decorum and court**

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²² Luban, D. "Self-Representation, Access to Justice, and the Quality of Counsel: A Comment on Rabeea Assy's Injustice in Person: The Right of Self-Representation", 2018:2

processes; but may not be able to prepare the litigant for everything that may happen in the court room. CJAF-UG indicated that although they coach clients on self-representation, this method has not yielded useful results for the legal aid client due to the complex technicalities of the formal justice system, for instance, during scheduling conferences and cross-examination.

Litigating in person may be daunting and disadvantageous for the LIP, because s/he is expected to know what evidence to bring and what questions to ask. LEMU highlighted the low levels of confidence amongst legal aid clients which makes them fear to represent themselves. ULS indicated a selection criterion for LIPs as follows: *“Clients identified for self-help representation had either simple cases which they could handle by themselves in court or cases in inaccessible areas to clinics staff yet they were ongoing in court.”*

A survey of the chief judges of the U.S. district courts found that common problems faced by LIPs include: having pleadings that were prepared for the litigant which the litigant may not understand; untimely or incomplete pleadings or submissions, lack of knowledge about legal decisions, failure to know when to object to evidence, problems examining witnesses, problems with discovery and service errors²³. Failing to effectively represent him/herself can have harsh consequences for the LIP. With this in mind, should people be encouraged to litigate in person; or should yardsticks be made to identify the type of cases for which pro se is an effective option for the litigant and a cost effective and sustainable option for the LASP. These could include cases like small claims and mandatory mediation. LASPs have reported that clients whom they have coached in self-representation go to court and some are able to win their cases. Nevertheless, Pro se litigants would need a lawyer's support, guidance and advice at every stage of the process; especially when they have to prepare legal documents. For instance if a pro-se litigant prepares bad pleadings, then his/her claim is dead even before the trial begins! The LIP needs a lawyer needs to assist at least read through the documents to be filed to ensure that it meets the standards of a document that should be filed and that the LIP understands what is in that document and what s/he needs to do in Court.

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²³ Gustafson, D; Glueck, K; & Bourne, J. “Pro Se Litigation and the Costs of Access to Justice” William Mitchell Law Review, Issue 1, Article 4, Volume 39 2012:35

The predicament of a LIP was summed up by Lord Sumption in the Supreme Court of UK in 2018 as follows:

“Litigating in person is not always a matter of choice with the unavailability of legal aid and ... some litigants have little choice but to represent themselves”, and whilst “their lack of representation will often justify making allowances in making case management decision and in conducting hearings. But it will not usually justify applying to LIPs a lower standard of compliance with rules or orders of court [...] Any advantage enjoyed by litigants in person imposes a corresponding disadvantage on the other side, which may be significant”

In its judgment, the Supreme Court held that unless the rules and practice directions are particularly inaccessible or obscure, it is reasonable to expect a LIP to familiarize him/herself with the rules which apply to any step which s/he about to take²⁴

Recommendations for Litigating in Person

Litigating in person is more appropriate in relatively flexible and informal justice systems. Formal and more complicated cases would require professional representation. Indeed, MCJL indicated that they coach clients for simple cases, and provide lawyers for cases that require a certain level of technical legal competence²⁵. Litigating in person may also be more appropriate in cases before the small claims court whose procedures are not formal. CJAF-UG indicated that their LIPs are more successful with cases at police stations, where a suspect is instructed on what to say and ask police; in LC courts; and for small claims.

Another possibility for effective assistance for LIPs is to use a system referred to as the “McKenzie Friends”. This is a system used in Britain whereby LIPs are allowed to go to court with non-advocate helpers. Within the Ugandan context, a pro-se litigant may be assisted by a law student or a post-graduate bar course student, who may be a low-cost alternative to either self-representation or lawyering-up. Duty counsel at court can also provide assistance and advice to LIPs in respect of substantive and procedural aspects of their cases. FIDA Community paralegals in Kamuli and PAS paralegals use this approach to assist people at court to provide information on navigating court processes.

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²⁴ Barton v Wright Hassall [2018]

²⁵ Denvir, Balmer & Pleasence . When legal rights are not a reality: do individuals know their rights and how can we tell? Journal of Social Welfare & Family Law, Vol. 35, No. 1, 139-160, 2013:140

Another WVU beneficiary indicated that after being coached to represent herself, she now assists people through the court processes.

A female KCOBPA Beneficiary, Butekanga LC1 42 Yrs

I was trained to represent myself in court; and I advise my friends to use legal means when they have a dispute, but many people fear to sue their husbands.

Use of Self-help legal information for pro se litigants

Legal aid providers usually provide LIPs with information about court processes and their legal rights, to enable them conduct their cases in court. APP developed a toolkit with basic information which can be used by lay people to understand the law, the court system, and court etiquette. The way in which legal information is provided determines the usefulness of the information to the LIP in conducting his/her case. Information can be provided through IEC materials, personal coaching or through instruction/teaching large groups of people. ULS uses a mixed approach involving individual and group coaching method for LIPs.

Written information is another option as it can be used by various people and can be easily used as reference material when the person is preparing to go to court. However, this information is usually general information; and may not target the LIP's particular problem. Even where the self-help information is accurate, well written, and easy to understand, it does not provide the LIP with the opportunity to ask questions or seek clarification of the information. In addition to written information, a LIP needs to be able to access information or advice which directly speaks to his/her legal problem; to use the legal information to assess the strengths and weaknesses of his/her case, as well as the opponent's case, so that s/he can ably present these strengths and weaknesses²⁶. Duty counsel and toll free phone services can significantly complement this information by enabling a LIP to call in or ask a lawyer specific information regarding the case. Duty counsel lawyers who are stationed at police and at courts provide real time advice and guidance to enable LIPs to articulate their cases and present the necessary information to court. LASPs provide modest transport refunds to the lawyers, which makes it a cost-effective complementary service because

²⁶ Kim, H. H; "Legal Education for the Pro Se Litigant: A Step Towards a Meaningful Right To Be Heard" Article 5, Issue 7, Volume 96, Yale Law Journal; 1987;1644

for modest costs, a lawyer can assist up to seven people in a day.

The other significant challenge faces by a LIP, according to beneficiaries, is the language barrier, especially for the illiterate LIPs. Moreover, people have a general fear for Courts and Judicial officials²⁷. ULS also indicated that some clients mess up their cases when representing themselves.

D. Student lawyers/University law clinics

***We teach our students to first help and think about money after
Helping spirit rather than commercial spirit***

K. V. – Legal Officer, Public Interest Law Clinic, Makerere University

Law Universities around the world have established university legal aid clinics as a method of Clinical Legal Education (CLE) through which law students can support broader social justice goals. Law students in university legal aid clinics can provide a range of legal aid services including client interviews, providing legal advice, preparing legal briefs and public legal education.

The Law Development Centre Legal Aid Clinic (LDC-LAC) was founded in 1998 to impart practical skills to post-graduate Bar Course students through its CLE program and to provide legal aid services to indigent litigants, juveniles and petty offenders. To support the work of the LDC-LAC, the Advocates (Student Practice) Regulations, 2004 were put in place to provide a legal framework for legal aid provision by Bar Course students. Under these Regulations, a ‘certified’ student can appear in a Magistrate’s court on behalf of a client (supervised by a practicing lawyer²⁸), prepare pleadings and other documents to be filed in a case in which the student is eligible to appear in Court; prepare legal briefs and other documents to be signed by the supervising lawyer²⁹. LDC-LAC post graduate Bar Course students presently provide legal aid for children in conflict with the law; a reconciliation program at Magistrates’ courts and Alternative Dispute Resolution.

On its part, the **Faculty of Law, Makerere University** established the Public Interest Law Clinic (PILAC) in 2012, as a CLE program with the aim of promoting hands-on experiential learning for law students; as well as

²⁷ World Voices Uganda

²⁸ Regulation 2 of the Advocates (Student Practice) Regulations, 2004

²⁹ Regulation 6(1) of the Advocates (Student Practice) Regulations, 2004

exposing students to social justice and public interest lawyering. PILAC seeks to promote social justice lawyering through making law students conscientious on the role of public interest lawyering in protecting rights of ordinary Ugandans. The CLE program has contributed to cultivating a new generation of lawyers who are committed to public interest and promoting social justice³⁰.

In 2013, PILAC established the Community Law Program and Mobile Clinic (CLAPMOC) to enhance Law students' capacity to understand and apply the law to real life situations through interactions with under-served communities and vulnerable groups. This program has enabled law students to gain valuable skills in delivering legal aid, through undertaking public legal education in areas of Kivulu, Katanga, Kikuba Mutwe, Kikoni, KiMombasa and Kasokoso. Law students are required to undertake research on the topic for legal awareness; and are supported by PILAC staff to respond to community questions. The CLAPMOC program thereby provides dual benefits for students and the community. Law Students also undertake legal awareness for prisoners in Wakiso, Mubende, Muinaina, Kaweri and in Kitalya; and support the Network for Public Interest Law (NETPIL). There is a high demand for Makerere Law students to participate in PILAC activities. The PILAC project model is different from the usual internship programs since it mostly targets students in their final year. It is currently being prepared for replication in other law schools in other universities in Uganda.

Kampala International University Law School also established a legal aid clinic as a model of delivering CLE, with dual educational and social objectives. KIU's Law Clinic is an extension of KIU's welfarist policy of promoting practical initiatives to support vulnerable communities. The KIU Law Clinic serves final year law students to enable them to practice the acquired legal skills through dealing with clients to solve actual legal problems and provide legal assistance to the poor and under-served communities. The KIU Law School aspires to serve as a training center and become a center of excellence on social justice and CLE; and to deliver general and specialized pro bono legal services in specific areas like child protection and advocacy, family law, labor rights and refugee rights ³¹. Mukono University is also in the process of establishing a CLE program for law students of Uganda Christian University.

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³⁰ Interview with PILAC

³¹ Accessed via KIU website on 26.8.19

To promote University Law Clinics' CLE agenda, Makerere Law School led universities in the East African Community (EAC) to establish a joint law clinic (East African Network of University Law Clinics (EANULAC) to assist the poor, vulnerable and marginalized to have access to justice in the EAC. EANULAC will contribute to ensuring that the training program of lawyers in East African universities changes to include a package that inculcates skills to promote social justice and public interest lawyering. As a clinical legal education movement, EANULAC operates as a support structure where universities converge to share ideas, experiences and lessons.

Benefits of University Legal Aid Clinics in legal aid service delivery.

CLE creates a pipeline of young lawyers to undertake legal aid work and public interest lawyering. CLE enables Law Students to acquire experience in handling real legal cases through interacting with poor and disadvantaged people. University legal aid clinics provide human resources to supplement and complement LASPs especially in areas or situations where the combined efforts of government and LASPs are not sufficient to meet the legal aid needs of their communities. The emphasis on social justice under CLE significantly contributes to inculcating a commitment to pro bono work by graduates of the Law schools. Whereas not all students end up as legal aid or public interest justice lawyers, the CLE experience contributes to shaping students' perspectives on social justice. Many of PILAC's CLAPMOC students have completed University and work with LASPs and are champions for Public Interest lawyering. LASPs have also entered into arrangements with PILAC and LDC-LAC to provide them with student interns to complement their human resource requirements. The Public Interest Law Clinic of Makerere University launched the Network of Public Interest Lawyers (NETPIL) with the objective of enhancing lawyers' engagement in Public Interest Litigation to advance Social Justice and promotion of human rights. NETPIL has been at the forefront of Public Interest Litigation, promoting rights of poor and vulnerable people, including People with Disabilities; and promoting the rule of law.

Respondents for this research confirmed using law students in provision of legal aid. FIDA uses law students as interns to work at their branches as part of FIDA's internship program. In addition, the students are eligible to join FIDA's mentorship program whereby junior lawyers are partnered with senior FIDA members. UMSC also indicated that they

utilize the services of law students in the Uganda Muslim Students' Association, which association is available in all universities. APP also uses PILAC law students and provides an internship program for third year law students who mainly work in Luzira prison. The law students are supported and supervised by legal officers especially for complex cases.

PLA also works with law students in the provision of legal assistance. Students participate in work-based awareness usually done in the informal sector like markets. Students are required to undertake research on the topics they will present during community outreach programs to ensure that they provide the right information. Law students are also involved in interviewing clients and drafting documents.

"University students are easy to get"³². University students present a cost-effective and sustainable legal aid service delivery model. The students provide valuable and much much-needed human resource for legal aid service delivery. "Having law students as part of the legal aid clinic's team enables the students to handle simple legal aid issues, which frees up time for legal aid lawyers to handle more complicated cases and/or litigation"³³". The legal aid delivery experience cultivates a mindset amongst law students of their responsibility to provide pro bono services. Indeed, LASPs have taken advantage of the availability of the human resource provided by Post-Graduate Bar Course students, many of whom work with LASPs as interns. However, LASPs, who are mainly donor funded, incur costs for hosting students, though it is a lower cost compared to having full time lawyers.

In the same way, the current set-up and operation of many university legal aid clinics relies on donor funding for its implementation. Donors support most aspects of the clinics and meet the expenses required for students to provide legal aid. In this way, a sustainable model becomes unsustainable in case donor funding ends. Law clinics could explore the option of having students pay to participate in CLE. Universities currently have compulsory internship programs whereby students are required to pay for the cost of the internships. Gulu University is establishing a university law clinic and the university has included a cost of **UGX 50,000/-** per student to meet the expenses of the law clinic.

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³² Legal Officer, Public Interest Law Clinic, Makerere University

³³ Legal Officer, Public Interest Law Clinic, Makerere University

Being part of the youth category presents opportunities to engage law students to provide legal information through mediums that are youth friendly. LASPs³⁴ are increasingly embracing the use of ICT to deliver legal aid services and the youth are primary users of social media platforms. Social media contains many platforms on which people seek information on legal issues and justice processes, for example ULS's **"Puliidawo app"**, launched in June 2019. Since social media is a medium usually used by the youth then LASPs can leverage on the availability of law students to manage their media platforms.

Challenges in working with law students to provide legal aid services

Law students are not always available to do legal aid work since their participation depends on the academic calendar. In addition, there is currently no comprehensive legal, regulatory and implementation framework enabling participation of law students in CLE or a supervision strategy for students. The implementation framework could be aligned to University requirements for paid internships for university students as part of the law faculty curriculum.

Universities like KIU aspire to undertake CLE programs in specialized areas, which provides opportunities for LASPs which specialize in particular areas to partner with law schools on using students to provide legal assistance in their specialized areas.

E. Informal Justice Systems

Informal Justice Systems (IJS) refer to methods of dispute resolution which take place outside the formal justice system. Informal Justice Systems existed before colonialism in Uganda; and were used to keep law and order in particular communities. Colonial laws were introduced based on the premise that the colonized had no capacity to govern themselves, so laws were imposed and structures created to ensure law and order; ignoring structures which had hitherto governed the colonized³⁵. IJSs apply normative frameworks that are based on custom or religion; and may also draw on some elements of national laws and international human rights standards.

IJSs can be differentiated according to their composition; appointment; source of legitimacy; organizational structure; processes and outcomes;

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³⁴ For instance, Barefoot Law, ULS (with the Puliida wo App); FIDA, MCJL

³⁵ Juuko 2018:3

linkages to the formal justice system; normative and legal frameworks; monitoring, supervision, appeal mechanisms, fees and costs. IJSs in Uganda include:

- (a) Traditional leaders
- (b) religious leaders
- (c) Local administrators with an adjudicative or mediation function
- (d) Community paralegals.

Many CSOs also use Community paralegals to provide legal assistance in communities, including legal advice and alternative dispute resolution. LASPs train community on legal and human rights principles to enable them apply legal and human rights principles while providing legal aid services³⁶.

IJSs play a significant role in enhancing access to justice, especially in rural areas, where people face significant challenges in accessing the formal justice system. The HiiL report (2016) on the Justice Needs of Ugandans found that Courts and lawyers are marginal to the experience of day-to-day justice of the people of Uganda - less than five percent of dispute resolution takes place in courts of Law; and that lawyers are involved in less than one percent of these cases. However, even the low rate of cases being reported in the formal justice system are subjected to high case backlog. Jjuuko notes that, *“one wonders what would be the magnitude of the problem if the formal justice system were to be the mainstream mechanism for resolution of disputes, instead of the marginal role it plays today?”*³⁷

The National Service Delivery Survey (NSDS) 2016 found that 98% of the respondents indicated that they knew about the LCI as the forum for resolving disputes. People in rural areas use the services of LCs and customary courts more³⁸. The HiiL; “Justice Needs in Uganda: Legal problems in daily life”, 2016 found that IJSs (church leaders, cultural leaders, etc.) receive high scores by respondents for the quality of the outcomes of their processes; the fairness of the outcome, as well as

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³⁶ UN Women, UNICEF, UNDP, INFORMAL JUSTICE SYSTEMS: charting a course for human rights-based engagement p.54

³⁷ Prof. Juuko, F. “The role of Informal justice Mechanisms in Deepening Access to Justice: Options and Opportunities for Legal Pluralism in Uganda”; 2018:1

³⁸ Uganda National Service Delivery Survey, 2015:210

their ability to resolve the initial problem³⁹. IJSs are also perceived to be more efficient than the formal courts, according to the NSDS 2016, which uses the time taken to resolve a dispute as a proxy indicator of the effectiveness of the institution in delivering legal services. Households which used LC and customary courts indicated that their cases were resolved in less than a month (89% for LCs; and 82% for customary courts)⁴⁰. Moreover, 90 percent of the people interviewed indicated satisfaction with the services of customary courts; and 86% were satisfied with LCs' services⁴¹.

Professor Jjuuko has attributed the increasing preference for IJSs to the failure and marginal nature of the formal justice system in addressing problems and issues of poor and marginalized people; and the physical and economical inaccessibility of the formal justice system. Jjuuko further states that this movement is part and parcel of the alternative movement in the world, which arises out of marginalization. He refers to alternative movements in medicine, journalism; and law (justice). In this context therefore, alternative/informal justice is not unique⁴². IJSs also appeal to communities because their mode of operation is participatory, applies restorative justice; is non-adversarial and focuses on social relations. An example is the Mato Oput (customary law) which was proposed to be used as part of the Transitional Justice processes at the end of the LRA war. Promoters of Mato Oput stated that the formal justice processes could negatively affect the peace process; and preferred the traditional Acholi culture as a means of restoring social relations, where forgiveness and reconciliation are indicated to be at the center of traditional Acholi culture⁴³.

Ker Kwaro Acholi (KKA) is another example of a cultural institution of the Acholi people in northern Uganda, comprising of 54 chiefdoms. KKA has been actively involved in enhancing and promoting peace-building in the Acholi region, especially in the aftermath of the LRA war. The KKA also plays a significant role in resettlement and reintegration of former abductees and combatants.

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³⁹ HiiL 2016:102

⁴⁰ Uganda National Service Delivery Survey, 2015:214

⁴¹ Uganda National Service Delivery Survey, 2015:216

⁴² Juuko 2018:8

⁴³ Juuko 2018:9, citing Patrick Tom, *The Acholi Traditional Approach to justice and the War in Northern Uganda*.

Ekooti ya Kisekwa is another type of informal justice system which is used in Buganda to determine matters concerning norms and procedures in Buganda. Representatives of this court are appointed by the Kabaka; and the court sits every six months to handle cases that have been appealed from the lower clan tiers (household (omukulu wa'maka), the omukulu we nju (Head of 5 homes within the same lineage; the Lunyiriri, the mutuba, the Ssiga and the Kasolya). Cases handled by the Kisekwa Court include disputes in clan leadership, disputes in succession amongst clans; and disputes in clan lineage⁴⁴ .

Types of Informal Justice Systems

Community paralegals

A community paralegal is a member of a particular community who has received basic training on the law and legal procedures, and conflict resolution procedures; and is able to transfer this knowledge and information to community members. Unlike conventional paralegals whose main role is to assist lawyers, the primary role of the community paralegal is to work directly with the communities they serve. Some LASPs, like MCJL have provided training to their paralegals that is equivalent to that of conventional paralegals, and they are deployed as community paralegals.

Community paralegals are called different names by different LASPs, but their basic role remains the delivery of legal assistance at community levels where they provide a bridge between the law and real life at community levels. Their roles include community sensitization on legal rights; mediation, advocacy; reporting and/or referring cases of rights violations to the relevant authorities; follow up cases and assist in drafting simple legal documents. Depending on the LASP for which they work, community paralegals may provide comprehensive legal aid support; or work in specific legal areas like children's rights, domestic violence, land rights etc.

Community paralegals significantly contribute to empowering local communities through their support with legal empowerment and working with community members to solve their legal problems. They also enjoy a dynamic position in their capacity to engage formal and traditional institutions. KCOBPA indicates that due to the community

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⁴⁴ Interview with a former official of the Buganda Kingdom.

paralegals' grounding within the community, they use any opportunity to create awareness amongst communities, for instance at churches, funeral gatherings, and village savings groups which were initiated by KCOBPA.

A female respondent- KCOBPA Beneficiary, Butekanga village, 53 years old

"I got a problem of being tortured by husband and through meetings, sensitization I learnt my problem requires the law. I came to Mr. Mwase Joseph who guided me on how to solve my problems. I did not go to LCI because the LCI committee fears my husband since he abuses a very body.

I got to know about Kamuli Community Based Association and through meetings, we are trained and sensitized about legal affairs. I was referred to a lawyer called Judith who helped us in mediation. They came to my home to see the situation in our family. the lawyer gave me advise which is even uptoday I am using and following

KCOBPA is one of the community paralegal associations that were established and supported by FIDA. FIDA trains and supports their community legal volunteers to undertake awareness, legal advice, mediation at community levels and referral of cases to appropriate authorities. KCOBPA's paralegals create awareness and assist individuals with their legal problem and coach people to represent themselves in court. PLA also has paralegals, referred to as Human Rights Advocates who receive training in the law, in order to assist in resolving legal issues at community level. MCJL also trains religious leaders to operate as community paralegals. Many traditional and/or religious leaders receive training to provide paralegal services. ASF also developed a Training Instructors' Guide for Community-based mediation in Uganda. ASF's manual facilitates capacity building for faster and cost-effective community dispute resolution, in compliance with international mediation best practices.

Human Rights Awareness and Promotion Forum (HRAPF) also implements a community paralegal program through which legal aid services are provided to marginalized and Most at Risk Populations in Uganda. HRAPF has an established community paralegal training curriculum consisting of three intensive 4-day trainings which are undertaken over a period of nine months to allow paralegals to practice and internalize what they learnt. HRAPF follows up the community

paralegals and organizes quarterly meetings with them to enable them share their experiences and report on their cases. HRAPF further produces the “I AM A COMMUNITY PARALEGAL” magazine which is a platform for community paralegals to share their experiences and tell their stories on enhancing community justice.

Paralegals in the criminal justice system

Many LASPs use the equivalent of community paralegals to provide legal assistance to people in conflict with the law. Due to the shortage of lawyers and legal aid providers in many parts of Uganda, paralegals have significantly contributed to enabling prisoners to access justice. They assist accused persons in situations that do not require the involvement of a lawyer, for instance tracing sureties for bail applications, assisting suspects to get police bond and coaching accused persons to represent themselves in court. Paralegal Advisory Services assists more than 50,000 people a year to access justice in the criminal justice system. Most of this assistance is provided at police stations where they help suspects during the process of recording statements and to obtain police bond. LDC-LAC also uses Fit Persons who provide legal assistance to children in conflict with the law.

Benefits of providing legal assistance through community paralegals

The main advantage of using community paralegals is the fact that they significantly reduce the cost of accessing and providing legal assistance. Community paralegals address some of the biggest constraints faced by poor, vulnerable and marginalized people in accessing justice, that is, time and cost. The fact that they live in communities also means that they are alive to the real and potential legal conflicts in a particular community; and in many cases, can proactively work to prevent problems from escalating into full legal disputes. KCOBPA uses the community village model whereby each village has a paralegal who provides information and feedback to KCOBPA on what is taking place in the village. This approach enables the paralegals to identify potential legal problems and address them before they escalate. They usually know community cultures and tradition and their positioning in the community enables them to support people to address problems from a legal standpoint.

Community paralegals also provide solutions tailored to community members’ legal problems due to their knowledge of the local context and the parties in the disputes, and the history of the dispute. Community

paralegals can also contribute to finding solutions for individuals and the entire community. KCOBPA paralegals in Kamuli provide the best example of this – while they addressed individual cases of child labor, they were able to change the entire community practice of employing under-age children in homes, restaurants and rice fields. Community members stated that just the threat of reporting a parent or employer to the community legal volunteer is sufficient to make them ensure that no child is involved in child labor; and goes to school.

As indicated earlier, majority of legal disputes do not end up in the formal justice system and in fact, poor and vulnerable community members are least able to afford the costs of litigation. Through community legal awareness, paralegals enhance empowerment and agency of community members, which enables dispute resolution as well as dispute avoidance. Community paralegals are more accessible and can therefore provide front-line legal assistance.

Cost effectiveness of community paralegals

Most LASPs who use community paralegals provide them with a modest stipend, transport support/allowance to enable them to provide legal assistance in communities. Whereas they are not volunteers in the strictest sense, the operational costs provided to them to provide legal aid enables them to assist many people. Statistics from LASPs indicate that community paralegals handle and settle many disputes at community level, thereby reducing the time and burden of mainstream legal aid providers. The average monthly cost of a legal aid clinic is about UGX 7m per month on staff salaries and administration expenses. According to the ULS, a legal aid lawyer handles about 40 cases per month, and for two lawyers in a clinic, that comes to about 80 cases. LASPs spend further costs on individual legal aid clients on costs like filing fees, transport refund, stationery, etc. MCJL estimates an expenditure of about UGX 250,000/- per client per month.

On the other hand, LASPs which work with IJSs usually meet their expenses for providing legal aid to a tune of about UGX 300,000/- per month. They are further facilitated with operational logistics like bicycles, stationery, T-shirts, Jackets and Coats. LASPs usually have to decide between hiring lawyers and investing in community justice structures. If a LASP already meets the legal requirements for operating a legal aid clinic, they could consider further human resource investments in community justice structures, since the cost of an additional lawyer

would meet the expenses of up to 10 IJS members. If 10 IJS members each assist 20 people a month, this would come to 200 beneficiaries, excluding the costs of the clients in transporting him/herself to the LASP and the speed of dispute resolution. Community paralegals can be more cost-effectively used to assist community members in cases where a lawyer's presence is not necessary. Furthermore, the limited geographical reach of LASPs and the attendant costs of using lawyers to provide legal aid in remote/rural areas make the case for the community paralegal more persuasive. Community members also find it easier to communicate with the paralegals who are knowledgeable in the local language.

Dispute resolution by Traditional leaders

Traditional leaders include clan leaders, elders, and elders' fora who provide a system of kinship-based leadership, and exercise 'traditional authority' to resolve disputes within their communities. They apply traditional and/or cultural norms to resolve disputes, although they can combine them with some elements of statutory law. Typical processes used during dispute resolution involve discussion, negotiation and arbitration, after which a decision (which is taken to be the consensus) is made on the dispute. Traditional IJSs usually proceed on the basis of implied agreement by the parties that they will accept the decision of the traditional leader(s). Traditional leaders sometimes represent the only authority within people's reach and they play key roles in upholding law and order. Traditional leaders also usually perform other administrative; law and order-related functions; and are community gate-keepers. Traditional leaders can also control land allocation, keep a register of the population, and call community meetings to discuss important community issues.

One example of the use of traditional leaders for dispute resolution is the ***Bataka Court*** model initiated by World Voices Uganda (WVU) to enhance access to justice through informal justice mechanisms. The word "Bataka" is derived from the term "mutaka", meaning a resident or native of an area. 'Bataka' therefore, is the plural form for bonafide residents. Before colonialism, Bataka Courts (courts of elders) were used as a form of justice system. The Bataka Court model therefore derives its name from the pre-colonial system whereby communities, especially the elders, used to sit together to resolve their issues. WVU has revived these courts to enable poor people access speedy justice.

Bataka courts operate in five districts of Kagadi, Kibale, Kakumiro, Kyegegwa and Kyenjojo; and each court court comprises of seven members who are elected from community members. They are people of integrity, with no criminal record, and should be willing to undertake voluntary work. The court members receive training in the law and human rights and they handle issues related to boundary disputes, simple misunderstandings, domestic quarrels and succession conflicts. WVU has mobilized community members to use these courts⁴⁵; and a community member can report his/her case to any member of the court. As such, the courts are legitimate in the eyes of the community.

The courts resolve disputes in open spaces, with the full participation of community members. The elders invite community members to hear and participate in the dispute resolution. Cases are attended to on the day they are reported⁴⁶. Cases involving confidential matters are heard in privacy by a few elders. Decisions by the Bataka courts emphasize reconciliation and social harmony. WVU has developed a model handbook to guide Bataka court members to resolve disputes.

Bataka courts are popular because they facilitate dispute resolution faster and cheaply and they adopt a reconciliatory approach to dispute resolution. Their processes are simpler, undertaken in local languages; and enable both parties to participate in the dispute resolution processes. In a way, they appear to be the opposite of formal processes which are perceived to be expensive, out of reach for the poor person; and use processes that are 'alien' and difficult to understand by the poor and vulnerable person. Bataka courts have further established linkages with the formal justice system whereby if the case was in court and the Bataka court takes it over, the ruling of the Bataka Court can be filed with the Court for endorsement.

According to WVU, the main beneficiaries of the Bataka courts are the poor and vulnerable. WVU's '*Bataka Courts model handbook*' indicates that some of the main reasons why people use the Bataka Courts are that formal courts are located far away from the places where rural people live and the costs associated with accessing these courts are

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⁴⁵ Andrew Kawooya Ssebunya, 2014 Why local realities matter for Citizens' Voice and Accountability: Lessons from Mwananchi Uganda pilot projects; <https://journals.openedition.org/factsreports/3569>

⁴⁶ <https://www.monitor.co.ug/artsculture/Reviews/Why-Bataka-courts-are-becoming-popular/691232-2611838-liomn3z/index.html> (accessed on 26.8.19)

prohibitive. The legal language of the formal courts (English) also does not favor an illiterate population. Furthermore, filing cases in formal courts requires payment of fees which poor people cannot afford to pay. Formal courts are also located a considerable distance from rural areas, which translates into high transport costs. Frequent case adjournments compound the problem of transport costs.

A respondent who is a chairperson, LCIII

Bataka court has helped much in giving free services the people which were not solved by police, Bataka court is more trusted by the community.

IJSs like the Bataka courts significantly contribute to access to justice, by resolving small cases through faster, accessible and cheap justice. Beneficiaries⁴⁷ of Bataka courts majorly highlighted that Bataka courts have increased their knowledge of the law and helped them solve their legal problems. Many beneficiaries also stated that WVU provides support legal services. *"We have Jumba's telephone number, which we use to ask him for information about the law and legal processes"*. Beneficiaries indicated having gained confidence in representing themselves in court. WVU has engaged government through policy dialogues; and undertaken advocacy efforts to ensure the enactment of a policy on IJSs.

Beneficiary testimonies.

A female respondent, – WVU beneficiary, Kyaterekera B.

If it's a problem I go to LC1 and Bataka court for help / assistance

I got to know about World Voices through meetings which were organized in our village. Bataka court/ world voices helped to get me to recover my property like Kibanja, plots and family belongings which were stolen by my husband. I have never used a lawyer; and I have the confidence to represent myself in court.

A male respondent, (Kyaterekera B)

"If I get a problem, I go to the Chairperson, LCI and report my case. If it fails at LCI Court, he refers us to LCII or Bataka Court. Bataka court is better than LCI court in handling cases because we do not pay; and they are not corrupt. I have never used a lawyer in handling my case since they are handled at Bataka Court level.

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⁴⁷ Bagala Alina Sadi, Kyaterekera B; Baculana Elisa, Kitumba A; Kisembo Yusufu;

I go to Bataka Court for legal advice; and I can represent myself in court after gaining sensitization from the Bataka Court and WVU."

Another female respondent, (Kitumba A)

Since I am the vice chairperson of the Bataka Court, it is easy for me to know which problems require the law. If I get a problem, I call upon the Bataka court committee members to solve it. As a result, I know how to solve conflicts like land and family conflicts. We get a lot of appreciation from these people for whom we solve problems at no cost. Many people appreciate our services.

I can represent myself in court due to the confidence, training I have got from World Voices and the Bataka court. Due to the training I got, I give legal advice to people in the village".

Nevertheless, there is need to ensure that the proceedings in IJSs are fair; and that they protect the rights of vulnerable and marginalized people. Furthermore, whereas there is clear appreciation of the role of Bataka courts by different stakeholders, they need to be linked to the formal justice system. In addition, there are no mechanisms to enforce decisions of the Bataka Courts.

LEMU also uses traditional and religious leaders for legal aid service provision in areas of Teso, Lango, Karamoja and Bunyoro. LEMU's area of operation is mainly affected by customary land ownership, with over 80% of the land being held customarily. There are many land conflicts within the communities and amongst family members. LEMU uses community volunteers for community land protection. LEMU initiated boundary tree planting; and sketch map drawings to facilitate land boundary demarcations. LEMU trains religious and traditional leaders about the law and human rights; and facilitated documentation of traditions and customs for managing family land. LEMU also supports the IJSs with minimum tools to enable them undertake their roles. In addition, LEMU uses GPS and google maps to contribute to plotting customary land to address the rampant land disputes.

GWED-G, a non-government organization operating in Gulu also uses cultural leaders (Rwodi Kweri and Rwod Okoro) to assist community members to amicably resolve land disputes through mediation. Through use of cultural leaders, GWED-G has enabled community members to amicably resolve land disputes through the IJS. LDC-LAC also uses religious leaders to divert juvenile offenders from the criminal justice system.

Some of the challenges of the traditional IJSs is that their authority applies only to the people who are members of their clan or community; and people who are not part of them are not customarily entitled to protection; and may not have a right to be heard. This situation also affects the capacity of these systems to deal with inter-clan disputes⁴⁸. LEMU also indicated that traditional leaders live very far away from the places where the land disputes may occur and would require transport support to enable them provide legal assistance.

Legal aid through Religious leaders

Uganda is a religiously diverse country with Catholics being the largest religious denomination (40%), followed by Anglicans (32%). Muslims comprise about 14% of the population, with over 12,000 Juma mosques in Uganda⁴⁹; and Pentecostals comprise 11%⁵⁰. Faith-based organizations are currently involved in justice issues – with many establishing legal aid clinics to provide legal support to members of their congregations. People usually present their social-legal problems to religious leaders for counselling and prayers. Many Ugandans go before religious leaders each week for prayers and in many cases, religious leaders provide pastoral, including psycho social support for the people they lead. The weekly congregations provide a good opportunity and platform for legal awareness. Lawyers within congregations can be a useful resource in providing legal awareness to the congregations. In addition, places with congregations provide a good space for paralegals to sensitize community members on their rights. KCOBPA indicated that their paralegals provide legal awareness to religious gatherings.

UMSC also stated that Imams handle disputes; and UMSC encourages Imams to teach the congregations about their rights, though the Imams may not be knowledgeable in legal matters. MJCL has tried to fill the knowledge gap amongst Muslim community leaders by sponsoring them to undertake diploma in law courses at the Law Development Centre, which has significantly increase their knowledge of the law; and capacity to handle legal and human rights issues. UMSC has also undertaken some capacity building for the Muslim leaders.

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⁴⁸ UN Women, UNICEF, UNDP, INFORMAL JUSTICE SYSTEMS: charting a course for human rights-based engagement p.56
⁴⁹ UMSC interview
⁵⁰ National Population and Housing Census, 2014:19

On its part, the Muslim Centre for Justice and Law (MCJL) works in Butambala, Mayuge, Bugiri and Kampala where it undertakes legal aid service provision using Islamic Law. MCJL has established mechanisms to enable Muslim religious leaders to provide legal aid and sensitize community members on their rights. MCJL has provided comprehensive training to the paralegal sheikhs, who, though they apply Sharia Law in providing legal assistance (especially in Family and inheritance matters); also use their knowledge of the law and human rights to ensure that legal aid provided using Sharia law conforms to legal and human rights standards; and that the application of these laws does not contradict the Laws of Uganda.

MCJL also uses the Qadhi court model - through a committee at the mosque - which adjudicates people's disputes. They usually handle marriage, separation and inheritance issues. MCJL built the capacity of the committee members in the law; which enables them to be conversant in both secular law and Sharia law. MCJL has endeavored to build the capacity of Muslim adjudicators to ensure that their decisions comply with human rights and are gender sensitive. MCJL also has paralegals at the mosques who provide legal aid at the mosque, police and the community.

Teso Religious Leaders' Effort for Peace and Reconciliation (TERELEPAR) is another inter-religious organization comprising of all religious denominations who contribute to promoting peace, reconciliation and development in Teso sub-region. As part of its conflict resolution and peace-building initiatives, TERELEPAR identifies and builds capacity of religious leaders from different denominations, clan leaders, local council leaders, youth and women groups on basic laws, gender, SGBV prevention; and human rights to enable them resolve conflict at community level; and protect rights of the vulnerable. Using a pyramid approach, the trained paralegals try to resolve cases at community level; and those that cannot be resolved are referred to lawyers at TERELEPAR's offices, or to other appropriate agencies. TERELEPAR's approach aims at using the religious, traditional and local leaders as change agents within their communities.

The Inter-Religious Council of Uganda (IRCU) is faith-based organization which unites efforts of religious leaders to address issues of common concern, including human rights, conflict transformation and good governance. IRCU encourages its members to use their religious

platforms to mobilize and facilitate social transformation of communities for the common good. IRCU advocates for peaceful co-existence, tolerance, human rights, justice and reconciliation for harnessing the unique similarities and differences in faiths, traditions, ethnicity, beliefs and action.

Religious leaders use the weekly fora for believers to raise awareness of rights. Using a targeted approach, the religious leaders develop pastoral letters directing churches to preach a particular message on specific days. TERELEPAR also supports interface between religious and clan leaders on the one hand; and communities on the other hand, to discuss issues of land, gender, SGBV and early marriages. Religious leaders are in positions of authority, which enables them to speak authoritatively on those issues and contribute to changes in community attitudes and practices.

Challenges of providing legal assistance through Informal Justice Systems

- (a) IJSs are accessible, cost-effective and sustainable. Many IJSs are composed of people who are known and respected; or chosen by the community members and thereby enjoy community trust and legitimacy. Any changes in practices, procedures and standards which are adopted by these systems are also likely to be adopted by the community and become sustainable, due to the trust they have in these systems. However, these systems have difficulties in extending their authority beyond their communities, which are normally small and local.
- (b) Secondly, some categories of people or groups may not be strongly represented in the IJSs. These include women, children, PWDs and minorities. Ethnic, religious and traditional cultures usually have deeply embedded gendered attitudes towards certain categories of people; and the IJS are more likely to uphold rather than challenge the patriarchal values of the society around them, including attitudes and patterns of discrimination. Challenges in realising women's rights are often rooted in tradition, culture or religion and most violations of rights of women arise out of social customs, beliefs or practices and are perpetrated by individuals and social groups, rather than the state⁵¹. Nevertheless, there are opportunities for IJSs to adopt approaches to customary law which allows the IJSs to adopt changes that reflect respect and protection of all rights. Capacity building for members of the IJSs has the potential to inculcate legal and human rights principles in their work.
- (c) In many cases, IJSs deal with issues which directly affect the interests of women and children, such as customary marriage, inheritance and property rights. Considering that some IJSs use traditional and/or religious norms in resolving disputes, there is a risk that the system can violate human rights, reinforce discrimination and neglect principles of procedural fairness⁵².
- (d) Mode of operation of some IJSs may limit capacity for some

⁵¹ UN Women, UNICEF, UNDP, INFORMAL JUSTICE SYSTEMS: charting a course for human rights-based engagement p.12

⁵² UN Women, UNICEF, UNDP, INFORMAL JUSTICE SYSTEMS: charting a course for human rights-based engagement p.7

categories of people from using them – for instance, many traditional or customary courts sit in open spaces and the community participates in the hearings of such cases. This process may present procedural barriers, especially in respect of cases where privacy and confidentiality are required, like cases of personal and intimate rights violations.

(e) IJSs have particular sensitivities regarding particular issues. For instance, the issue of women’s rights to own land is a sensitive issue in traditional or customary settings. On the other hand, religiously-based IJSs have sensitive themes including women’s reproductive rights; and rights to dissolve marriages. However, the application of religious doctrine differs from one religion to another. On the other hand, community paralegals may be able to resolve and/or advise on such sensitive issues

F. Legal awareness/Public Legal Education and information (PLE/I)

Public Legal Education and information, also referred to as legal awareness, is the **provision** of information to the public on issues of the law and the justice system. PLE/I enables people know the law, so that they can defend their legal rights and/or use that knowledge to avoid legal problems. PLE/I empowers recipients and increase their confidence in dealing with their law-related problems; and take more control over his/her life.

The HiiL study on Justice Needs in Uganda noted that when people face a justice problem, they first seek information and advice – they ask family members, friends and other trusted people about their rights and what they can do to address the situation. People usually seek information using formal and informal sources. Informal sources include family, friends, neighbors, Elders, cultural and church leaders. Formal sources include LCCs, police, Courts, lawyers/LASPs. Public sources for information include radio, Television, internet and IEC materials⁵³. On average, a person with a justice problem in Uganda will seek information and advice from more than two sources, both formal and informal⁵⁴. It is worth noting that most of the sources whom people seek advice from are not lawyers. It is therefore important that in addition to community

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⁵³ HiiL; “Justice Needs in Uganda: Legal problems in daily life”, 2016:61

⁵⁴ HiiL; “Justice Needs in Uganda: Legal problems in daily life”, 2016:63

legal awareness, targeted training should be provided for people who are usually approached for legal information, like cultural and church leaders, traditional leaders, LCCs and police.

Mode of providing Public legal education / information

LASPs undertake PLE/I in a variety of ways, including provision of IEC materials (booklets and posters), radio programs, community legal awareness sessions, forum theatre performances, and moot competitions for prisoners. To enhance access and reduce costs of accessing and providing legal information, many LASPs have taken advantage of the ICT revolution and use digital media to provide legal information. Some LASPs, like Barefoot Law Uganda, almost exclusively provide legal assistance online. Others have a combination of legal awareness methods including use of ICT, IEC materials, community outreach programs using lawyers and community paralegals.

However, community members in Uganda are not homogeneous; and a person's level of education and vulnerability is likely to determine his/her access and use of legal information. People with higher education (university), higher incomes and those living in urban areas are more likely to seek information than those with no education; yet people in rural areas are more vulnerable and disempowered, and need to easily access information. Moreover, different gender approach different sources of information - women are more likely to approach family members, family heads and neighbors, while men are more likely to approach colleagues, cultural and clan leaders. The gender dynamics herein may reflect the type of problems which each gender is likely to have; and also the ease of approaching specific people when a man or a woman has a legal problem. Gender dynamics in PLE/I interventions therefore need to be taken into consideration. In terms of targeting capacity building interventions for providing legal information to community members, LASPs need to carefully choose training beneficiaries to ensure that they will be easily approachable by both men and women.

PLE/I should also be provided to people in forms that are understandable for them, without the need to consult experts. People should be able to obtain information that is tailored to their problem in a timely manner (when they need to act upon the problem) – as this promotes self-reliance by the recipient of the information, for example, Platform for Labor Action specifically designs call in radio programs for domestic workers during periods presumed to be free of encumbrances and

interference from their employers. For LIPs, information should talk about processes as well as possible outcomes of the process⁵⁵. PLE/I is generic; and it would be useful for the PLE/I sessions and materials to indicate where/how a community member can obtain information regarding a specific case.

Costs/benefit analysis of PLE/I

PLE/I is cost-effective in the long-run because legal information provides people with knowledge which enables them to avoid legal disputes. PLE/I promotes self-help; and can significantly increase a person's control over the situation which s/he faces because it reduces uncertainty and the costs of searching for the right strategy and enhances his/her bargaining position⁵⁶. Armed with the right information, a person can take action before a problem escalates and to manage issues better, including knowing when and where to get expert assistance. Legal disputes are problems of everyday life and such problems usually have a long life history, becoming more serious with the passage of time. PLE/I provides assistance to people of a preventative nature before a problem becomes more serious, requiring crisis intervention or ending up in costly litigation.

The specific costs/benefits of PLE/I

(i) When a person is presented with the ***right*** type of information, s/he can use the information to cope with and/or address the legal problem⁵⁷. If the information provided can enable a person to accurately identify a problem as a legal problem, then it increases his/her chances of getting legal assistance⁵⁸.

(ii) **Increased confidence in handling court cases by LIPs** - knowledge of rights and legal processes facilitates a person's capacity to self-

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⁵⁵ Barendrecht, M. "Legal aid, accessible courts or legal information? Three access to justice strategies compared" – Tilburg University Legal Working Paper Series on Civil Law and Conflict Resolution Systems", 2010:5

⁵⁶ Legal aid, accessible courts or legal information? Three access to justice strategies compared - TISCO Working Paper Series on Civil Law and Conflict Resolution Systems 2010

⁵⁷ Barendrecht, M. "Legal aid, accessible courts or legal information? Three access to justice strategies compared" – Tilburg University Legal Working Paper Series on Civil Law and Conflict Resolution Systems", 2010

⁵⁸ Law for Life: Foundation for Public Legal Education "Legal Needs, Legal Capability and the Role of Public Legal Education" <https://www.lawforlife.org.uk/research-and-theory/legal-needs-legal-capability-role-public-legal-education-summary/>

represent when faced with a legal problem – in formal or informal justice system, including at police, LCC, and government agencies. Forum theatre, a method usually employed in the criminal justice system, enables prisoners to act a mock court-room setting. Prisoners are able to go through the process of examining and cross-examining witnesses and evidence; prepare their defenses and submissions. Accused persons are also able to know when and **how** to apply for bail; or present any other issues to the judicial official.

- (iii) The costs of providing legal information usually relate to the costs of collecting and presenting the information in an understandable form. Once the information is presented, the distribution costs are the costs of additional printing or download; or providing the information again. For instance, for UGX 10 million, it may be possible to develop booklets on common legal issues and procedures such as land rights, inheritance and succession, family law, children's rights; civil and criminal procedures. Some LASPs have developed handbooks containing all the common legal topics. If 10,000 copies of a comprehensive handbook are printed for 30,000/- each, this would mean UGX 300,000,000 in total. If each handbook provides information to at least 10 people per year over a period of five years (50x10,000 copies = 500,000 people), then the cost of providing information per person comes to about UGX 600/-). This excludes people who are able to access the handbook online. There are clear economies of scale. The benefits of providing the information are that the recipient can use the information to cope with his/her legal problem. If presented with the right information, then a certain proportion of the targeted people will be able to use the information to solve their problem in a satisfactory way.
- (iv) There are collateral benefits of providing legal information – in that the legal information is likely to spread throughout the community. For the most common problems, people will know someone who has had a similar problem and can therefore transmit the information or refer the person to the rights sources.

A female respondent, – KCOBPA beneficiary (Kananage B village , Nakulyaku parish , southern Dr Kamuli Municipality).

I use the information I gained to help and guide my friends about civil and land cases using simple guide books written in Luganda & English on issues like inheritance, marriage and divorce and land

The HiiL research on Justice Needs in Uganda found that the most widely used sources of information and advice are the LCCs (30%), family members (26%) and friends (25%). The research also found that the radio is a popular information outlet, with 71% of the population listening to the radio; and fewer people (16%) watching television⁵⁹. LCCs, family members, police and community paralegals can be more effective helpers when they have access to legal information. Lawyers could also handle more clients if they have to spend less time informing a client of the law and their rights⁶⁰.

B. E, another respondent, WVU beneficiary (KITUMBA A)

I listen to radio programs where I get to know the problems which require the law. When I get a legal problem, I report to chairperson LC1 and I request him to advice what to do. I also got to know about World Voices Uganda on radio programs

G. Use of Information Communication Technology (ICT) to provide legal assistance

Increased availability of internet services in Uganda over the last few years has led to a shift in the increasing use of digital services. LASPs currently use the internet as an innovative and potentially cheaper method of delivering legal aid services. The internet has also been used as a means of delivering legal information to people who may not be eligible for legal aid, and at the same time, are unable to afford lawyers.

Barefoot Law Uganda (BFL) is an NGO which predominantly uses ICT to deliver legal aid services. According to BFL⁶¹, there are approximately 2,000 lawyers to provide legal help to more than 36 million Ugandans, which makes the chances of accessing personal professional legal help difficult, especially for people who cannot afford lawyers' services. On the other hand, Uganda has experienced a rapid growth of technology, with over 60 percent of the population owning mobile phones; and internet connectivity increasing over three-fold every five years. This has created opportunities for LASPs to use digital platforms to deliver legal aid service BFL uses innovative approaches to provide the public

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⁵⁹ HiiL; "Justice Needs in Uganda: Legal problems in daily life", 2016:63

⁶⁰ Barendrecht, M. "Legal aid, accessible courts or legal information? Three access to justice strategies compared" – Tilburg University Legal Working Paper Series on Civil Law and Conflict Resolution Systems", 2010:7-8

⁶¹ <https://barefootlaw.org/>

with free legal information and assistance. BFL approaches include their online Talk to a Lawyer module; virtual counsel; use of social media to provide legal information and advice; and Telephony (calls and SMS).

BFL usually identifies legal issues on topical cases; and creates public awareness on the law regarding the story. In the process, they use the story to teach people about the law. BFL has also developed legal guides on key legal issues including:

- Barefoot Lawyers Guide: Employment
- Barefoot Lawyers Guide: Inheritance and Succession
- Barefoot Lawyers Guide: Writing a Will
- Barefoot Lawyers Guide: Rape and Defilement

Many other LASPs have adopted the use of ICT to deliver legal aid services. The Uganda Law Society developed the “Puliida wo app”; FIDA has a FIDA App; and MCJL has the MCJL E-Law Uganda. Most of these Apps are found on google play and can be individually downloaded and used. JCU also indicated having a Facebook and twitter accounts, with dedicated staff to respond to inquiries online.

As with PLE/I, this is a very cost-effective legal aid strategy, because the main costs involved are with developing and hosting the application. Costs of accessing are borne by the user. Some organizations have gone ahead to translate information on the Apps into local language to enable people who are not conversant with the English language to access and use the information. Other ICT platforms used by LASPs include social media like Facebook, snapchat and Twitter⁶². Another innovation has been undertaken by LEMU and TERELEPAR who use google maps and GPS to facilitate the establishment of customary land boundaries in the Teso sub-region as a way of reducing boundary-related disputes.

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⁶² Including ULS and FIDA



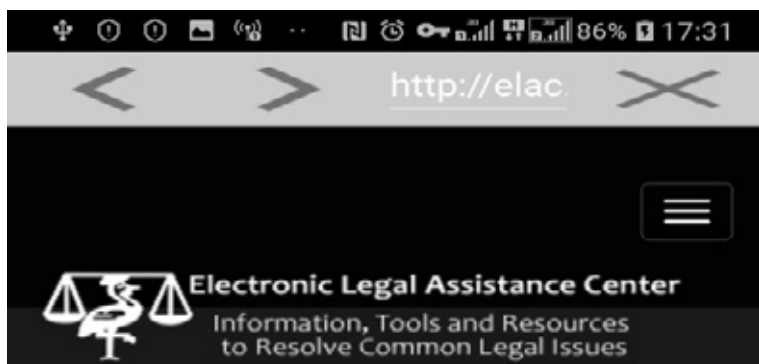
MCJL App



FIDA App

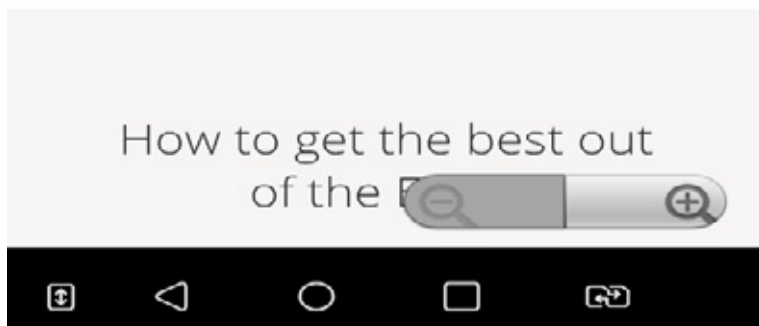


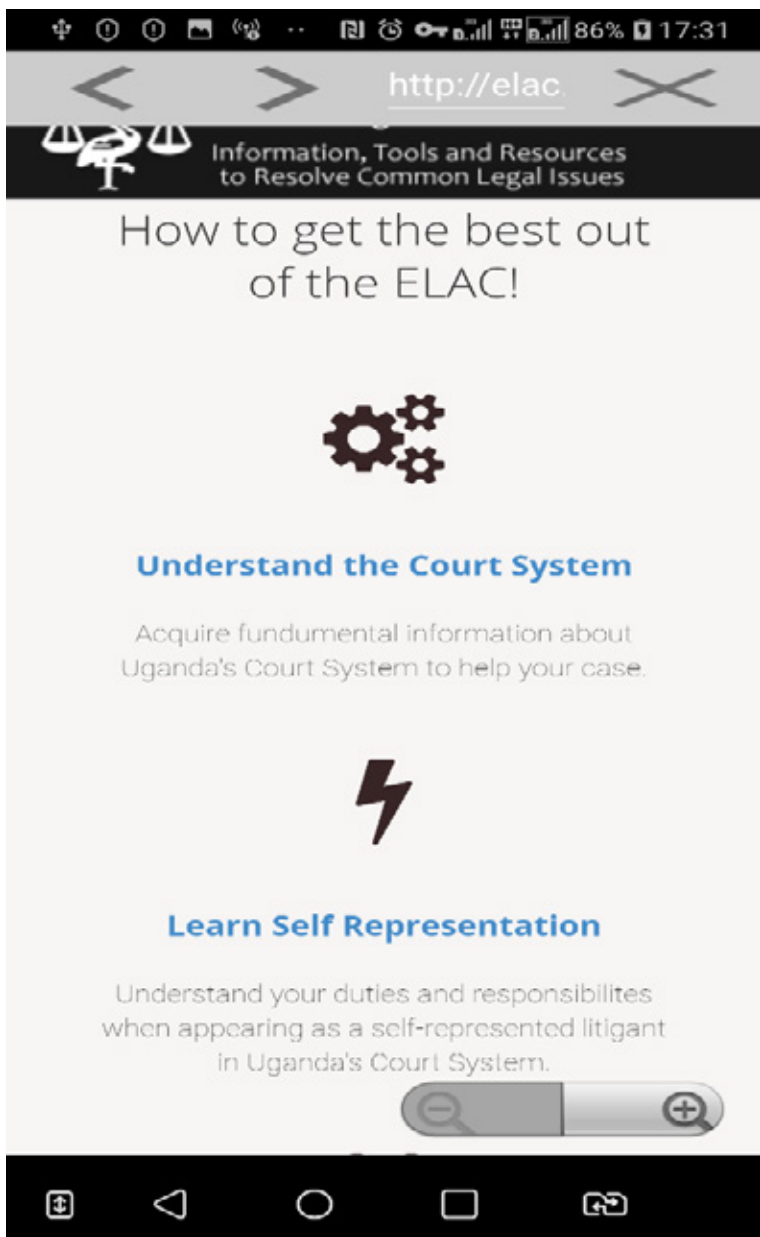
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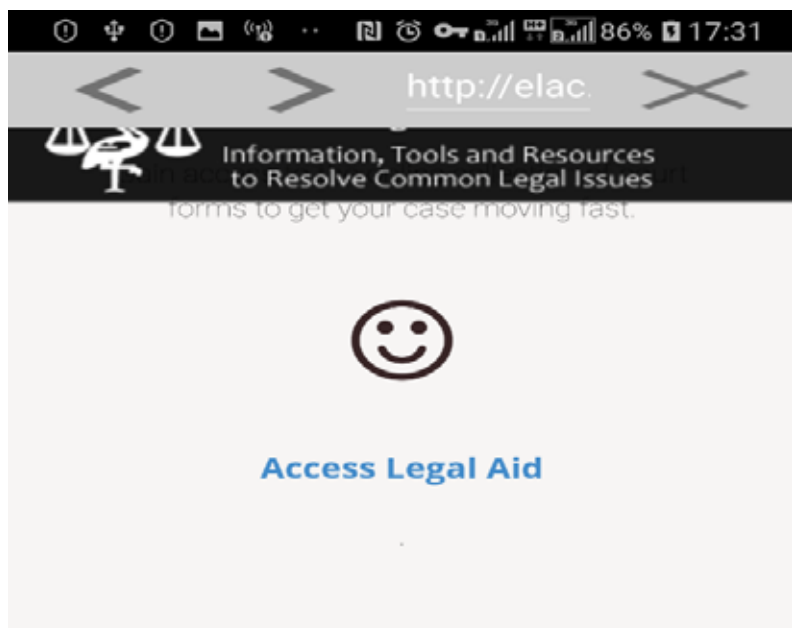


The Electronic Legal Assistance Center

A tool developed by the Uganda Law Society to enable quick access to legal information and free or low-cost legal help. Keep in mind that this tool may not provide individual assistance with, or information about, your specific case but will use available data to guide you through official procedures and documentation according to the Laws of Uganda.







Frequently Asked Questions

Should I represent myself?

If you are thinking about representing yourself in Court, you should know that you have an absolute right to do so. However, you should know that there are significant risks



However, whereas the internet has revolutionized the way in which people interact with each other and obtain information, there are certain barriers in respect of the use of ICT for legal self-help. notwithstanding the increasing reach of the internet in Uganda, ICT platforms may not be easily accessible by the people who need it more. Most beneficiaries who were interviewed as part of this research indicated that they do not use the internet to access legal information. Many beneficiaries in Kibale indicated the limited availability of internet services in their areas; and that they have never tried to use internet for legal assistance.⁶³

It has been noted earlier in this study that community members are not homogeneous, and that people find and consume information in different ways. Internet usage is higher amongst the youth and urban populace. Poor people in rural areas who find it difficult to access legal help, may also not have access to smart phones and internet to be able to use it to obtain legal assistance and are not literate enough to read the information online. Furthermore, effective use of digital legal assistance for legal aid requires the user to have the capacity to frame his/her legal problem in a way that enables him/her to search for what s/he wants. The user needs to have capacity to assess the quality and veracity of online information; and whether the information is relevant to the Ugandan jurisdiction (jurisdictional appropriateness)⁶⁴. There is also need for research to establish the extent to which people are using the internet to seek information to resolve legal problems.; and to assess the quality, breadth, reach and scope of ICT mediums that provide legal assistance. In addition, there is need to assess how individuals use the information online to resolve their legal problems; the extent to which the online information resolves the problem in question; and how individuals search for and select relevant resources from the broad range on available information online.⁶⁵ That being said, the internet provides clear, cost-effective opportunities for providing legal assistance and information. Emphasis should be put on having interactive internet services that would enable a person to obtain information that is tailored to his/her legal problem.

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⁶³ A- WVU beneficiary (Kyaterekera B); A male WVU beneficiary (Kitumba A); another male WVU beneficiary Kitumba B; A male PILAC beneficiary, A female PILAC beneficiary (Kabalagala); A male PILAC beneficiary

⁶⁴ Law for Life: Foundation for Public Legal Education

⁶⁵ Denvir, C. Balmer, N.J. Digitally (De)Faulted? How do young people use the Internet to acquire knowledge of their rights? University College London

H. Use of hotlines

The increasing demand for legal aid services, coupled with the high cost of legal aid service delivery has contributed to the increasing use of legal information telephone lines (legal hotlines) to provide legal information. Many LASPs use legal hotlines as part of their legal aid service delivery framework and these include Justice Centres Uganda, FIDA, ULS, and PLA, to mention but a few. JCU has 13 toll free lines which run from 8.00am to 5pm; and spend about UGX 500,000/- on each line every month. The Uganda Law Council also put in place an information hotline to ease access to information on its services. LASPs can use this telephone service to inquire about the status of their applications for legal aid registration; or renewal of their licenses. On its part, LASPNET is in the process of establishing a call-center through which callers can get legal information which will become an entry point for clients to access the various LASPs.

Legal hotlines are a cost-effective and time-saving method of delivering legal assistance. For the client, it removes the costs and time associated with accessing a LASP; and for the LASP, dedicated use of a few staff can provide advice and assistance to many people. Hotlines can be manned by legal aid volunteers and/or interns, supervised by an advocate. The cost of using interns and/or volunteers to provide first-hand assistance to callers is much lower than using lawyers to physically interact with the client. Legal hotlines could have inbuilt systems which can quickly escalate a call to a paralegal or a lawyer; and simplified scripts are created for automated greetings/information. In addition to hotlines, many beneficiaries and community volunteers indicated being able to call LASP legal officers for advice and assistance whenever they need to. WVU beneficiaries indicated that they are able to communicate their issues to the Panel of Elders through phone calls.

Benefits of using hotlines include:

- Convenient access to legal advice and information from anywhere, as long as the caller has access to a phone. Information can be obtained in a timely and cost-effective manner, and the recipient of information can use the same to take the next steps to resolve his/her legal problem. Information is also tailored to the person's legal problem and/or needs.
- It facilitates a quick way of providing legal assistance to people in remote and rural areas who would otherwise not have access to

legal assistance.

- Provide services to people who require immediate assistance; or cannot visit an office location
- Facilitates faster cross-referrals to other agencies which can help in resolving legal and related problems.

However, at times legal aid clients prefer to personally interact with a lawyer through a walk-in service. Language barriers may also affect communication between the legal aid provider and the client. This means that LASPs would have to make additional investments in ensuring availability of personnel who can communicate in at least the main languages in Uganda.

In addition, many hotlines are automated, meaning that the client will have to first navigate through the automated greetings or be put on hold waiting for the next available staff members to attend to his/her query, which can be frustrating. Nevertheless, these factors should be balanced against the benefits and opportunities of being able to access information in real time from anywhere in the country, compared to travelling to an office and waiting to see a staff member. The increasing availability of mobile phones makes this a cheaper and time-saving option.

I. Public-Private partnerships between LASPs and Government

LASPs routinely partner with government in the process of delivering legal aid to enable cost-effective delivery of services, as well as facilitating leverage of government in certain areas that can enable LASPs reach their goals. Key examples are in PLE/I programs where LASPs are invited; or where LASPs invite government agencies to participate in PLE/I programs to enable community members learn about how key JLOS agencies operate. In many cases, where government is offered free radio airtime, LASPs are invited to participate and undertake PLE/I on such programs, which enables LASPs to save on their own PLE/I costs.

LASPs which work at local government levels have also benefitted from local government “in-kind” funding for legal aid services. LASPs have partnered with Local governments whereby the LASP is provided with free office space, and sometimes, the facilities of the Local government administration to enable them to deliver legal aid. LDC-LAC has greatly benefitted from such in-kind support by local governments, where LDC-LAC offices at the district are housed by the local government,

which also facilitates them with administrative items like stationery. For JCU, government meets its expenses in terms of office space and maintenance costs like water and electricity. Until recently, FIDA office space in the districts was provided by the local government which provided free office space for FIDA lawyers to undertake legal aid work, thereby saving FIDA the costs of renting their own offices.

The potential for a productive partnership between LASPs and Local Governments led to the design and implementation of a public-private partnership between LASPNET, FIDA and PILAC on the one hand; and Lwengo district on the other hand, to pilot a district-led sustainable legal aid service delivery model. Under the Lwengo pilot, each partner was assigned specific roles aimed at facilitating the establishment of the sustainable legal aid delivery model. Project partners were supposed to provide funding and technical support for provision of legal aid services. Specifically, FIDA was to provide lawyers to deliver legal aid and support socio-economic empowerment of women while PILAC students would assist in PLE/I. On its part, Lwengo district was supposed to initiate local government ownership of the legal aid service delivery in partnership with the people of Lwengo. This was implemented through initiatives such as inclusion of a legal aid budget; co-opt a district/legal aid lawyer in the district's administrative structure; and develop a crowd-funding model for community members to contribute to legal aid service delivery.

Following the establishment of the legal aid clinic, Lwengo district Council passed a resolution to provide two acres of land as office space for the Ministry of Justice and Constitutional Affairs to construct JLOS premises for court and the office of the Directorate of Public Prosecutions. Related to the above, to ensure sustainable intervention, the district has also planned and budgeted for a legal officer in the financial year 2017/2018.

To ensure the sustainability of the project, the partners initiated a crowd-funding mechanism through which community members are encouraged to contribute modest amounts of money (as low as UGX 500) which is collected into a pool intended to raise funds for legal aid provision. On top raising funds, the initiative is also intended to enhance community ownership and participation in legal aid service delivery. For the easy collection of the funds, partners procured an online software known as **"Crowd Funding Software"** which provides options of either collecting contributions through MTN Mobile money service; or using

an online link: **crowdfunding.laspnet.org**. Funds that are collected are deposited on a special account in Finance Trust Bank, run by the Lwengo District Local Government; and will be used to top up for services rendered by lawyers whose remuneration will partially be met by the district.

The pilot of the sustainable legal aid model project in Lwengo provided lessons and an opportunity to replicate the model in other district local governments. The pilot has presently been replicated in Kayunga and Omoro Districts. The pilot of the Lwengo model has also become a “proof of concept” that legal aid can be sustainably delivered and owned by local governments. This lesson is especially important because, even as LASPs are lobbying and advocating for a national legal aid law, funding for legal aid will not be enough to meet all the legal aid needs. Furthermore, different districts have differing legal aid needs, depending on their particular contexts.

The trend of increasing cuts to legal aid has led to the rising of crowd funding as an alternative funding source for people who cannot afford lawyers’ fees. In the United States and U.K, the crowd-funding model connects litigants with sponsors who are prepared to contribute funds to cases. In these jurisdictions, individual litigants pitch cases to potential sponsors for funding.

The foreseeable challenge for crowd funding is the sustainability of public interest in funding legal aid. In this regard too, crowd funding runs the risk of being patchy, in that it depends on the goodwill and capacity of potential donors, many of whom may have their own problems to deal with. Whereas public funding remains the preferred option for financing legal aid, there is need to recognize that government will never be able to release enough funds to support the ever-growing demand for legal aid.

CHAPTER 4: CONCLUSIONS AND RECOMMENDATIONS

This study was aimed at identifying cost-effective and sustainable legal aid models implemented by different LASPs across the country in the provision of legal aid and access to justice to ensure recognition and replication of such models. Legal aid in Uganda is provided through several models including legal aid clinics, Pro bono, Litigating in Person, Clinical Legal Education, Informal Justice Systems, Public Legal Education/ Information and through ICT. Each of these models has distinct benefits and challenges.

Legal aid Clinics provide individualized services, but are costly to operate, and are not sustainable without a legal framework for provision of legal aid and government funding. The requirements of the Advocates (Legal Aid to Indigent Persons) Regulations, 2007 are aimed at ensuring quality and standards in legal aid provision. However, fulfilling the legal requirements for providing legal aid requires a financial investment by the LASP, which cannot be met by the indigent legal aid beneficiary. To mitigate the costs of operating a legal aid clinic, it is recommended that LASPs take advantage of the legal provisions which allow them to recover some of the costs and/or expenses incurred in the delivery of legal aid services in the event where the cases they are handling are successful. Many countries where the legal framework determines the eligibility and type of legal aid to be accessed also have a corresponding budgetary allocation to facilitate the provision of legal aid. In the case of Uganda, there is a legal framework regulating legal aid provision, but the Legal aid law has not been passed. LASPNET and LASPs should continue efforts to lobby and advocate for a legal aid law, which is expected to have a budget for legal aid provision, thereby ensuring sustainable legal aid provision. LASPs could also explore the option of taking on the *“nobody’s clients”* – these are working class people who can pay for some legal services, but cannot afford private legal practitioners.

On its part, **pro bono** legal aid provision complements LASPs who face the challenging task of providing legal aid to millions of Ugandans who cannot afford a lawyer, thereby contributing to closing the justice gap. Pro bono is also cost-effective because a lawyer is paid per case, rather than on a full-time basis. There is need to engage all advocates to provide pro bono in ways that are convenient, especially for advocates who are not in full-time private practice.

Due to the high demand for legal aid services many people find themselves representing themselves in formal or informal justice processes. Litigating in person is a cost effective method for LASPs, as the role of the lawyer is limited to providing advice and guidance to the litigant, which saves the lawyer's time and cost of going to court in a single trial. Pro se has been effectively used for persons accused of petty offences where they are coached and trained on simple straight forward processes like applying for police bond or bail. Pro se is therefore effective for simple cases or in informal justice systems, but may not be advisable in cases which require the litigant to have sufficient knowledge of the law and court processes. A legal aid lawyer may coach the LIP on court decorum and court processes; but may not be able to prepare the litigant for everything that may happen in the court room. LASPs provide information to LIPs to use as reference materials when preparing to go to court. However, this information is usually generalizes, and may not speak to the LIP's legal problem; or the LIP may not be able to use the information to assess the strength/weakness of his/her case. LIPs need to be enabled to access toll free lines or duty counsel to seek clarification and/or guidance on their cases while at court. LASPs also need to exercise discretion on the type of cases where clients are allowed to represent themselves. Ideally, self-representation is suitable in non-formal settings and for simple cases.

Clinical Legal Education is another method that has been established in law schools to build law student's capacity to understand and apply the law to real life situations through regular interaction with under-served communities and vulnerable groups. **CLE** builds students' capacity provide human resources to supplement and complement LASP; and inculcates a commitment to pro bono work by law graduates. Having law students as part of the legal aid clinic's team enables the students to handle simple legal aid issues, which frees up time for legal aid lawyers to handle more complicated cases and/or litigation. There is an increasing number of law schools in Uganda, which provides good opportunity to scale up the establishment of CLE programs in law schools. With the high demand to participate in CLE programs by law students, Law schools need to explore options of having students meet their costs of participating in the program, thereby reducing the reliance on donor funding for CLE programs.

Informal Justice Systems (**IJSs**) which include traditional leaders, religious leaders; and community paralegals are also widely to provide

legal assistance. IJSs play a significant role in enhancing access to justice especially in rural areas where people face significant challenges in accessing the formal justice system. IJSs are accessible, cost-effective and ensure fast dispute resolution, thereby eliminating some of the constraints faced by poor and vulnerable people in accessing justice, that is, time, cost and technicality of the formal justice system. IJSs can be more cost-effectively used to assist community members in cases where a lawyer's presence is not necessary. Some of the challenges of the traditional IJSs is that their authority applies only to the people who are members of their clan or community; and these systems may have difficulties in extending their authority beyond their communities, or to people who are not part of them. This affects their capacity of these systems to deal with inter-clan disputes. In addition, some groups of people, like women, children, PWDs may not be strongly represented in the IJSs. There is need to ensure that IJS members receive adequate training in the law and human rights to ensure that their decisions do not reinforce traditional attitudes and patterns of discrimination, especially for vulnerable groups like women, children and PWDs.

Legal awareness is used by LASPs to increase people's knowledge of the law and legal processes, to enable them to defend their rights and/or use the knowledge acquired to avoid and/or deal with legal problems. People with legal problems seek information from formal and informal sources including family, friends, neighbors, Elders, cultural and church leaders, most of whom are not lawyers. **PLE/I** is a cost effective way of empowering people to address and/or prevent legal problems. However, community members are different, and they consume information differently. Information also needs to be provided in forms that are understandable and usable by people. LASPs need to undertake an assessment of the target beneficiaries of their information, and tailor the information communication and education strategy to reach the intended beneficiaries. People should be able to obtain information that is tailored to their problem in a timely manner (when they need to act upon the problem) – as this promotes self-reliance by the recipient of the information. In addition to community legal awareness, targeted training should be provided for people who are usually approached for legal information, like cultural and church leaders, traditional leaders, LCCs and police. Collateral benefits of providing legal information are that the legal information is can spread through the community. An effective PLE/I strategy means that lawyers would handle more clients

if they spend less time informing a client of the law and their rights. Community paralegals would be in position to provide legal information cost-effectively.

Increased availability of internet services in Uganda has led to increased use of digital services by LASPs to provide legal aid services more cost-effectively, with costs of accessing the information being borne by the user. However, the limited availability of internet services limits beneficiaries' capacity to utilize the internet for legal aid access. Furthermore, using the internet to access legal aid requires a certain level of proficiency by the user to search for the information. To ensure effective use of online platforms for accessing legal aid, LASPs need to popularize and translate the apps to local languages to enhance their accessibility and user-friendliness. Furthermore, there is need to establish the extent to which people use the internet to obtain information about their legal problems; how people use online information to resolve their legal problems; and the extent to which the online information resolves the problem.

The increasing demand for legal aid services, coupled with the high cost of delivering legal aid services has contributed to the increasing use of legal information telephone lines (legal hotlines) to provide legal information. Many LASPs currently use legal hotlines as part of their legal aid service delivery. Legal hotlines are a cost-effective and time-saving method of delivering legal assistance. For the client, it removes the costs and time associated with accessing a LASP; and for the LASP, dedicated use of a few staff can provide advice and assistance to many people. Research respondents indicated being able to call LASP legal officers for advice and assistance whenever they need to. Hotlines provide cost-effective, convenient access to legal advice and information, in a timely and cost-effective manner, and they facilitate a quick way of providing legal assistance to people in remote and rural areas who would otherwise not have access to legal assistance. Hotlines can also facilitate provision of services to people who require immediate assistance; or cannot visit an office location.

Going by the above, it can be seen that there are various legal aid methodologies, suitable for the various categories of legal aid clients. A legal aid method may be costly, but suitable for the particular client's case. Nevertheless, there is need for LASPs to define the right range of legal aid service components depending on the legal issue, the

complexity of the client's case, forum where the legal dispute is being resolved; needs of the clients (for instance, PWDs); and type of legal aid service required.

LASPs could consider the development of a Triage system for legal aid service delivery – where categories of cases are handled through particular methods, or mixed method. For instance, community paralegals could, for economic reasons, be better placed to undertake legal education, awareness and advice; and to handle simple cases that do not necessarily require a lawyer's time – either through a legal aid clinic or pro bono. Where a client's case requires technical knowledge and skills, it could be handled by a legal aid clinic or a Pro bono lawyer. Duty counsel lawyers can also provide first appearances and adjournments in court cases; and provide individual advice to LIPs regarding their particular cases at court.

The pro bono program is solely implemented by the Uganda Law Society on behalf of the Uganda Law Council. Other LASPs who wish to use services of Pro bono lawyers have to separately budget for these, usually drawing from their membership. There is an opportunity for the ULS to link their pro bono lawyers to other LASPs, who can benefit from the availability of lawyers around the country; and other advocates who are specialists in particular matters. For instance, if WVU requires a pro bono lawyer in Kagadi; and a ULS member in Kagadi also signed up to do pro bono work, then links between ULS and WVU could enable the ULS pro bono advocate to assist the WVU client, without necessarily having the client having to travel to Masindi to get allocated a pro bono lawyer. On the other hand, ULS could consider 'counting' the time a LASP pro bono lawyer spends on a legal aid case as part of the Pro bono hours.

Using pro bono lawyers also helps LASPs to address the high demand for legal aid services, as well as reduce the work load of legal aid staff. Increased demand for legal aid services may be easily absorbed by pro bono lawyers in a cost-effective way as opposed to the expenses of having additional staff within a LASP.

Law Students could undertake initial interviews and assessment of clients' cases and needs. The lawyer should be able to handle cases that cannot be effectively handled by other accessible and cost-effective methodologies. Increased use of community paralegals, law students and pro se could also go some way in increasing "access" to legal services.

However, LASPs should be mindful of the fact that legal aid service delivery should meet the varying needs of different legal aid clients. The youth have different needs from the elderly; family law clients may have different needs from clients in the criminal justice system. All legal aid clients cannot use the same method of accessing services, even when delivering the service is cost-effective for the provider. For instance, litigating in person may be appropriate for simple cases; but may not be appropriate for women who have been victims of abuse. In addition, it may not be appropriate to refer a victim of abuse to a pro bono lawyer, since that person would require services of a social worker, which a pro bono lawyer may not have the capacity to provide.

4.1 Recommendations

The study has identified various methods of delivering legal aid services – each method has distinct benefits and costs; and the effectiveness of each method has been assessed. It has also been noted that legal aid clients are not homogeneous; and they present different legal issues; at different stages of resolution. The main question therefore is: “What is the best way to spend money for people who need legal aid services” to ensure access, equity and sustainable legal aid services?

a. Lobby and advocate for government funding for legal aid

Currently, legal aid services are majorly undertaken by non-government organizations, with donor funding. 44 LASPs are registered with the Uganda Law Council to provide legal aid services, covering about a third of the country. This set up of legal aid provision does not ensure equitable access to legal aid, and is not sustainable without donor funding. There is also an overwhelming demand for legal aid services, and LASPs are unable to meet the demand. There is need to continue lobbying and advocating for a legal framework for provision of legal aid services, which will ensure equitable and sustainable access to legal assistance for all people in Uganda.

b. Organize legal aid service delivery to ensure efficiency and economies of scale

Encourage division of labor between LASPs and Informal Justice Systems

A typical legal aid case follows a ‘predictable’ journey – from the time a person realizes/gets the legal problem, to subsequent steps including seeking advice on the problem; trying to resolve the issue, and getting the case to a formal or informal justice system for dispute resolution.

LASPs could map a typical client’s legal journey; and identify the person’s needs at every step of the journey; as well as the best method that can be employed to provide assistance at each stage. Not all cases require a client to see a lawyer, but clients need to be informed of, and access appropriate services at each step of the journey. At this point, the role of first aid/first responder legal aid services needs to be underscored. These include toll free lines for advice and referrals; use of informal justice systems; duty counsel for criminal cases; and use of Legal Aid Apps for information. Most LASPs interviewed as part of this study indicated

that their community paralegals and toll free lines provide legal aid to more people than the clinics. LASPNET, as the coordinator of LASPs, has recently launched its call center which provides first responder services to legal and clients, as well as a referral system for legal aid clients to enable them to access the most accessible and cost effective legal aid services, depending on their location and nature and stage of the legal dispute. Evidently, a legal aid referral chart would need to be developed to guide operators of the call-in system to support clients.

c. Establish cost-effective and efficient partnerships in legal aid service delivery

LASPs and IJSs co-exist and complement each other; and there are benefits in promoting economies of scale by encouraging division of labor amongst LASPs; and between LASPs and IJSs. Informal Justice Systems present opportunities for faster and cost-effective legal aid service delivery. In fact, people with legal problems use some of them as the first point of reference for information and advice. Being at community level, IJSs can provide first-responder legal assistance to people, including advice, counseling and ADR. IJSs can also provide good referral services to people; and can refer clients to a LASP when they require professional help. This would contribute to reducing the work load of legal aid lawyers, and ensuring that cases they handle are those that require their attention and expertise. NM, a female KCOBPA beneficiary on Kamuli Town UCB zone indicated that the Community paralegals provided her with initial assistance in applying for Letters of Administration and when it came to going to court for the application, they referred her to a FIDA lawyer to process the Letters of Administration. On the other hand, IJSs would use the expertise of the LASP in cases that are too complex to be settled at IJS level or those that require legal representation. In determining efficiency and economies of scale in legal aid service delivery, IJSs would feature prominently in the first responder category; and also in mediation, counseling and referrals. IJSs also present advantages of sustainability and legitimacy, having stood the test of time and being solidly anchored in communities. Some IJSs encourage community participation in dispute resolution and as a result, decisions of the IJS are respected by the community.

However, there is need ensure that IJSs provide effective and efficient legal aid services. Consideration should be given to providing legal information or handbooks to the IJSs for use as reference materials

when providing legal assistance. There is also need to ensure effective capacity building of IJSs on the law and legal processes, as well as rights of marginalized and vulnerable people to ensure that IJSs promote and protect everyone's rights; reduce discrimination and ensure procedural fairness in the process of dispute resolution.

LASPs should also facilitate linkages between IJSs and formal justice systems through various initiatives. FIDA (U) utilizes an approach where regular meetings are organized between Community Legal Volunteers (CLV) and Judicial officials to have discussions about their operations; seek guidance and advice on handling particular community issues within the legal framework. Judicial officials also provide 'best practices' in legal aid provision for CLVs.

d. Cost sharing/recovery of legal aid costs

Most legal aid services are provided by non-government organizations, with donor funding. Furthermore, the legal framework for provision of legal aid contributes to the set-up of an expensive model of legal aid services, (legal aid clinics), aimed at ensuring quality and standards in legal aid service delivery. Through the legal aid clinic model, significant expenses are incurred on assisting a single client, including costs of retaining a lawyer, costs of filing and transport to court or locus visits and in many cases, they also facilitate the client with transport expenses. Costs of providing legal aid services are heavily skewed against the provider of the services, which significantly relies on donor funding. In other words, LASPs are expected to pay meet the costs of providing services. On one hand, this reinforces the need for government to fund legal aid services, since this is a public good aimed at helping people who would not otherwise access justice, to access it.

LASPs usually recover money and assets on behalf of their clients when they are successful in resolving a case. Regulation 29 of the Advocates (Legal Aid to Indigent Persons) Regulations, 2007 makes provisions to enable LASPs get contributions from clients to meet the costs of providing legal aid. The Regulations empower a LASP to make deductions from a client's award, to meet the costs and expenses incurred in providing legal aid (an amount not exceeding 10% of the damages paid pursuant to a settlement). A LASP is also entitled to receive the costs of a case that are awarded to a client. LASPs could take advantage of these provisions to facilitate cost-sharing by clients. These monies contribute to sustainability of legal aid by LASPs.

The issue of cost recovery is being implemented in many jurisdictions that provide legal aid, where legal aid beneficiaries are obliged to repay the costs of providing legal aid in cases their cases are successful⁶⁶. In Slovenia for example, if a legal aid client is fully or partly successful in the proceedings and on the basis of that, acquires revenue or property, then s/he is must reimburse government for some of the costs incurred in providing legal aid, paid by the opposing party (collected by government)⁶⁷. In Montenegro, if a legal aid beneficiary is fully or partially successful in the case, then s/he is obligated to repay or cover the cost of legal aid⁶⁸. In Denmark, a person with a fixed income who is convicted of an offence must cover the costs of legal aid – this is partly aimed at preventing re-offending.

e. Provide information to promote agency and self-help

There is an increasing demand for legal aid, yet the supply of legal assistance remains constant and, in some cases, withdrawal of donor funding reduces the supply of legal aid services in specific geographical areas. Within this context, it is important to empower people to become more self-sufficient in addressing and resolving their legal problems, even in court.

Knowledge/information informs people about the law and legal processes; what they can do to prevent violations against them; and where to go in case they experience violations. PLE/I plays a significant role in empowering people about the law and justice processes and can contribute to preventing the escalation of legal problems by enabling people to use available information to address their legal problems. Investing in publicly available legal information can reduce the costs of delivering legal aid. However, LASPs would need to profile their clients and identify the way these clients consume knowledge; and thereafter identify and use multi-dimensional approaches for PLE/I targeting particular groups and legal issues. Different demographics consume knowledge in different ways; and the cheapest mode of legal information

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⁶⁶ Article 1, Free Legal Aid Act of Slovenia, cited in the “Cross Country Comparison of Regional Mechanisms For Delivery Of Free Legal Assistance: World Bank Multi-Donor Trust Fund for Justice Sector Support January” 2014:26

⁶⁷ Cross Country Comparison of Regional Mechanisms For Delivery Of Free Legal Assistance: World Bank Multi-Donor Trust Fund for Justice Sector Support January 2014:30

⁶⁸ World Bank Multi-Donor Trust Fund for Justice Sector Support: Cross Country Comparison of Regional Mechanisms For Delivery Of Free Legal Assistance January 2014:8

may not be the most effective for the most vulnerable members of the population.

The limited availability of lawyers to assist indigent persons in court also means that some LIPs may only have legal education as their source of information during self-representation. Whether a person is a LIP by choice or by necessity, s/he must obtain information that clarifies his/her case and also explain the relevant procedural rules in order to effectively represent him/herself. Access to this information could also encourage people who would otherwise give-up a chance to present their claims in court to exercise their right to be heard; and to protect their rights⁶⁹. LIPs should also be enabled to obtain information from duty counsel or through toll free lines about the specific aspects of their cases; and how to handle each step of the formal justice process.

f. Use of digital media to provide legal aid

The increasing use and penetration of the internet is likely to see a wider trend in people using the internet to find information to help them solve their legal problems, known as the *digital-by-default* phenomenon. LASPs have embraced the internet revolution and provide legal information on Apps and social media platforms. The internet is playing an increasing role in promoting self-help. However, not everyone is able to use the internet effectively; and in addition to ICT, LASPs would need to devise various cost-effective strategies for delivering legal information to the various demographics in the country. On the other hand, even with the increasing internet coverage, costs of internet are out of reach for poor and vulnerable Ugandans. LASPs need to consider providing legal information through “offline” versions of the Apps. LASPNET could also advocate for government to reduce the costs of accessing the internet. However, the Law Council needs to put in place a regulatory framework for new developments and innovations in providing access to justice.

g. Increase participation of advocates and modes of pro bono legal aid provision.

The pro bono program implemented by the Uganda Law Society on behalf of the Law Council has significantly contributed to availing the much needed human resource to complement LASPs in providing cost-effective legal aid. Other membership based or member affiliated LASPs

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⁶⁹ Kim, H. H; “Legal Education for the Pro Se Litigant: A Step Towards a Meaningful Right To Be Heard” Article 5, Issue 7, Volume 96, Yale Law Journal; 1987:1651

also use their members or affiliates to provide pro bono services. The duty counsel program is part of the pro bono program, and facilitates the provision of real-time legal assistance at police and courts, especially for LIPs who may require legal advice and guidance on their specific cases. Costs of a duty counsel are lower than those of a full-time lawyer.

Nevertheless, not all lawyers are able to undertake pro bono work which requires individualized legal aid services, partly because of their work schedules which do not allow them to participate in the pro bono program. When a client is allocated to a pro bono lawyer, the lawyer is expected to handle all aspects of the client's case, sometimes including going to court. ULS is encouraging advocates to undertake piece meal pro bono work, which includes participating in PLE/I and undertaking ADR with LASPs, or providing legal advice. LASPNET has also established a call-center to provide first-responder legal aid services; and has partnered with the ULS to avail pro bono lawyers to provide legal aid through the call center.

The ULS implements the Pro bono program on behalf of the ULC and as a result, only clients going to ULS are allocated pro bono lawyers under the program. This arrangement may not be favorable to other LASPs who may require pro bono lawyers from time to time, to supplement their human resource gaps. Some member-based LASPs utilize their membership to provide pro bono services; and are expected to have a separate budget to implement this. The ULS could consider linking the pro bono programs with LASPs, and support the allocation of LASPs' cases to pro bono lawyers, more especially in areas where LASPs have few staff; or where the case requires the particular expertise of an identified pro bono lawyer.

h. Roll out University Clinical Legal Education Programs

CLE is being implemented in law schools as a method of promoting social justice lawyering. CLE enables law students to appreciate the role of public interest lawyering in protecting rights of ordinary people; and cultivates lawyers who are committed to promoting social justice. Law students are supporting many LASPs in the provision of legal aid services including client interviews, legal advice, preparing legal briefs; and PLE/I. Having law students as part of the legal aid clinic's team enables the students to handle simple legal aid issues, which frees up time for legal aid lawyers to handle more complicated cases and/or litigation.

However, many CLE programs are donor funded, and their benefits may only last as long as the donor funding does. Nevertheless, the multiplier benefits of CLE programs are high – the program exposes law students to poor and disadvantaged people, which contributes to shaping students’ perspectives on social justice and Public Interest Lawyering. There is need to find ways of having students to meet the costs of their participation in CLE programs. Gulu University has initiated a modest payment of UGX 50,000/- per student to contribute to meeting the costs of the University CLE program. CJAF-UG also uses law students from LDC and IUIU as interns, but the students are required to meet the expenses of their internship program while at CJAF-UG

i. Public-Private partnerships with Government

Public-private partnerships have the potential mitigate the cost of legal aid service delivery, especially where the legal aid interventions become anchored into the budget and operations of the government entity. LASPs need to identify any opportunity where they can receive support from government; and to mainstream the interventions into sustainable initiatives.

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UN Women, UNICEF, UNDP: Informal Justice Systems: charting a course for human rights-based engagement

5.1 Appendices

A: List of LASPs interviewed

- a) Uganda Law Society/ LAP
- b) Federation of Uganda Women Lawyers
- c) Platform for Labor Action
- d) Public Interest Law Clinic
- e) Law Development Center Legal Aid Clinic
- f) African Prisons Project
- g) World Voices Uganda
- h) Uganda Muslim Supreme Council
- i) Inter-Religious Council of Uganda
- j) Land and Equity Movement Uganda
- k) Muslim Centre for Justice and Law
- l) Kamuli Community-Based Paralegal's Association
- m) Community Justice and Anti-Corruption Forum
- n) Justice Centers
- o) Community Justice and Anti-corruption forum
- p) Former official of the Buganda Kingdom (Ekooti ya Kisekwa)

B. Questionnaire for respondents

Opening information to respondents

Introduce yourself and thank the respondents for agreeing to participate in the research.

Explain the purpose of the research

- a. LASPNET is a national member-based NGO which provides strategic linkages and a collaborative framework for Legal Aid Service Providers (LASPs) in Uganda. Among other things, LASPNET focuses on research and knowledge management to support evidence-based gathering aimed at enhancing accessibility and affordability of legal aid services.*
- b. Legal Aid providers use various methods to deliver legal aid services, including use of lawyers, legal volunteers/paralegals, law students; public legal education and information; tradition and religious leaders; and ICT (digital).*

These methods enhance access to justice in various ways; and they also have varying costs depending on the method used. In the absence of government funding for legal aid, much of legal aid is provided by NGOs, and may not be sustainable in the absence of donor funding.

- c. LASPNET would thereby like to contribute to knowledge generation on accessible, cost-effective and sustainable legal aid services. Information from the research will provide lessons for other LASPs.*
- d. The consultants will interview legal aid providers who use each of the outlined methodologies. We would also like to interview some of your beneficiaries so as to be able to relate cost-effectiveness and accessibility of legal aid services.*

Questionnaire:

For Legal aid providers

- 1.** Which of the following methods does your organization use while providing legal aid? The respondent should explain what they do under each category.
 - a. Lawyers (including pro bono lawyers/duty counsel)
 - b. Coaching on self-representation
 - c. Law students
 - d. Paralegals/Community legal volunteers
 - e. Traditional/religious leaders
 - f. Public Legal Education/Information

- g. ICT/digital e.g. Facebook; twitter; SMS
 - h. Other – please specify
2. Out of the methods identified in (1) above, which five main methods does your organization use to provide legal aid services?
- a. Lawyers, including pro bono lawyers and duty counsel?
 - b. Coaching on self-representation
 - c. Law students
 - d. Paralegals/Community volunteers
 - e. Traditional/religious leaders
 - f. Public Legal Education/Information
 - g. ICT/digital e.g. Facebook; twitter; SMS
 - h. Other – please specify
3. *Optional question* – for those who use **lawyers/duty counsel/pro bono lawyers**
- a. What do the lawyers do?
 - b. Which category of cases is more likely to be completed than the other?
 - i. Advice
 - ii. ADR
 - iii. Court representation
 - c. Do lawyers necessarily have to provide legal advice and ADR? If not, who else can do this?
 - d. Do you have branch offices? How many
 - i. How many lawyers are found in each branch office?
 - e. On average, how many clients does a lawyer handle in a day/month?
 - f. When representing a client, how many times (on average) does a lawyer attend court for a single case from start to finish?
 - g. Other than the lawyer's costs, what other expenses do you cover for a case?
 - h. Do clients meet any of the expenses for a case?
 - i. If a client's case is successfully resolved, does the client make any refund out of the monies recovered?
4. *Optional* – for those who indicated coaching on **self-representation**
- a. Who does the coaching?
 - b. Is coaching done individually; or in groups of clients?
 - c. In which cases is it easier for a client to represent him/herself in

court?

- d. How do you follow up with clients who are coached in self-representation?
 - e. What challenges do people face when representing themselves?
5. *Optional question* – for those who use **law students**
- a. What role do students play in the provision of legal aid services?
 - b. How is students' participation organized? – is it part time/ scheduled around specific semesters? Etc
 - c. What is the value of using students to provide legal aid?
 - d. What are the challenges/limitations of using law students to provide legal assistance?
 - e. Who funds the students' activities?
 - f. What is the average expenditure on a student in a month – when s/he is fully active in the legal aid program?
6. *Optional question* – for those who use **paralegals/ community legal volunteers**
- a. What kind of services do paralegals/CLVs do?
 - b. What kind of training do paralegals/CLVs receive?
 - c. What are the benefits of using paralegals/CLVs to provide legal aid?
 - d. What are the limitations of using CLVs to provide legal assistance?
 - e. On average, how many people does a paralegal/CLV assist in a month?
 - f. On average, how much do you spend on a CLV to provide legal assistance in a month?
7. *Optional question:* – for those who use **traditional/religious leaders**
- a. What kind of services do traditional/religious leaders provide?
 - b. What kind of training do they receive; and for how long?
 - c. What are the benefits of using traditional/religious leaders to provide legal aid?
 - d. What are the limitations of using traditional/religious leaders to provide legal assistance?
 - e. On average, how many people does a traditional/religious leaders assist in a month?
 - f. On average, how much do you spend on a traditional/religious leader to provide legal assistance in a month?

8. *Optional question* – for those who use **public legal education/information**
- a. How do you undertake public legal information? e.g.
 - i. Radio programs –
 1. What topics are covered? And how do you determine the topics
 2. How often are radio programs carried out?
 3. What is the average cost of a radio program?
 - ii. Use of toll free lines. What is the monthly cost of the toll free line?
 - iii. IEC materials like booklets;
 1. How many do you prepare/print/year?
 2. How are these distributed?
 - iv. Community outreach;
 1. How do you determine where to conduct an outreach session?
 2. What is the average cost of a community outreach session?
 - v. Other – please identify,
 - b. How does public legal education/information enable a person to defend and protect their rights even without a lawyer?
9. *Optional* – for those who use **ICT/digital e.g. Facebook, twitter, SMS**
- a. Please explain the type of services provided through the ICT platforms
 - i. Public legal education/information
 - ii. Advice and counselling
 - iii. Other – please specify
 - b. Do you follow up any cases received? If so, how?
 - c. What is the age group of majority of the people you support under the ICT platform?
 - d. What inputs/resources are required in order for the platform to run?
 - e. On average, how much do you spend on keeping the platform running each month?
10. What are the nature of cases your organization handles, in order of prevalence? *Where the respondent mentions land cases, please ask them to clarify the type of land case.*
- a.

- b.
- c.
- d.
- e.
- f.

11. What is the age group of your organization's clients? *(Note: response should indicate percentage. It does not have to be an exact percentage. The respondent may estimate)*

- a. Below 18 years
- b. 18-30 years
- c. 30 – 39 years
- d. 40 – 49 years
- e. 50 years and above

For beneficiaries in Focus Group discussions.

Introduce yourself and the purpose of the interaction.

LASPNET is undertaking a study to identify and assess the various methods used to deliver legal assistance. These methods include use of lawyers, paralegals, law students; traditional/religious leaders; public legal education/information; and ICT.

The study would like to identify ways of providing services which, on one hand, does not require a lot of resources; and on the other hand, delivers the desired service to people who need it.

This interview will take about one hour; and we thank you for taking aside time to participate in the discussion.

1. When you get a problem; how are you able to know that this problem concerns the law?
2. What do you do when you get a legal problem? Where do you first go for assistance?
3. How did you know about this legal aid provider?
4. Which of the services below do you receive from the legal aid provider?
 - a. A lawyer to advise you, help you to settle your case without going to court; or to represent you in court?

- b. A paralegal to help you with your case. What does the paralegal do?
 - c. A religious/tradition leader to help with your case. What do they do?
 - d. Information about your legal and human rights; and legal processes
 - e. Information on Facebook/SMS about your rights and/or legal processes
5. If your case involves going to court, did the provider:
- a. Provide a lawyer to come to court for your case?
 - i. Is the lawyer able to come to court every time the case comes up?
 - b. Did not provide a lawyer, but told me on how to represent myself in court.
 - i. What did the court case involve?
 - ii. What kind of information were you provided with to enable you to represent yourself in court
 - iii. Were you successful in representing yourself?/ when you got to court, were you confident in representing yourself without a lawyer.
6. Are there any other ways of getting the services of this organization; for example, through using a phone?
7. If the organization indicated using digital services, ask the beneficiary if s/he has ever tried to get assistance through the digital services. Have they even heard of these services?
8. Does the organization provide information to you about your legal and human rights?
- a. How is this information provided?
 - b. After getting this information, would you be confident in stating your rights in case you got into a legal problem?
 - c. In what other ways are you able to use the information you get from the legal aid provider?

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