

ACCESS TO JUSTICE CONFERENCE REPORT



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Kampala Serena Hotel



LASPNET
LEGAL AID SERVICE PROVIDERS' NETWORK

Supported by:



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List of Acronyms

ACTV	African Centre for Treatment and Rehabilitation of Torture Victims
CCEDU	Citizen's Coalition for Electoral Democracy in Uganda
CEON-U	Citizens Election Observers' Network, Uganda
CRR	Centre for Reparation
CSOs	Civil Society Organization
DANIDA	Danish International Development Agency
DCC	District Chain linked Committees
DGF	Democratic Governance Facility
DPP	Directorate of Public Prosecution
FDC	Forum for Democratic Change
FHRI	Foundation for Human Rights Initiative
FIDA	Federation of Women Lawyers in Uganda
IDF	International Development Fund
IEC	Information Education Communication
JLOS	Justice Law and Order Sector
LAPSNET	Legal Aid Service Providers' Network
LASPs	Legal Aid Service Providers
LDC	Law Development Centre
NGO	Non-Governmental Organization
PILAC	Public Interest Law Clinic
RCC	Regional Chain Linked Committees
SACCOs	Savings and Credit Co-operative
SAFE	Supporting Access to Justice, Fostering Equity and Peace
SI	Statutory Instrument
STA	Senior Technical Advisor
ULC	Uganda Law Council
ULS	Uganda Law Society
UNICEF	United Nations International Children's Fund
USAID	United States International Agency for Development

“Our weakness as Uganda is that we see things going wrong and just turn a blind eye.”

His Lordship Remmy Kasule

Executive summary

Access to justice is understood as equitable access to legal redress for citizens of the state irrespective of social, political, geographical, financial, economic, cultural, gender and religious affiliation. The access to justice conference was held to find ways to address these hindrances to access to justice. The conference therefore offered an opportunity for Legal Aid Service Providers, development partners, Justice, Law and Order stake holders to take stock of the progress that had been achieved and find ways to address some of the challenges that still existed. Participants at the conference therefore resolved: to call upon government for regulatory reform of the mandate of Law Council to ensure regulation and monitoring of not only the mainstream legal aid service providers, but others that are doing something different particularly the law schools where law students providing service and legal clinics practise under supervision of advocates; Participants also urged the Law council to work towards strengthening its relationship with the legal aid service providers. Other recommendations to bridge the gap in access to justice included: need for LASPs to embrace providing legal aid in a holistic manner by combining the provision of legal aid with other sectors like health, use of counselors; need for LASPs to participate in the electoral process as a means to ensure accountability; and government needs to establish state funded legal aid.

INTRODUCTION

The Legal Aid Service Providers' Network (LASPNET) has a membership of 47 Legal Aid Service Providers (LASPs), operating in over 70 districts of Uganda. Despite it being a state obligation, most of the legal aid service provision has remained dominated by non-state actors with both inadequate resources and minimal involvement or support from the state actors. Through the quarterly monitoring and evaluation visits by LASPNET to its membership, several issues were raised in relation to access to justice that have hampered legal aid service delivery. These issues include:

- The minimal visibility and recognition of legal aid service providers as influencers in the sector priorities, the current operating environment through the adoption of the Public Order Management Act 2013 and Non-Governmental Organization (NGO) Amendment bill;
- The labeling of NGOs as sympathizers or corroborators of anti-government forces when they take up politically sensitive cases or defend cases where politicians are involved;
- The continued attack and robbing of NGO premises and their information has created more tension and paralysis of LASPs service delivery thus affecting the freedom of association and expression.

The end result of these issues is that the most vulnerable citizens are affected and disenfranchised to demand for good governance and accountability.

Overtime, there was a growing demand for the Network to establish mechanisms that position it as a formidable voice or platform or a champion that influences legal aid and access to justice agenda. While the role of Uganda Law Council is to regulate LASPs, LASPNET's role is to coordinate LASPs in the provision of quality legal services to the indigent and marginalized in Uganda. Due to the limitations facing the Law Council such as limited operational structures as well as limited financial and human resource structures, there are often delays to have the inspections conducted and LASPs approved on time. Furthermore, challenges exist in monitoring and supervision to ensure adherence to standards and quality services often fall at the periphery of the council's priority tasks. It is against this background that the conference was conceived.

It was anticipated that the LASPs, together with key stakeholders, would use this platform to highlight the prominent issues enhancing and or impeding progress in ensuring that the most vulnerable, the poor and marginalized citizens of Uganda are able to access justice timely, meaningfully and in an equitable manner. Furthermore, the conference was intended to re-echo government commitments under the Vision 2040, the National Development Plan; the Justice Law and Order Sector (JLOS) and LASPNET's institutional strategic plans and other policy commitments intended to promote demand driven justice that considers equitable access to justice in order to promote an environment where social, political and economic factors can thrive and that will ensure sustainable development. The conference was also

intended to deliberate and build consensus on the critical role of LASPNET as a platform geared towards promoting the rule of law and the legal aid agenda.

Overall objective

Under the theme: ***“Positioning LASPNET as a Platform to drive the Rule of Law Agenda for Development,”*** the conference intended to advance sustainable measures and mechanisms of reducing the vulnerability of clients while they navigate the different processes involved in the pursuit of justice.

It was hoped that by its end, the conference would create strategic partnerships among LASPNET, the Justice Law and Order Sector and non-state actors to influence the access to justice agenda in Uganda. The recommendations of the conference would also provide LASPNET with strategic guidance on how to continue advocating and making changes in reforms in access to justice.

Conference Specific Objectives

1. To provide a platform for state and non-state actors to deliberate on the bottlenecks in access to justice;
2. To establish collaborative and effective linkages between legal aid actors including state and non-state actors in Uganda;
3. To build a strong taskforce of key influencers that provides strategic and other needed guidance for an effective way of engaging policymakers on legal aid and access to justice issues;
4. To ensure a platform for open exchange within the Network, drawing from the experiences of key players, and influencing decisions on the rule of law agenda.

The meeting drew about 105 participants from the Justice, Law and Order Sector, Law Council, Development Partners, Media, Legal Aid Service Providers, Researchers, and Academia.

SESSION I OPENING

Session Chair: His Worship Tom Chemutai, Registrar Supreme Court

Key Note Address: His Lordship Remmy Kasule

Introductory Remarks by the Executive Director LASPNET, Ms. Sylvia Namubiru Mukasa



The Executive Director, LASPNET, Ms. Sylvia Namubiru Mukasa appreciated the guests for finding time to be at the conference and the various development partners for supporting non state actors to deliver justice to the disadvantaged in the country.

She particularly appreciated Democratic Governance Facility (DGF) for supporting LASPNET since its inception. She explained the importance of the right of access to justice irrespective of social,

economic and political difference, particularly in such a country as Uganda which is still among the third world countries with over 7 million people struggling and living below the poverty line and over 57% of the population who are children and fall amongst the most vulnerable. Therefore the objective of the conference was to find ways to support these needy persons in being able to enforce their rights; deliberate on broad issues of access to justice for the vulnerable and advance sustainable development measures and mechanisms of reducing the vulnerability of the poor and vulnerable while they navigate the different processes in pursuit of justice. As an outcome, the conference would create and strengthen LASPNETs' strategic partnership in the justice sector to influence the access to justice agenda in Uganda. Consequently, the recommendations of the conference would also provide LASPNET with strategic guidance on how to continue advocating and making an impact in reforming access to justice. Ms. Mukasa therefore called on the state to provide an enabling framework for the non-state actors who play a complementary and watch dog role to ensure improved service delivery. She concluded by calling upon the state to address the economic imbalances amongst the

population to ensure social transformation and human development index reflecting human rights based approach to development.

Welcome Remarks by Board Chairperson LASPNET, Mr. Samuel Hebert Nsubuga



Mr. Samuel Hebert Nsubuga Chairperson Board of Directors, LASPNET

The Chairperson of the LASPNET board, Mr. Samuel Herbert Nsubuga, expressed his appreciation to those who attended the conference. He particularly, appreciated the chief guest Justice Remmy Kasule of the Court of Appeal who had contributed greatly to shaping the legal aid agenda in Uganda.

Access to justice in Uganda, he explained is understood as equitable access to legal redress by citizens of the state irrespective of social, political, economic, cultural, gender and religious affiliation. The measure of access to justice is based on its

availability meaning all are aware of their rights and possible remedies and can easily find institutions and mechanisms to realize these rights; **affordability** meaning that all are able to afford the cost of justice in whatever manner in terms of resources and adequate representation and **accessibility**, which indicates equality and ability to pursue justice.

He applauded JLOS for: ensuring there's better service delivery and a responsive justice system that emphasizes enhancing access to justice for the vulnerable and economically disadvantaged as one of the key outcomes; increasing efforts to put in place front desks and ensure JLOS institutional presence in all districts in Uganda. He acknowledged their various reforms geared towards enhancing access to justice like: the small claims procedure; plea bargaining programme; the justice for children project; the community service programme; the toll free helpline for children; mediation; and alternative dispute resolution among others.

Mr. Nsubuga however noted that despite these efforts, the majority of Ugandans that are economically disadvantaged continue to have challenges with realizing their right to access to justice. He added that they are still ignorant of the laws and procedures, when they are wronged; they lack the means to compete with the wealthy. This occurs because the cost of securing legal services such as filing fees remain high and lawyers remain concentrated in key urban areas. Consequently, even when they have the opportunity to be represented by LASPs, their justice is delayed by processes and sometimes by corruption tendencies amongst other issues. Consequently, these hindrances were the motivation for LASPNET's

spearheading the consensus building conference, which offered an opportunity for LASPNET and stakeholders to take stock of what has worked well and what challenges still exist. Consequently, this would help LASPNET be in position to know how to best serve the most disadvantaged that are attempting to use the justice system. He added that LASPs had buttressed and covered the existing gap faced by government in providing legal services and ensuring access to justice for all. He added that the support notwithstanding, the interventions remained fragmented, insufficient—a drop in the ocean. He explained that despite the strides made, the demand remained immeasurable and voiced the need for concerted efforts of state actors, non-state actors and development partners. Lastly, he called for clear and visible engagement of the LASPs with government to realize the full benefits of the law and policy on legal aid.

Remarks by Representative of the Development Partner (DGF), Ms. Martha Nanjobe



*Ms. Martha Nanjobe Programme Manger
Access to Justice DGF*

The representative of DGF, Ms. Martha Nanjobe, the Programme Manager Access to Justice, commended LASPNET for convening all sector stakeholders and highlighted the fact that all those who attended the conference were there for a common cause (interest) to help the poor and vulnerable people who face challenges in accessing justice.

She appreciated government and Civil Society Organizations (CSOs) efforts to enhance access to justice particularly for the poor and vulnerable. She explained that DGF supports 13 NGOs together with other partners, through the International Development Fund (IDF) to provide legal aid. She added that the complementary role of LASPs in the provision of legal aid had been invaluable and she challenged them to support early access to justice to ensure that disputes do not escalate. She said DGF was proud to see improvements registered at the recently concluded JLOS Annual Review and pledged future support.

Nevertheless, she noted that challenges still existed such as few judicial officers over wide geographical areas and numerous adjournment costs of transporting witnesses. She explained that the barriers to access to justice hit poor people hardest because of such factors of not being to afford to transport themselves or their witnesses to court and not being able to afford to pay for mediators. Notwithstanding, she affirmed that collaboration of stakeholders would help eliminate many of the barriers. She called for vigilance in ensuring

access to justice and upholding the rule of law in the forthcoming election period, with tensions rising and expected to continue rising—she was therefore hopeful that the conference was the start of many such interactions.

Key Note Address by the Judge of the Court of Appeal and Chairperson Law Council, His Lordship Remmy Kasule



His Lordship Remmy Kasule delivering the key note address

His address focused on the progress registered in access to justice and the challenges that still existed hindering access to justice for all, with particular focus on the poor, the vulnerable and the marginalized.

After defining the various concepts of access to justice, his Lordship Kasule explained that, facilitating access to justice requires that the voice of the people is heard, and that they must exercise their rights, challenge discrimination and hold decision-makers accountable. He added that the rule of law is the foundation for both justice and security. He explained that in Uganda, effective access to justice is prevented by factors such as:

- Legal representation provided by the state is limited to only capital offenders;
- Lawyers who are primarily urban based and expensive;
- There is a heavy case backlog;
- Prevalent corruption;
- Laws are written in English, which is a foreign language.

His Lordship highlighted the fact that justice is for the rich while the vulnerable, especially the children and the disabled lack facilitating structures like sign language interpreters and easy accessibility to buildings. He went on to highlight recent developments in JLOS to promote access to justice to address the systematic weakness in the justice system. These included:

- Developing critical infrastructure and capacity of personnel, such as putting in place service points (i.e., 53% of the districts now have Court, Directorate of Public Prosecution(DPP) and Police operating from their own premises);
- Enhancing staff at the judiciary, the DPP, Uganda prisons and Uganda police force;
- Using mediation and alternative dispute resolution;
- Developing the national transition justice policy;
- Strengthening the informal justice mechanism;
- Strengthening performance standards in the Judiciary;

- Introducing bar bench meetings to improve the administration of justice;
- Implementing enhanced outreach programmes;
- Enhancing coordination of RCCs and DCCs to speedily handle cases;
- Developing public education to the public on the administration of justice, with information desks in strategic institutions;
- Producing and distributing user guides such as the unrepresented litigants manual;
- Holding community dialogues and school outreach programmes as well as JLOS and court open days and awareness weeks;
- Developing radio and televised shows that have empowered the public as to how to access Justice;
- Establishing the child help line at the Ministry of Gender, Labour and Social Development to help respond to incidences of violence against children; and
- Improving customer care with written notices being placed in customer care desks that are present at the entrances of most JLOS institutions.

“Legal aid funded by the state is long overdue.”

His Lordship Remmy Kasule

Furthermore, he explained that the establishment of Justice Centers and other sector institutions providing legal aid like: Uganda Law Society – Legal Aid Project; Law Development Centre – Legal Aid Clinic; and Uganda Human Rights Commission have enhanced provision of legal aid services, which are mainly provided by non-state actors without a strong regulatory framework. However, notwithstanding, the progress achieved, limited financial and human resources, lack of infrastructures, capacity gaps, poor attitude and corruption tendencies are challenges that still confront JLOS. Their existence he added, erodes public confidence and limits many from accessing justice in a timely and efficient manner. He therefore urged those responsible to address the challenge of most JLOS service points being largely urban based and at district headquarters and strengthen the use of informal systems like Local Councils (LCs), which would go a long way in bridging this gap. JLOS service points are manual in operation and use procedures and a language that is foreign to most vulnerable people. For the vulnerable children in conflict with the law, the lack of remand homes and rehabilitation centers in many districts remained a critical challenge.

Additionally, systematic hindrances like delay in delivery of judgments, numerous adjournments due to competing sector priorities like workshops are apparent. Other challenges like corruption, poor attitude to work, poor remuneration and lack of motivation to the service providers which need to be addressed. He therefore made an appeal to LASPs and stakeholders to utilize every opportunity to educate the public. He also urged the public not to be apathetic towards their rights.

Furthermore, he noted that with the exception of Burundi, Uganda remained the only country without state funded legal aid and therefore urged government to fast-track this process.

He concluded that access to justice is a pillar of economic development which is also recognized in the national development plan. Therefore investing in access to justice means that the country is empowering its citizens to be assertive, independent within a conducive legal and policy environment that enables them to tackle poverty and thrive in development.



Ms. Martha Nanjobe, Mr. Samuel Herbert Nsubuga, His Lordship Remmy Kasule and His worship Tom Chemutai, the panel for the first session

REACTIONS TO THE KEYNOTE ADDRESS

After delivering his key note address, His Lordship Kasule provided participants with an opportunity to react to his speech.

i) Customer Care

In her reaction to the key note address Dr. Katja Kerschbaumer from DANIDA agreed that it was important to sensitize Ugandans about laws in a language they understood. She however stressed that it was also more important to ensure that the public is empowered on what is right and wrong (not just reading of laws). She stressed that it was time to explore different ways to achieve that general empowerment of the population without necessarily translating legal details of the law. Additionally, she said that customer care was a general weakness in Uganda in both the public and private sectors. She explained how in a recent training held for court clerks, those surveyed understood good customer care as simply apologizing. She therefore called for a comprehensive strategy on customer care for the justice sector actors to teach people how to give helpful information to those they serve. She also added her voice on the need for Uganda to have a state funded legal aid scheme.

His Lordships' response: His Lordship responded that perhaps there are still gaps in our education system and agreed that empowerment is extremely important. He therefore urged government to support the sector in improving customer care and translating the law into local languages.

ii) **LASPs should take a stand**

A representative from Uganda Youth Network expressed his concern on the fact that LASPs were failing to balance action and empowerment. He therefore called on LASPs to take a stand and condemn police brutality, in light of recent events where the police had brutally handled protestors particularly the women who were undressed. He stressed that LASPs should not focus on making simple statements and potentially letting the issue disappear. He questioned how LASPs could empower people without first responding to their needs.

His Lordships' Response: His Lordship explained and guided that when an incident happens there should be:

(a) An action intended to correct what has happened from not occurring again; and

(b) An action for a remedy for the person affected.

He urged LASPs to take actions that go further than just making a statement for the public e.g. using public interest litigation. He also sought for ideas that compel the Uganda Human Rights Commission and other internal mechanisms in the police and judiciary to effectively respond to incidences such as these.

iii) **Dissatisfaction with Law Council**

A representative from the Centre for Legal Aid expressed his dissatisfaction at the Law Council regarding the accreditation process for Legal Aid Service Providers.

His Lordship's Response: His Lordship explained that he would follow up the matter and find a solution. However, he explained that there could be delays with the accreditation process for a number of reasons. He added that the Law Council's response was slow particularly with regard to paralegal lawyers, because it had to guard the public against those who are not supposed to practice law or offer legal services (quack lawyers).

iv) **Stop Soft Approach to Issues**

A representative from the Muslim Centre for Justice and Law questioned why LASPs had not come out loudly to condemn access to justice issues (e.g. police brutality for the case of the lady who was stripped naked during arrest). He then urged LASPs to stop using the soft approach to issues. He also asked those

present to find solutions for the lost generation of children particularly those begging on the streets.

His Lordship's Response: His Lordship explained that according to the Children's Act, whatever is done regarding a child should be done to promote the best welfare of the child.

v) **Appreciate the Role of the Religious Leaders**

A representative of the Inter Religious Council, urged those present to appreciate the contribution of religious leaders in the sector particularly their role in mediation and information dissemination. He therefore called for building their capacity in legal knowledge.

His Lordship's Response: He underscored the role that religious had played and continued to play in the resolution of conflicts stressing that a multi sectoral approach was required to enable the public access justice.

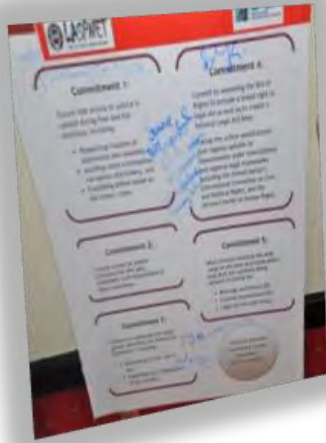
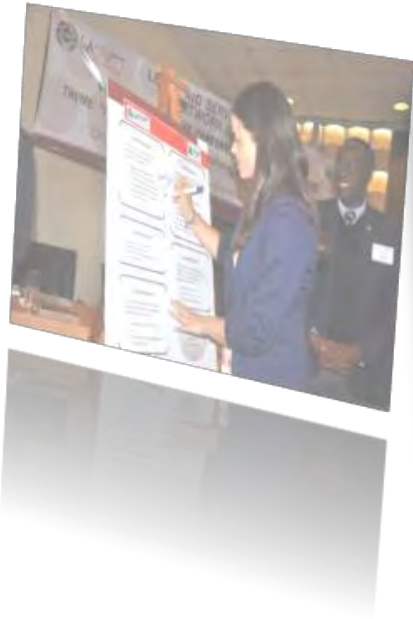
Key recommendations and action points

Government should work towards supporting state funded legal aid as soon as possible.

Access to Justice Manifesto launched

After delivering the key note address, His Lordship launched the Access to Justice Manifesto. The objective of the Manifesto was to bring to prominence issues of access of justice for the poor and vulnerable particularly to candidates seeking political office.

In summing up what is contained in the Manifesto, the Executive Director LAPSNET pointed out that often political candidates focussed on issues of education, health, and infrastructure, ignoring issues of rule of law and access to justice. This had resulted in continued hindrances that affect effective service delivery. By launching the Access to Justice Manifesto, LAPSNET wanted to hold candidates accountable to their commitments.



SESSION II: ACCESSING JUSTICE IN UGANDA

Session Chair	Ms. Roselyn Karugonjo, Human Rights, Rule of Law, and Governance Consultant
Presenter	Ms. Caroline Muziki-Wasige, Uganda Law Society (ULS)
Discussant	Ms. Rachel Odoi, Senior Technical Advisor, JLOS
Title	Addressing systematic hindrances to effective justice for the vulnerable, poor and marginalized in Uganda.

Addressing systematic hindrances to effective justice for the vulnerable, poor and marginalized in Uganda: Ms. Carol Muziki-Wasige



Ms. Carol Muziki of Uganda Law Society delivering her presentation

In her presentation, Ms. Carol Muziki-Wasige, explained that there could be no access to justice where citizens (especially marginalized groups) feared the system, saw it as alien, could not access it, where the justice system was financially inaccessible, where individuals had no lawyers; where they did not have information or knowledge of rights, or where it was a weak justice system.

She highlighted key players in justice in Uganda who included: Ministry of Justice and Constitutional Affairs; Judiciary; Directorate of Public Prosecutions; Judiciary; Uganda Police Force; Uganda Prisons Service; and Civil Society amongst which are the Legal Aid Service Providers. The hindrances/barriers to effective justice for the poor, marginalized and vulnerable included: geographical/physical barriers; financial barriers; social and psychological barriers; linguistic barriers; and institutional barriers.

Some of the solutions to addressing the hindrances to access to justice to are:

- Increasing the quantity and quality of justice administration;
- Enhancing physical access;
- Increasing access through provision of legal aid;
- Promoting legal awareness;

- Strengthening civil society;
- Recognizing that increased access to justice depends on public confidence in the justice system;
- Supporting the adjudication of claims for a remedy through the formal state justice system and civil society;
- Understanding informal justice mechanisms;
- Supporting the enforcement of remedies;
- Ensuring equal application of the law;
- Fairness is key in access to justice;
- Promoting procedural fairness;
- Facilitating transparency in all judicial processes;
- Increasing the knowledge and professionalization of justice personnel to dispense justice;
- Encouraging collaboration;
- Advocating for state funded legal aid.

Ms. Muziki-Wasige noted that all efforts to addressing hindrances to access to justice should therefore be directed towards prevention and resolution of disputes, delivering fair and appropriate outcomes, and maintaining and supporting the rule of law.

Based on the above an efficient justice system includes:

- a) A justice system that reduces the complexity;
- b) A justice system that creates incentives to encourage people to resolve disputes at the most appropriate level;
- c) A justice system that is fair and accessible for all, including those facing financial and other disadvantages;
- d) A justice that delivers outcomes in the most efficient way possible, which in many cases will involve early assistance and support to prevent disputes from escalating; and
- e) A justice system that provides for the interaction of the various elements of the justice system designed to deliver the best outcomes for users.

In conclusion, an effective justice system must be accessible in all its parts. Without this, the system risks losing its relevance and the respect of the community it services. Improving access to justice requires a broad examination of how the different parts of the whole justice system (with its various institutions) are influenced by each other and work together to support or limit people's capacity to address legal problems and resolve disputes.

Discussant: Rachel Odoi, Senior Technical Advisor, JLOS



Ms. Rachel Odoi, JLOS Senior Technical advisor

In her discussion the JLOS Senior Technical Advisor Ms. Racheal Odoi acknowledged the fear and alienation of the system experienced by the poor and vulnerable when accessing the justice system. She noted that the justice sector was still challenged by institutional weaknesses, financial barriers, professionalism, internal and external accountability, corruption and customer care, delivery of service standards and gender related biases. Her discussion revealed

that the Sector was working to address some of the challenges through: clear procedures and laws; customer care; increased observance of human rights; and accountability, and strengthening of partnerships with civil society to ensure access to justice for all. Efforts to address geographical, linguistic, social, and cultural barriers had led to an 84 % “functional” presence across the country (front line JLOS services). While most of them were urban based, JLOS was working towards increasing sub-county level as well as utilizing its structures to reach further through the DCCs and LASPs.

Furthermore, JLOS was working towards reducing financial barriers by bringing down the cost of access to justice (i.e. through increased physical presence, reduced required costs for travel as well as challenges of fees/witnesses and introducing mediation at all levels). She added that the legal aid policy would help address some of the challenges of state funded legal services. Therefore, initiatives recently introduced like mediation and the small claims procedures would help to reduce costs.

Ms. Odoi explained that JLOS in conjunction with the Uganda Law Reform Commission was also reviewing the criminal and civil procedure laws. Consequently, JLOS was implementing more friendly procedures and processes in the justice system for children (e.g. with support of UNICEF they had introduced in camera proceedings for victims of sexual violence). She added that services of remand homes were being extended closer to the people e.g. a new remand home had been opened up in Arua and another was under construction in Kabale. Furthermore, the Sector was exploring ways of decentralizing the rehabilitation centers so that children are not forced to travel long distances to attend court. Additionally, JLOS was working towards system strengthening, by addressing structural reforms by increasing recruitment of key personnel in the DPP, police, judiciary, and strengthening linkages between the formal and informal structures; reviewing court procedures; and addressing

institutional barriers such as the registration of LASPs (required structural reforms of the institutions).

Having made progress on addressing some of the physical challenges, as a way forward, she stated that JLOS was working towards improving the quality of service delivery.

In order to address the linguistic barriers she recommended that stakeholders work towards translating of Information Education Communication (IEC) materials instead of trying to simplify or translate legislation. Focus she added should be on civic education and sign language interpreters for persons with special needs. This would be done by trying a different approach – rather than trying to teach the law, principles of human rights / justice should be built into general education to avoid the costly process of translation. In an effort to address particular areas of vulnerability of the post conflict areas she highlighted that JLOS developed the Transitional Justice Policy: a policy that provides a holistic approach for rebuilding in post-conflict and would lead a concerted effort at peace building. In her conclusion, she urged civil society to be the voice for the people and called for continued collaboration and “constructive engagement on the issues” since justice was an inter-sectoral affair.

A BENEFICIARY OF LEGAL AID FROM FIDA SHARED HER EXPERIENCE WITH A LEGAL AID SERVICE PROVIDER

“My husband sold my land without my consent, left me with four children and I didn’t even have money for food and transport. Someone referred me to FIDA so that I could repossess my land. Since the year 2000 we have been in court and throughout this period FIDA has supported me even when I didn’t have money to attend court- in Makindye and Nakawa . It is only through the support of FIDA that I have managed to educate my children and now this year, regain my land. I look presentable today only because of FIDA’s support. The only thing I request is for support to develop the land better, so that KCCA doesn’t evict us due to the lack of proper structures. Thank you FIDA. I can’t thank FIDA enough. I pray FIDA lasts forever.”-Testimony from a FIDA Uganda beneficiary

After the beneficiary shared her experience, a counselor at FIDA emphasized the importance of counseling which helps poor, vulnerable persons cope with issues / conflict; (unburdening); and empowers clients to be assertive and air out their concerns.

PLENARY DISCUSSION

After the experience of a beneficiary of legal aid service, the floor was opened for participants to deliberate on the issues raised. The following were the issues raised:

i. **Sexual and Gender Based Violence**

A representative from FIDA Uganda sought clarification on what JLOS was doing to support victims, of sexual and gender based violence particularly on construction of shelters for their safety. Additionally, she sought clarification on what JLOS was doing to address systemic challenges to access to justice particularly case backlog.

JLOS STA response: Legislation on sexual offences is in the offing and a number of shelters have been set up with the support of Ministry of Gender Labour and Social Development (MoGLSD) and MIFUMI in Gulu, Lira, Moroto and Masaka.

On case backlog, performance indicators or standards for judicial officers were now in place e.g. Judges must dispose of 300 cases per year; magistrates 800 cases per year and judgments should be written within 60 days.

ii. **Despite resource constraints progress has been made.**

A representative from the Ministry of Gender Labour and Social Development (MoGLSD) highlighted the fact that government was grappling with a range of issues on vulnerability which are too many for the government to handle alone. She added that people do not always appreciate the efforts that government is making in regards to improving service delivery, like construction of the regional remand homes. She urged JLOS to lobby for increased funding from ministry of finance and parliament. In order to address the high number of people requiring legal services, she recommended that commitments be obtained from lawyers to offer pro bono services and suggested that all lawyers be compelled to offer pro bono services at least twice year.

JLOS STA response: Resource constraints have curtailed JLOS efforts to facilitate access to justice, therefore engagements for additional resources have been undertaken with the Ministry of Finance and development partners were still being pursued.

ULS Ms. Muziki-Wasige response on committing lawyers to offer their time for pro bono: Ms. Muziki-Wasige explained that the major focus of the Uganda Law Society (ULS) was on advocacy and issues of visibility. She added that over 80 percent of the members of ULS are giving pro bono services; therefore advocates cannot be overloaded further. She emphasized that pro bono services are only complimentary to legal aid.

iii. **Non functionality of the Industrial Court**

A representative lamented the lack of functionality of the court despite appointment of judges.

JLOS STA response: She explained that the industrial court was still new and the judges had only been recently appointed. She added that the functionality of the court was still hampered by the relevant legislation, currently the judges have to sit as a full panel to hear matters and this is not practical. She added that efforts were underway to amend the legislation and address some of the gaps.

iv. Lack of Access for Persons with Disabilities

A representative from Plan International expressed concern on the current limitations faced by persons with disabilities particularly in the justice system where for example ramps do not exist, and there is very limited use of sign language.

JLOS STA response: All newly constructed JLOS premises have physical access enabled to make it easier for persons with physical disability. However, this consideration has been factored in for new buildings. Additionally, she explained that few police officers had been trained on sign language, therefore there was need to build capacity of more people to fill the to support those with hearing and speaking impairment.

v. Prisoners working while still on remand

A representative from the Muslim Centre for Justice decried the number of prisoners on remand and expressed his concern that a number of prisoners who are on remand are being made to work yet they are not convicts.

JLOS STA response: Efforts are ongoing to ensure that remand prisoners do not work, however some prisoners choose to work due to the long time spent on remand and the desire to benefit from the skills programme. She added in effort to address case backlog challenges, the government is building the capacity of the local councils (professionalize) to fill the gap created by phasing out of magistrate grade II and III.

Key Recommendation and Action points

- 1. LASPs need to collaborate with other sectors such as health, use Counsellors to provide legal aid in a holistic manner.*
- 2. JLOS should work towards improving the quality of service delivery by for example customer care, timely delivery of judgment, fighting corruption*



Stakeholders keenly following the discussions during the conference

Status of Legal Aid in Uganda: The Regulators Perspective: Ms. Stella Nyandria

The presentation focused on the statutory role of Law Council. Legal aid in Uganda is regulated by the Law Council which was established by the Advocates Act Cap.267 as amended. The Law Council in Uganda is charged with the duty of regulating the entire legal profession in Uganda and is mandated to regulate all acts or activities that fall within the bracket of the legal profession including legal aid.

Legal Aid is defined under Regulation 4 of the Advocates (Legal Aid to Indigent Persons) Regulations 2007: ***“as the provision of legal advice or representation by a lawyer, an advocate or a paralegal, as the case maybe, to a client at no cost or at a very minimal cost.”*** The process of regulation of legal aid service providers is provided for under the Advocates (Legal Aid to Indigent persons), regulation S.1.No.12/2007. Therefore under the regulations the council is mandated to do the following:

- a) Register the service providers
- b) Issue Certificates of Registration
- c) Inspect the premises of the service providers annually or when the Council believes there is need to visit the service provider’s premises.

- d) Discipline the service providers in case of misconduct and if found liable the provider may be ordered to compensate the client where necessary.

Background to Legal Aid Service Provision

The Lilongwe Declaration states the benefits of effective legal aid to include social benefits such as the elimination of unnecessary detention, speedy, processing of cases, fair and impartial trials and the reduction of prison populations. Other benefits may include:

- Access to justice for the indigent and vulnerable
- Value for money obtained from service providers
- The indigent persons sensitized and made aware of their legal rights and obligations
- Reduction of case backlog and other delays in the justice sector
- Economic growth through legal empowerment and protection of the properties and rights of the indigent
- Reduction in the commission of unlawful acts and mob justice
- Protection of the indigent from exploitation

Therefore Law Council as the regulator is mandated to regulate aid service provision under Regulation 6 of the Advocates (Legal Aid to Indigent Persons) Regulations No. 12/2007. To date the Law Council has a total of 47 registered as legal aid service providers and yet there are over 60 service providers currently operating in Uganda. All service providers who have registered comply with regulation 6 of SI 12/2007 and therefore escape discipline under regulations 34(a) of SI 12/2007. In 2015, a total of 34 service providers were approved and 10 were rejected.

Advantages of Registration with Law Council

- Inspection of premises by Law Council and where necessary guidance given to the provider on the clients vis-à-vis the facilities available;
- Through monitoring and evaluation they are able to verify the quality of legal services offered to indigent persons;
- The Council is able to ensure that only those who are qualified offer legal aid services to indigent persons.

Disadvantages of Non-Registration

- Regulation 34 of the Advocates (Legal Aid to Indigent Persons), Regulations SI 12/2007 provides for offences and penalties. Regulation 34(a) therefore makes it an offence to operate as a legal aid service provider without a certificate of registration granted by the law council.

- Lack of regulation leaves room for exploitation and abuse of funds provided by the donors vis-a-vis the services and quality of services provided by the provider.
- It can also lead to falsification of accounts for the funds received and it may lead to the comprising of quality of services provided hence tarnishing the legal profession.

Monitoring, Supervision and Guidance of Service Providers

The Council as per the regulations is expected to monitor and supervise the activities of service providers so as to protect the service providers from exploitation from persons intending to be indigent and also protect the indigent persons so as to ensure that they receive quality service from the providers. This is very critical considering the fact that even though advocates are involved in the process of offering legal aid to indigent persons and experience has shown that sometimes unqualified persons carry out the legal work. Therefore some of the reasons for rejection during inspection include: lack of requirements especially paralegals; lack of formal registration by the Law Council and change of office locations without notice. Law Council however is experiencing some challenges and these include: inadequate legal and relevant legal aid service standards; the challenge of funding for legal aid activities, since funds are still provided by donors and the several service providers that are still not registered and yet they continue to operate.

Recommendations

- The Law Council should implement the provision of the law regarding discipline of providers who practice without registration;
- The Council should have increased interactions with legal aid service providers;
- The funding community is encouraged to ensure that the service providers comply with the requirements for the relevant laws before availing funds for their activities;
- The legal aid service providers should unite so as to have strong platform to derive them;
- All sectors should widen the scope of collaboration to form a united agency/association on matters related to the indigent, this widens the base of bargaining power;
- The government should entrench legal aid in the education system.

Discussant, Ms. Sandra Oryema, Legal Aid Manager, Public Interest Law Clinic

Ms. Sandra Oryema in her discussion began by explaining that the Public Interest Law Clinic (PILAC) was based at the faculty of law at Makerere University. PILAC she added exists to build the element of social justice in the teaching of law with a practical element. She noted that sensitization on issues of access to justice needed to be addressed right from the university level. She then urged Law Council to consider these innovative ways of trying to

provide legal aid services to people. Furthermore, she emphasized that laws regarding registration did not envision an environment where a university law clinic would be providing services.

She also expressed her disappointment at the fact that although PILAC applied to Law Council to be registered as legal aid service provider in 2012, they had never received any feedback. She urged Law Council to quickly process the applications and carry out inspections, considering Law Council can take more than a year without inspecting LASPs. She further questioned how Law Council actively monitors LASPs, will they be able to ensure that the right and quality services are being provided. The Law Council was therefore advised to expeditiously provide feedback to LASPs, as delay in providing feedback also makes the LASPs delay in providing services to the poor and vulnerable. Additionally, she urged Law Council to work towards strengthening links between itself and LASPs. She therefore recommended the following:

- There's need for regulatory reform addressing the mandate of Law Council so that it can embrace the new innovations that are taking place, to not only regulate the mainstream legal service providers, but others that are doing something different (especially the law schools) so as to enable them create socially conscious lawyers at student level.
- Law Council should have serious interactions with Legal Aid Service Providers in order to create the links between the regulatory body and the legal aid service providers.

PLENARY DISCUSSION

The following issues emerged during the plenary discussion

i. Law Schools as LASPs

In responding to the concerns raised by PILAC, Ms. Nyandria explained that the concept of legal is a very recent concept in Uganda, as a result of benchmarking from other jurisdictions. She added that many innovations are introduced in Uganda, yet the legislation does not provide for them e.g. Justice Centers Uganda and law schools offering legal aid. Consequently, as result of the gaps in the law, Law Council was not sure how to deal with these new concepts. She however promised that PILAC would be inspected in two weeks by the Law Council.

Status of Legal Aid Policy and Bill

A representative from Plan International enquired on the current status of the Legal Aid Policy and Bill and questioned what Law Council was doing to ensure accountability to LASPs.

Law Council Response: The Legal Aid Policy and Bill are pending before cabinet.

ii. **Status of Ashah Razyn Foundation**

A representative from the Ashah Razyn Foundation observed that since their application was sent to the Law Council in 2013, they had never been accredited yet they complied with all the requirements. She added that after seeking information on the status of their application from Law Council, they were informed that the file had been misplaced. Consequently, the organization had to resubmit another file.

Law Council Response: She acknowledged that the Asha Razyn Foundation file was indeed submitted, and approval was granted. She urged LASPs to deal directly with the legal officers of Law Council when submitting their applications for accreditation. She further added that Law Council was currently undergoing an audit of all the files.

iii. **Requirements for inspection of premises by Law Council**

A representative of African Center for Treatment Victims and the Board Chairperson of LASPNET sought a detailed explanation on the requirements for a legal aid service providers to be inspected by Law Council.

Law Council Response: Under Law Council regulations, for a LASP to be accredited the following is required: LASP must have an advocate and a paralegal with their names and contacts; set up of premises with focus on what service is offered with provision made for confidentiality when interviewing clients.

iv. **LDC syllabus has been revised: (Legal Aid Clinic)**

A representative from the Law Development Centre (LDC) told those present that the syllabus at LDC had been revised to include a module called pro bono legal aid for fourth term students for the first time.

Key Recommendations and Action Points

1. *There is need for regulatory reform particularly the mandate of Law Council. The reforms must regulate not only the mainstream legal aid service providers, but others that are doing something different particularly the law schools.*
2. *Law Council should strengthen linkages with legal aid service providers.*

Session III: ELECTIONS AND THE ROLE OF LASPs

Session Chair: Dr. George Mugisha, Dean School of Social Sciences, Nkumba University

Presenter: Dr. Livingstone Sewanyana Executive Director Foundation for Human Rights Initiative (FHRI)

Discussant: Hon Irene Ovonji-Odida Chief Executive Officer FIDA Uganda

Topic: *Defining the Role LASPNET and LASPs should play in enhancing access to justice in the forth coming 2016 general elections.*

Role LASPNET and LASPs should play in enhancing access to justice in the forth coming general elections

Dr. Livingstone Sewayana focused on a range of issues facing Uganda ahead of the forthcoming presidential and parliamentary elections in February – March, 2016. He expressed concern at those who think that the electoral process is a ritual with the outcome already decided. He highlighted the fact that the atmosphere was already charged and once again the elections would take place in an atmosphere of uncertainty and general dissatisfaction with the overall electoral environment. He added that government had been accused of disregarding electoral reform proposals, which took months of consultation across the country. This development would therefore put into question the commitment of government to conduct free and fair elections. He further highlighted the fact there are legitimate concerns among sections of the public, whether free and fair elections were possible in the absence of meaningful reforms.

*“As much as things look the same,
they are changing”*

Dr. Sewanyana, FHRI



Dr. Sewayana delivering his presentation

He said that several observers had forecast that the elections would likely be characterized by neglect of important policy issues, indiscriminate and malicious arrests by actors with links to security forces, voter bribery, unequal playing field in terms of access to resources and the media, clashes between supporters, and post - election violence. This set of issues therefore called for targeted responses which address the need for voter mobilization, observation of the electoral process, legal support for potential victims of

arrest and equitable access to resources, among others.

He further explained the role that civil society can play to respond to the aforementioned issues. Civil society therefore has taken a two pronged approach: i) voter mobilization through the Citizen's Coalition for Electoral Democracy in Uganda (CCEDU); and ii) domestic election observation through the newly established Citizens Election Observers' Network, Uganda (CEON-U). He explained that the two initiatives offered a platform for active civic engagement and have an enormous potential for free, peaceful and transparent elections. These platforms, he explained offered CSOs including LASPNET an opportunity to document integrity issues affecting the electoral process, awareness amongst stakeholders of issues affecting the integrity of elections, engagement with key stakeholders on concerns and reduction in the number of election related conflicts. If one does not exercise their vote, one has no right to call for accountability. Furthermore, LASPNET being a consortium of legal aid service providers established in 2004 to harness, strengthen, and sustain synergies among LASPs in order to compliment the government's efforts to enhance access to justice can be an important player in these ongoing efforts. As a specialized organization, LASPNET could participate in the forthcoming elections in the following ways:

- Promoting the 'Topowa, Honor your Vote Campaign;'
- Mediating conflict;
- Lobbying candidates;
- Auditing elections;
- Providing Legal services for victims;
- Providing Technical support

In conclusion, he reiterated the role of LASPNET and individual LASPs in the forthcoming elections as critical to the overall success of civil society election - related interventions including CCEDU and CEON-U. He explained that the composition of LASPNET adds unique value to these initiatives. Many of the electoral issues highlighted would require concrete action by LASPNET and her members to abate injustice in form of illegal detention, police brutality, ignorance and deliberate misinformation of the electorate. Notwithstanding the frustrations about electoral process, individually we are still part of the ability to change the destiny of the country.



Hon. Irene Ovonji-Odida

Discussant: Hon Irene Ovonji-Odida Chief Executive Officer FIDA Uganda

Hon. Irene Ovonji Odida highlighted the fact that the 2016 electoral process was an already concluded process. Therefore, if one was to work towards the electoral process one had to focus on 2021 instead. She urged LASPs not to discuss politics in theory without incorporating practical

dimensions to their discussions. She questioned the engagement of LASPs in the current developments such as the recent stripping of the FDC woman activist which in human rights terms was characterized as cruel, inhuman, and degrading treatment.

Hon. Ovinji-Odida added that brutality suffered by the FDC woman activist was in fact torture but many had been silenced to describe what the action was since it was perpetrated by a state agency. She explained that in a rights based approach, the State was fundamentally the duty bearer with the responsibility to respect, protect, and promote human rights. She also challenged the purpose of why we engage in elections– “we participate simply to check a box or are we trying to influence a result? Is it for the sake of it or is it to influence the result?”

She therefore urged participants to read the report by Privacy International that highlighted that fact many hotels and other places had been bugged by the government. Referencing a communism saying and quoting an NRM source she stated that “It’s not who votes that counts, but who counts the vote.” She explained participation and writing are all important but questioned the message being delivered. “What is our message? How is this message enabling the citizens? What is our identity? ”

In her conclusion, she explained that access to resources gives NGOs a different level of responsibility and urged CSOs to do things differently. Since CSOs had limitations, she advised them to partner or collaborate with “people’s organizations” such as Faith based organizations and Savings and Credit Co-operatives (SACCOs). This would however need a shift in strategy so that election participation is not a routine but an exercise of power that impacts outcomes on Election Day itself.

PLENARY DISCUSSION:

The following issues emerged during the plenary discussion:

i) Contextualizing TOPOWA campaign

A representative from the Centre for Reparation (CRR) urged LASPs to recognize the fact that enhancing access to justice goes beyond court processes and is linked to the quality of leaders elected. He stressed the need for participants to directly get involved in the electoral process including availing themselves for elective positions even at the LCI, LC III level.

He also questioned why ‘TOPOWA’, a word synonymous with the central region was used without consideration for other regions, he called for have the word ‘TOPOWA’ to be translated into the local context.

ii) Rubberstamping the status quo

A representative from Micro Justice Uganda implored that the role of civil society was to ensure that the battlefield is leveled. Therefore he emphasized that CSOs need to move beyond mobilizing voters and in the interest of promotion of democracy stand to ensure a leveled ground. He explained that simply asking people to go and vote, was Rubberstamping the status quo.

iii) Rapid Legal Aid response unit

A representative from the Ashah Razyn Foundation agreed with Dr. Sewanyana on the need for the Rapid Legal Aid Response Unit to provide rapid response of legal aid specific to the different vulnerable groups (i.e., youth, women, elderly). However there is the additional challenge in translating election related material or any other laws yet a large part of population cannot read or write even in the local languages. Even when the law is translated, she added that it must also be explained.

iv) Counting of votes at the polling stations

A representative from Street Law emphasized that it is who counts the votes that counts. Therefore he asked, "what can be done to ensure that the results that come out are the way of the people and is reflected in the result?"

v) Auditing the capacity of the Electoral Commission

A representative from Abantu for Development called for the an audit of the capacity of the electoral commission to conduct elections since 2001 and audit of the manifesto of the political parties that are going to participate in the electoral process can be done.

vi) Cultural and Religious leaders should be utilized

A representative from the Inter Religious Council, urged stakeholders to use cultural and religious leaders in educating the public. He explained that once the message had been simplified it would be easy to transmit to the public.

Dr. Sewanyana's Response: He explained that he did not have all the answers to their questions and his objective was to inspire and cajole LASPs into taking action. Notwithstanding the challenges; he stated that "as much as things look the same all the time, they are always changing." He added that the focus was shifting to ensuring that those who are registered actually vote because unless one deals with the issue of leadership, things would not change. He added that the local people are more conscious of the issues than before and it was important for the middle class to connect with the local people.

Hon. Ovonji-Odida's Response: She urged LASPs to engage the public with people who had successfully defended their votes. She added that it was also important to connect the dots for the ordinary person between poverty and the elections; "so people can connect the

vote to a potentially better situation economically as well.” She added that all those present had a responsibility not let a few individuals speak. Therefore, CSOs and stakeholders needed to act in a more collective manner and mobilize over 40 organizations to do something.

Key Recommendations and Action Points

- 1. LASPs should get involved in the electoral process at all levels to be able realize rule of law and access to justice.*
- 2. LASPNET is well placed to demand and establish a mechanism to defend victims of election violence.*

Closing Remarks

In her closing remarks, Ms. Theo Webale from USAID SAFE and a member of LASPNET founding team appreciated LASPNET for taking the lead role on matters of access to justice. She highlighted the challenges affecting access to justice as had been discussed during the different sessions. She commended the efforts undertaken by government to address some of these challenges. Ms. Webale called upon CSOs to be visible, as access to justice needs to move beyond the law. Furthermore, she called for a proactive approach on the regulations governing Law Council and Para Legal Advisory Services. Finally, she noted that the Access to Justice Manifesto provided a road map towards political processes and encouraged all concerned to follow through with their commitments.

Conclusion

The conference was very well attended with very insightful and constructive deliberations that provided LASPNET with a way forward. The conference also clearly demonstrated LASPNET’s role and ability to influence and drive the access to justice agenda in Uganda and the rule of law agenda for development. Given that the conference was held at a crucial time for the 2016 elections, it remains to be seen whether political candidates will meet their end of the partnership to facilitate the process to enhance access to justice for the vulnerable in Uganda. LASPNET commits to engage all relevant stakeholders to follow up the recommendations as per its mandate.

Summary of Action Points

No	Action	Responsibility
1.	LASPs should get involved in the electoral process at all levels to be able realize rule of law and access to justice	All
2.	There's need for regulatory reform of the mandate of Law Council to embrace the new innovations that are taking place. The reforms must regulate not only the mainstream legal aid service providers, but others that are doing something different particularly the law schools.	JLOS, ULRC, Law Council
3.	Law Council should strive for closer working relationship with LASPs	Law Council
4.	LASPs should embrace providing holistic legal aid	JLOS,LASPs
5.	Government should establish and fund legal aid by establishing national legal aid body	Government of Uganda
6.	LASPs should consider being more proactive in their engagements in their work and not take soft approach to issues	All LASPs
7.	JLOS should work towards improving the quality of service delivery.	JLOS

Annexure

1. List of participants
2. Concept note
3. Programme
4. Welcome remarks of the Board Chairperson LASPNET
5. Addressing systemic hindrances to effective justice for the vulnerable, poor and marginalized in uganda-Ms. Carol Muziki-Wasige

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Theme: Positioning LAPSNET as a Platform to drive the Rule of law Agenda for Development

October 22nd and 23rd October 2015

SERENA HOTEL KAMPALA

CONCEPT NOTE

Topic: Consensus Building Conference on Systematic Hindrances to Access to Justice

1. Introduction

Access to justice is normally understood as equal access to legal redress as citizens of the state irrespective of social, political, cultural, gender, economic, ethnic, religious or other dividing lines among the citizens. A state should be able to guarantee equal access to justice for all its citizens. The establishment and development of formal legal procedures and institutional justice systems does not necessarily lead to real and substantive equal access in itself. Having effective access to a functioning system of justice is a composite human right encompassing a range of standards that Uganda has undertaken internationally. Access to justice is a major component of a functioning justice system. It typically comprises of two core components i.e:

- i) Process: fair hearing in civil matters; fair trial in criminal – with a range of standards such as presumption of innocence, minimum guarantees for the defence, and the right to appeal; Equality before the law (including effective prohibition of corruption); and; Timeliness (justice delayed is justice denied)
- ii) Accessibility and Availability: For example of buildings, staff geographically close to users; but also a matter of addressing obstacles (financial, physical, language, technical, gender, cultural, conflict) which hamper effective enjoyment of the justice available.

In 1999, the Government of Uganda, in an effort to reform and restructure the economy, initiated a strategy of Sector Wide Approaches (SWAp) to development in order to encourage communication, co-ordination and co-operation among various institutions in the country. The strategy was intended to deal with issues affecting service delivery such as poor coordination and communication among institutions; slow disposal of cases and a huge case backlog, overcrowding of prisons and a high remand population, inaccessibility especially in rural areas, limited awareness of litigants, suspects and complainants of their rights, poor human rights record, limited personnel capacity, office equipment and office space, corruption, outdated

and often inadequate legislation and inefficiencies across all institutions, corruptions within the justice system(perceived and actual),high costs of visiting locus and execution of court orders, gender sensitivity and limitations of enforcement of the law. Similarly, to the National Development Plan of 2010-2015, JLOS noted that the key barriers to access justice included growing caseload, physical distance to service institutions, technical barrier, poverty and lack of access to justice for marginalized like women, children, disabled.

Civil society organizations (CSOs), have engaged in various interventions with their primary target group being the users of the justice delivery agencies. The focus of CSO initiatives has been on human rights education and legal rights awareness creation as well as legal aid. Whereas some achievements have been registered from these interventions, it is a long-term goal due to the enormity of the task.

In the legal aid sector, there are still have limitations with geographical coverage human and financial capacity, unregulated services which leads to compromised standards to disjointed efforts that only address symptoms rather than prevention. This is of course based on the issue of its non-availability, affordability and accessibility by all. In Uganda today the population of lawyers is over 1700 registered with Uganda Law society, although the number in actual practice is lower. There is acute shortage of legal practitioners in rural areas with vast majority of lawyers estimated at 85% being concentrated in Kampala and the rest serving main towns. It is estimated that Uganda has about only 16 % Percent of entire country that has access to full time legal representation by lawyers. This means that about 84%of population in Uganda, (24 million) do not have adequate access to lawyers and only rely on other forms of legal assistance provided by paralegals and or local councils.

In addition to that, the poor and vulnerable access to justice has been impeded by delayed dispensation of justice due to protracted and complicated court processes. Land matters for example take a minimum of 5 years to be processed out of the system. And to the indigent by the time the matter is concluded he or she has spent all he had in life including selling their property in pursuit of justice. It is also imperative to note that the poor and vulnerable are more prone to corrupt tendencies since if they don't have money to part with their cases are bungled, delayed or they don't receive attention. Similarly, the cost of procuring legal services, filing fees, visiting locus are also considered to be prohibiting justice for the needy and vulnerable especially that the rich and poor are all subjected to them same legal costs. Additionally, children and disabled are not properly catered for by the justice system. In addition to the above challenges, the current political environment like the gaps mentioned above, election malpractices and violence occur affecting the most vulnerable and indigent. Currently LASPNET has a membership of 47 Legal Aid Service Providers, operating in over 70 districts of Uganda. Despite being a state obligation most of the legal aid service provision has remained dominated by non-state actors with both inadequate resources and minimal involvement or support from the state actors.

Through the Quarterly monitoring and evaluation visits to its membership, several issues have been raised in relation to access to justice that have hampered legal aid serviced delivery.

Such as the minimal visibility and recognition of legal aid service providers as influencers in the sector priorities, the current operating environment through the adoption of the Public Order Management Act and NGO Amendment Act, has created more tension and paralysis of thus affecting the freedom of association and expression and as an end result the most vulnerable citizen are affected and disfranchised to demand for good governance and accountability.

While the role of Uganda Law Council is to regulate LASPs, LASPNETs role is to coordinate Legal aid service providers in the provision of quality legal services to the indigent and marginalized in Uganda. Due to the limitation the Law council is facing such as limited operational structure, limited financial and human resource structures, May times there is delay to have the inspections conducted and LASPs approved on time, and also monitoring and supervision to ensure adherence to standards and quality services often fall at the peripheral of the councils' priority tasks.

The conference has been conceived against this background and it is anticipated that the LASPs, together with the key stakeholders, will again use this platform to high light the prominent issues enhancing and or impeding progress in ensuring that the most vulnerable, the poor and marginalized access justice in a more timely, meaningful and equitable manner. The conference is intended to re-echo government commitments under the Vision 2040, National development plan; the JLOS sector and institutional strategic plan and other policy commitments intended to promote demand driven justice that puts into consideration equitable access to justice in order to promote, social, political and economic thriving environment, that will ensure sustainable Development. The conference is also intended to deliberate and build consensus on the critical role of LASPNET as platform has to play geared towards promoting the rule of law and legal aid agenda.

2. Overall Objective

The overall goal of the conference is to advance sustainable measures; reduction of vulnerability of clients while they navigate the different processes in pursuit of justice. Emphasis will be placed on defining the role of LASPNET in the forthcoming general elections as well as the systemic hindrances to effective justice for the vulnerable, poor and marginalized in Uganda.

Specific Objectives:

1. To provide a platform for both state and non-state actors to deliberate on the bottlenecks in access to justice;
2. To establish collaborative and effective linkages between legal aid actors including state and non-state actors in Uganda.

3. To build a strong taskforce of key influencers that provides strategic and other needed guidance for an effective way of engaging policymakers on legal aid and access to justice issues
4. To ensure a platform for open exchange within the Network, drawing from the experiences of key players, and influencing decisions on the rule of Law agenda as LASPNET

3. Participants and structure for the Conference

(a) Participants

The conference is targeting up to 80 participants including policy makers, officers from independent statutory bodies, practitioners and activists, academic, researchers, development partners, community groups, Non state Legal Aid Service Providers. The wider population in Uganda will benefit will indirectly benefit from the outcomes of the conference.

Outcome

The meeting will create and strengthen strategic partnerships between LASPNET and the Justice Law and Order Sector and non-state actors to influence the access to justice agenda in Uganda. The recommendations of the meeting will also provide LASPNET with Strategic guidance on how to continue advocating and making impacting changes in reforms in access to justice.

Access to Justice Conference

Kampala Serena Hotel

Date: 22nd October 2015

PROGRAMME

Time	Agenda item	Key Speaker/responsible person
08:00am – 09:00am	Arrival and Registration	LASPNET Secretariat
09:00 am – 09:05 am	Introductory Remarks	Sylvia Namubiru Mukasa, Executive Director, LASPNET
Session 1: Opening Ceremony Session Chair: His Worship Tom Chemutai, Registrar Supreme Court		
09:05 am – 09:15am	Welcome Remarks	Samuel Herbert Nsubuga Chairperson, LASPNET
09:15am – 09:25am	Remarks by Development Partner	Representative of Development Partners
09:25am – 10:00 am	Keynote Address	His Lordship, Justice Remmy Kasule, Chairperson ULC Court of Appeal
10:00 am – 10:30 am	Group photograph	Jamidah Namuyanja, ICDO, LASPNET
10:30 am – 10:45 am	Break Tea	Kampala Serena Hotel
Session 2: Accessing Justice in Uganda Session Chair: Ms. Roselyn Karugonjo, Human Rights, Rule of Law and Governance Consultant		
10:45 am – 11:25 am	Addressing systémique hindrances to effective justice for the vulnérable, poor and marginalized in	Presenter: Ms. Carol Muziki Coordinator, Probono Project,

	Uganda.	Legal Aid Project of the Uganda Law Society Discussants: Ms. Rachel Odoi Senior Technical Advisor, JLOS Secrétariat Ms. Christine Birabwa Nsubuga National Coordinator Justice Centres Uganda
11:25am – 11:45pm	Plenary Discussion	All Participants
11:45am – 12:15pm	The status of legal aid in Uganda: The Regulators perspective and Way forward	Presenter: Ms Stella Nyandria, Senior State Attorney, Uganda Law Council Discussant : Ms. Sandra Oryema Legal Aid Manager Public Interest Law Clinic, FOL MUK
12:15m – 12:45pm	Plenary Discussion	All Participants
12:45pm – 02:00pm	Lunch	Kampala Serena Hotel
Session 3: Drawing Major Action Points. Moderator: Dr. George Mugisha Balenzi, Dean School of Social Sciences, Nkumba University		
02:00pm – 02:40pm	Defining the Role LASPNET and LASPs should play in enhancing access to justice in the forth coming 2016 general elections	Presenter: Dr. Livingstone Sewanyana, Executive Director, Foundation for Human Rights Initiative

		<p>Discussants :</p> <p>Mr. Jotham Taremwa Spokesperson The Electoral Commission - Uganda</p> <p>Hon. Irene Ovonji Odida Chief Executive Officer FIDA Uganda</p>
02:40pm –03:40pm	Plenary Discussion	All participants
03:40pm – 04:00pm	Agree on the major undertakings	All Participants
04:00pm- 04:15pm	High light of Issues discussed	Rapporteur Violah Ajok, Research and Advocacy Officer, LASPNET
04:15pm- 04:30pm	Closing Remarks	DGF Representative

Consensus Building Conference on Access to Justice

Kampala Serena Hotel

Date: 22nd October 2015

THEME: To position LASPNET as a platform to draw the rule of Law Agenda for development.

WELCOME REMARKS OF THE BOARD CHAIRPERSON LASPNET

- Hon Justice Remmy Kasule, Justice of the Court of Appeal & Chairperson, Uganda Law council
- Your Excellency the Ambassador and Chairperson, the Steering committee of DGF
- Hon Judges Present
- Our Partners from DGF and Representatives of the development partners in your respective capacities
- Your Worship Tom Chemutai Registrar, Supreme court
- The Senior Technical Advisor JLOS
- Leaders of CSO s and particularly Heads, CEO s and National Coordinators of LASPS,
- Media fraternity
- Distinguished guests, Ladies and gentlemen

I warmly welcome you all to the Consensus Building Conference on Access to justice organised by LASPNET with support from our development partners DGF. We are humbled and honoured by your presence to participate in today's discussion that is looking for consensus on the way forward on the barriers to Access to Justice in Uganda

Access to justice is understood as equitable access to legal redress as citizens of the state irrespective of social, political, economic, cultural, gender including religious affiliation. The measure of access to justice is based on its **availability** meaning all are aware of their rights and possible remedies and can easily find institutions and mechanisms to realise these rights; **affordability** meaning that all are able to afford the cost of justice in whatever manner in terms of resources and adequate representation and **accessibility**, which indicate equality and abilities to pursue justice.

At this juncture as LASPNET, we take cognisance and appreciate the effort of JLOS in ensuring that there is better service delivery and a responsive justice system. **The JLOS strategic investment plan III** emphasizes enhancing access to justice for the vulnerable and economically disadvantaged as one of the key outcomes. As a result there are increasing

efforts to put in place front desks and a JLOS institutional presence in all districts in Uganda; there are ongoing reforms geared towards ensuring that there is access to justice for all. For instance we recognize the small claims procedure programme, the plea bargaining project , the justice for children programme; the community service scheme, the sentencing guidelines ,the toll free helpline for children, Mediation and Alternative Dispute Resolution rules to mention but a few.

The above efforts notwithstanding, majority of Ugandans who are the economically disadvantaged continue to have challenges with realising their right to access to justice. They remain ignorant of the laws and procedures, when they are wronged, they lack the means to compete with the wealthy: the cost of securing legal services i.e. filing fees remains high in addition to lawyers being concentrated in key urban areas, even when they have the opportunity to be represented say by the LASPs their justice is delayed by processes and sometimes by corruption tendencies, amongst other issues. These hindrances have been the motivation for LASPNET spearheading this consensus building conference.

Our theme today is **“To position LASPNET as a Platform to drive the Rule of Law Agenda for Development.”** LASPNET is a membership network of non-state actors who have been at the helm of providing legal aid services to the economically disadvantaged for over ten years. The network reaches over 70 districts in Uganda and provides litigation, advisory services, ADR and empowerment of the communities. LASPs have thus buttressed and covered the existing gap faced by Government in providing the legal service and ensuring access to justice for all. That support notwithstanding, the interventions remain fragmented, insufficient, and hence a drop in the ocean. Despite the stands made, the demand remains immeasurable and calls for concerted efforts of state actors, non -state actors and our development partners.

It is our considered view that having this candid talk and dialogue through intensive consultations, discussion, sharing of experiences and lessons, and through exploring what has worked well and what has not worked well, we will be in position to devise sustainable measures and strategies of how we can best serve the most disadvantaged who are the majority of our people who traverse through the justice system and who are again vulnerable to abuse in the communities where they live.

In addition and aware of the current trend in the country as we are facing the election terrain, we felt it important that we also discuss the role we can play to shape the agenda of access to justice and rule of law. We have therefore initiated an access to justice manifesto development that we are launching today. In this call to action, we have come up with specific prayers that we would want to see the leadership in both the executive and legislature to tackle and prioritize as they make their 2016 commitments. Come 2016 and after, we would like to hold those who will be successful after the elections accountable to what they committed to undertake in shaping the development agenda in terms of rule of law and good governance. We request all of you in this room and beyond to provide us with ideas and support that will make this manifesto realistic and achievable.

LASPNET as a network and its membership have delivered legal services for the last 40 years, thus our members have lessons, good practices and much to share with government in terms of experiences and moving forward. At this juncture as we move towards the legal aid policy and law, the LASPs relationship and corroboration with government should be more visible and clear to realise the intentions of the law and policy. We are therefore anxious to hear from all of you today, in having candid, constructive and vibrant engagement on the way forward. We will use the resolutions of this conference to help shape ours and your agenda going forward.

As I conclude, we wish to register our sincere appreciation to our Chief Guest, Justice Remmy Kasule who has been at the helm of promoting the rights of the vulnerable and marginalised. Justice Kasule is part of the founders and trustees of the Legal Aid Project of Uganda Law Society; he is the chairperson of the Uganda Law Council, he has therefore immensely contributed to shaping the Legal aid agenda in Uganda. We are forever indebted to you for the contribution you have made to shaping access to justice for the most disadvantaged in Uganda.

To our Government of Uganda in general and the JLOS in particular, for the improvements registered in so far as access to justice, we are eternally grateful. We as the legal Aid sector are indebted to our development partners particularly DGF who have financially and technically sustained us to deliver justice to those in most need in Uganda. Last but not least, we thank the non-state actors who are actively involved in access to justice in Uganda.

We are convinced that today's meeting will be fruitful and a start of the journey to tackle the loose ends hindering Access to Justice for All, particularly the vulnerable and marginalised.

Once again we appreciate and thank you for honouring the invitation to the conference, and wish you all fruitful deliberations.

FOR GOD AND MY COUNTRY

SAMUEL HERBERT NSUBUGA

CHAIRPERSON BOARD OF DIRECTORS

LASPNET

ADDRESSING SYSTEMIQUE HINDRANCES TO EFFECTIVE JUSTICE FOR THE VULNERABLE, POOR AND MARGINALIZED IN UGANDA - MS CAROL MUZIKI-WASIGE

Definition of access to justice

Access to justice is defined as 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 involves legal protection, legal awareness, legal aid and counsel, adjudication, enforcement, and civil society oversight. Access to justice supports sustainable peace by affording the population a more attractive alternative to violence in resolving personal and political disputes.

There is no access to justice where citizens (especially marginalized groups) fear the system, see it as alien, and do not access it; where the justice system is financially inaccessible; where individuals have no lawyers; where they do not have information or knowledge of rights; or where there is a weak justice system.

Key players in the justice system in Uganda

There are several players in the chain of justice in Uganda and these include:

- Ministry of Justice and Constitutional Affairs,
- The Judiciary,
- The Directorate of Public Prosecutions
- The Uganda Police Force,
- The Uganda Prisons Service,
- And Civil Society; amongst which are the legal aid service providers

Hindrances to effective justice for the poor, marginalized and vulnerable

Many people in Uganda, particularly the vulnerable, poor and marginalized groups are faced with several hurdles in their pursuit of justice which results into very little access to justice and little protection from the justice system from which they are seeking solace.

The Govt should be the principal duty bearer responsible and accountable to fulfilling the rights of a rights holder in this context the right to access justice. Access to justice involves a process which enables people to claim and obtain justice remedies through formal or informal institutions of justice. In many societies, there are obstacles to obtaining access to justice, and people's inability to claim justice remedies may be caused by a variety of reasons.

Hindrances

The hindrances/barriers to justice come in various forms and these include:

1. Geographical / physical barriers,
2. Financial barriers,
3. Social/psychological constraints (gender roles),
4. Linguistic barriers,
5. There are also constraints inherent in the legal provisions/court processes,
4. Institutional barriers-the structural arrangement of the institutions in the justice delivery system etc

Hindrances cont'd

- **Geographical/physical barriers-** Limited/few courts -few courts serving very large populations, access to court- poor infrastructure, climate issues, long travel distances
- **Financial barriers-**Expensive legal services, such as retention of a lawyer, court fees, transportation of witnesses, executions, surveys and valuations etc
- **Social and psychological barriers-**Cultural norms- gender roles accorded to the different sexes. Arrangement of court/ formal dressing- affecting minors
- **Linguistic barriers-**The language of court in Uganda is English yet majority of the poor litigants use their native dialect and thus are not able to understand what is going on in court. This could also include technical terms used in court that a lay man cannot understand more so when the person representing them does not explain to them. Resultantly will not understand the decision of court which will lead to appeals and contribute to case backlog.
- **Institutional barriers-**The structural arrangement of the institutions in the justice delivery system. Bureaucracy in institutions like the police makes it difficult for litigants to not only access the relevant officers but also causes delays and justice delayed is justice denied. Not to mention the corruption and political interference that continues to obstruct judicial independence and fair justice.

Over the last few years, Uganda has made visible strides towards improving its justice system especially with the adoption of a sector wide approach commonly referred to as Justice Law and Order Sector (JLOS) that has helped decentralize the delivery of justice and as a result improved the efficiency and level of services in the judicial system. Improving access to justice is a key means of promoting social inclusion. Many of these hindrances if not addressed can contribute to social exclusion more so for groups we LASPs serve.

Equal access involves extending the reach of formal rule of law institutions to the population by removing barriers to their use. Strengthening access also involves engaging the informal sector to enhance its reach, effectiveness, and compliance with human rights standards.

A few solutions to addressing the hindrances to access to justice

- **Increase the quantity and quality of justice administration.** It is not only about more courtrooms or more but also the quality of justice- better prepared counsel, more citizen-oriented court staff, and better information about the justice system. The justice system should be linguistically accessible with provision of interpretation or local language proceedings.
- **Enhance physical access.** Courthouses and police stations usually exist in urban, populated areas, leaving the rest of the country without proper access to the formal justice system. Bring judges, prosecutors, defense counsel, police, and corrections officials closer to the people. While mobile courts can also be to provide a long-term solution to endemic access to justice challenges. Efforts to build and staff courthouses and police posts outside of urban areas should also be undertaken to increase access to justice.
- **Increase access through provision of legal aid.** Use Pro Bono lawyers, legal information centres and legal aid offices that offer free or low-cost legal advice and representation, train people to represent themselves, use paralegal trained in criminal law and procedure in order to provide legal advice to suspects or accused persons who are brought before the informal justice system. Legal assistance can also be provided by law students or recent graduates through their law schools.
- **Promote legal awareness.** For the population to access justice, they must understand their rights and the means for claiming them. These can be done at a grassroots level or through the media or distribution of IEC material in local dialect.
- **Strengthen civil society as the foundation for promoting access to justice.** Its role in promoting access to justice and for reforming rule of law is important.
- **Recognize that increased access to justice depends on public confidence in the justice system.** The citizen-friendliness and quality of institutions is important. Quality is very important when designing legal aid programs because poor legal representation is not necessarily better than lack of legal representation. Have in mind the marginalized groups who are especially vulnerable to discrimination and unequal treatment. Thus, justice systems must be linguistically and culturally accessible.
- **Support the adjudication of claims for a remedy through the formal state justice system and civil society.** In order to seek and obtain a remedy, there has to be a adjudication procedure in place. Initiatives that enhance the independence of the

judiciary should also be prioritized. Other means of adjudication include the human rights commission; alternative dispute resolution mechanisms should be promoted.

- **Understand informal justice mechanisms.** These systems derive legitimacy from traditional, customary, or religious sources. In these environments, they often help resolve disputes because the formal, state-based system does not reach the entire population, some communities view informal mechanisms as more legitimate and effective. Where these systems are ignored or overridden, the result can be the exclusion of large sectors of society from accessible justice.

However do take note of the informal systems that violate international human rights standards or promote biases and tensions that are drivers of conflict.

Support the enforcement of remedies. Remedies are useless if they are not enforced.

Ensure equal application of the law: In our nation, individuals with power and marginalized populations receive unequal treatment. This imbalance in application causes deep mistrust in the system. Applying the law equally regardless of identity is critical to creating an impression of fairness and legitimacy. This involves applying laws in a non-discriminatory manner, treating all parties equally in the courtroom, and having rulings that are consistent with the law regardless of the identity of the parties (gender, class, religion).

Fairness is key in access to justice. Even with severe case backlog and other deficiencies, the justice system must handle cases efficiently and predictably, according to set principles and procedures, including equality before the law and equal application of the law. An efficient system can provide some level of deterrence against criminal acts and discourages delaying cases, such as by bribes from those trying to influence decisions.

Promote procedural fairness. Procedural fairness helps mitigate abuse by police, judges, and prosecutors by establishing fair rules for legal proceedings and adhering to them. For criminal offenses, procedural fairness involves guaranteeing the right of those accused of crimes to know the charges levied against them in a language they understand, the right to obtain or be provided counsel, a right to a speedy trial, particularly if incarcerated among others. Adequate procedural protection helps ensure that law enforcement cannot violate the rights of individuals.

Facilitate transparency in all judicial processes. Transparency throughout the justice system guards against abuse of power by officials, such as court personnel destroying court records or judges altering the outcome of cases or making judgments that contradict evidence. Consider transparent case-tracking mechanisms, which make it difficult to tamper

with files, and transparent trial processes, which prevent judges from ruling in favour of power brokers when the evidence should lead to conviction.

Increase the knowledge and professionalization of justice personnel to dispense justice. Education and training, as well as increased access to laws, are also critical to ensuring professionalism of justice system personnel. For example, lawyers need to have adequate knowledge of the law and legal procedures to effectively represent parties in court, while judges need to fully understand applicable laws and trial procedures.

Encourage collaboration. Support concerted efforts of key stakeholders in the justice systems geared towards strengthening each other's role in the chain of justice i.e. DCCs.

Advocate for state funded legal aid: So that society's "have not's" can have their voice heard and have a levelled playing ground against the powerful and influential system.

Tenets for an efficient justice system.

- **Accessibility:** Justice initiatives should reduce the net complexity of the justice system.
- **Appropriateness:** The justice system should be structured to create incentives to encourage people to resolve disputes at the most appropriate level.
- **Equity:** The justice system should be fair and accessible for all, including those facing financial and other disadvantage.
- **Efficiency:** The justice system should deliver outcomes in the most efficient way possible. In many cases this will involve early assistance and support to prevent disputes from escalating.
- **Effectiveness:** The interaction of the various elements of the justice system should be designed to deliver the best outcomes for users.

All initiatives should be directed towards the prevention and resolution of disputes, delivering fair and appropriate outcomes, and maintaining and supporting the rule of law

Conclusion

An effective justice system must be accessible in all its parts. Without this, the system risks losing its relevance to and the respect of the community it services. Improving access to justice requires a broad examination of how the different parts of the whole justice system (with its various institutions) are influenced by each other and work together to support or limit people's capacity to address legal problems and resolve disputes.



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