



TANZANIA NETWORK OF LEGAL AID PROVIDERS
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TANZANIA LEGAL AID REPORT 2017

EXECUTIVE SUMMARY

This report briefly describes a situational analysis of legal aid and access to justice in Tanzania. The report is part of the legal aid conference in Johannesburg South Africa. The ILAG Conference offers a useful opportunity to engage with other legal aid providers, policymakers and researchers from across the world and benefit from their experiences and research. It also offers an opportunity for Tanzania Network of Legal Aid Providers (TANLAP) to learn best practices and experiences from other legal aid providers on how to promote the implementation of the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems as well as the SDG 16.3 Promote the Rule of Law at the national and international levels and ensure equal access to justice for all. The conference also will avail an opportunity for participants to present their country reports with regard to the progress of legal aid. This report therefore seeks to address the progress of legal aid and access to justice within the country's context.

The specific topics covered in the report include background of the organization, an introduction and background of legal aid in the country, legal aid mechanism to which the legal aid models used in Tanzania are discussed, a description of the types of legal aid provided by various legal aid actors, including types of services offered and the areas of law covered by these services, accessibility of the legal aid schemes, including a discussion of such issues as eligibility criteria, the geographical coverage of different legal aid schemes and transmission methodology.

The report also presents other important initiatives that the country has currently brought in the field of access to justice and legal aid, including the coming on board of the Legal Aid Act 2017 and its regulations which are underway, the existence of international instruments and mechanism which are operating in the country.

Generally, this Report identifies trends and progress in the provision of legal aid in Tanzania as at 2017, including a description of the main legal aid practices used in the region, legal framework, sustainability, eligibility criteria, and scope of coverage, finances and an identification and description of linkages in between.

ABOUT TANZANIA NETWORK OF LEGAL AID PROVIDERS (TANLAP)

Tanzania Network of Legal Aid Providers (TANLAP) is a national network working in the legal sector. It is a membership network comprised of Non-Governmental Organisations (NGOs), Community –Based Organisations (CBOs), Faith Based Organisations (FBOs) and other institutions providing legal aid in Tanzania. TANLAP is an umbrella organization established to enhance the best practice and capacity of its members for provision of quality legal aid services. It envisions a society with access to justice.

Overall Goal

Access to justice and human rights to the poor and marginalized communities are protected and promoted.

Strategic Aims (SAs)

To realize the stated goal, TANLAP seeks to accomplish the following strategic aims: Capacity of Legal Aid Providers strengthened; Coordination and harmonization of Legal aid provision improved. Organizational Development and Sustainability strengthened.

Main strategies

To accomplish the above strategic aims, TANLAP uses a number of strategies. The Strategies include, but not limited to the following:

- Organizing members of the network around specific strategic objectives based on their comparative and competitive advantages and implement activities with and through them.
- Forging and strengthening strategic alliances and coalitions for targeted actions of the Network.
- Devising and operationalizing a user-friendly knowledge and information sharing system for institutional learning.
- Nurturing professionalism within the network Use of diverse communication channels to keep members abreast of all important developments within and without the network at all time.

- Coordinate members for good working relation with the three arms of the state: [Executive, Legislature and the Judiciary] and media for policy engagement relative to improved access to justice.
- Develop and adopt internal strategies and policies for the organizational development and sustainability of the Network.

Vision

TANLAP envisions a society with access to justice. This means a society where people are able or enabled to seek and obtain a remedy through formal or informal institutions of fair and proper administration of laws for grievances in compliance with human rights standards; a society with sufficient and accessible courts and tribunals with sufficient resources; where laws are known to the public and are written in the national language; where justice is administered without delays; and where people access to adequate and quality legal representation; and where there are adequate remedies to redress anyone whose rights have been curtailed.

Mission

TANLAP is an umbrella organization established to enhance the best practice and capacity of its members for quality legal aid services.

Wherefore TANLAP endeavors to build the capacity of legal aid providers in Tanzania; provide proper and improve the coordination and harmonization of the legal aid providers and Legal Aid Services; and strengthen its own organizational development and sustainability.

MEMBERSHIP OF TANLAP

TANLAP membership is open to any organization/institution providing legal aid services in Tanzania and to any Network Organization whose members provide legal aid services in Tanzania. TANLAP members operate in all regions of Tanzania Mainland. Currently TANLAP has 66 members which are Non-Governmental Organizations (NGOs), Community –Based Organizations (CBOs), Faith Based Organizations (FBOs) and other institutions providing legal aid in Tanzania.

The TANLAP founder members providing legal Aid are as follows: The Comprehensive Community Based Rehabilitation in Tanzania (CCBRT); the Disabled Organization for Legal Affairs and Social Economic Development (DOLASED); Lawyers Environmental Action Tanzania (LEAT); Legal and Human Rights Centre (LHRC); Tanzania Women Lawyers Association (TAWLA); Women in Law and Development in Africa (WiLDAF); Women's Legal Aid Centre (WLAC); and the National Organization for Legal Assistance (nola).

To inculcate and maintain a sense of network ownership and loyalty, TANLAP designs, implements and manages its programme using a participatory approach. The Secretariat makes deliberate effort to execute all its activities WITH and THROUGH members to avoid unnecessary competition and duplication of activities. TANLAP provides services to member organisations and institutions across Tanzania. As the legal aid providers work with communities directly in promoting access to justice, the services of the network benefits women, poor men, Most Vulnerable Children, youths, people with disabilities, people living with HIV/AIDS and other marginalised groups.

BRIEF HISTORY OF TANZANIA

The United Republic of Tanzania (URT) is comprised of Tanganyika (Tanzania mainland) and Zanzibar. URT has a total of 31 regions (25 in Tanzania Mainland and 5 in Zanzibar). According to the 2012 Population and Housing Census (PHS) reveals that, the population of Tanzania has grown from 12,313,496 (12.3 million) persons in 1967 when the first national PHC was carried out to 44,928,923 (44.9) persons counted in the latest census of 2012. However the current Projection in 2016 provided by Bureau of Statistics the population is 50,142,938 Male: 24,412,293 Female: 25,730,645. The country is situated in east Africa bordering Uganda, Rwanda, Burundi, Mozambique, DRC Congo, Malawi and Kenya. The Tanzanian literacy rate is Adult 67.8%, Youth 74.6%, by 2012.

HISTORICAL BACKGROUND OF LEGAL AID TANZANIA.

The history of legal aid in in Tanzania generally traces back its history in 1969. It started at the Faculty of Law University of the Dar es Salaam and it was named Legal Aid Committee. It was, a students' initiatives of giving back to the community, The law clinics gave birth to other Organizations like Women's Legal Aid Center which is still active to date.

Previously there was no clear legal frame work and or national policy on legal aid. However there was *de facto* legal framework guided by United Republic of Tanzania Constitution, 1977. Article 13(6) of the URT Constitution provides for legal representation in both civil and criminal cases. Also during that time, there was only one law on legal aid which is Legal Aid (Criminal Proceedings) Act, 1969. The law was very limited; it was only for crimes with capital punishment which are murder and treason. It provides eligibility criteria for legal aid and persons mandated to certify an accused to be granted legal aid¹. It indicates that State is responsible to pay the legal aid services provided by an Advocate assigned to help an accused.

¹section 3 of the Act

LEGAL AID SCHEME IN TANZANIA.

Legal Framework

The legal aid scheme in Tanzania is regulated by; international, regional and domestic laws. Tanzania has ratified international and regional instruments which provide access to justice and in specific access to legal aid services. However, Tanzania has in place domestic legal framework which provides space for provision of legal aid though does not mandate state to provide legal aid. Following below is the brief synopsis of the legal framework governing the provision of the legal aid services in the country.

International

Tanzania follows the dualist system, through which the international adopted instruments only become part of the domestic legal order after Parliament passes a bill to operationalize such instrument. In this respect, some of the International instruments relating to provision of legal aid services operational in Tanzania are analyzed below. Analysis provides a snap short of what they contain in terms of provision of legal aid.

a. Universal Declaration of Human Rights (UDHR)

Tanzania has ratified various International Human Rights instruments, which directly provide for the right of legal aid to individuals within the state. Some of these instruments include old instruments such as the Universal Declaration of Human Rights² which provides under article 11(1) that, every person charged with an offense should be accorded with all guarantees necessary to defend his case. It is the requirement of the law that, state should put in place mechanism to accord people accused of commission of offence opportunity to defend their rights. It goes without saying that, whenever an individual is charged of an offence and is unable to defense his case due to his limited financial abilities, then it is the responsibility of the state to accord that individual with the assistance he requires to defend his case and this may include an attorney of his own.

²The Universal Declaration of Human Rights, General Assembly Resolution 217 A (III), 10 December 1948.

b. International Covenant on Civil and Political Rights (ICCPR)

Apart from UDHR another oldest International Treaty acceded by Tanzania which provides access to legal aid services is International Covenant on Civil and Political Rights (ICCPR), which under article 14 (3) (b) provides for a right of a person charged with criminal offence to defend his case on his own or through the use counsel of his choice. As said above, where a person has no means to contract a counsel of his choice, it is the duty of the state to provide such person with the counsel to defend his case.

c. International Convention on the Rights of the Child (CRC)

International Convention on the Rights of the Child, provides for the right of legal aid for children in conflict with the law. Particularly article 40(2) provides obliges state parties to ensure that the child who is in conflict with the law is “informed promptly and directly of the charges against him or her and, if appropriate, through his or her guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defense” and “to have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to the law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians”. It is therefore a state obligation to assist the child to defend his or her case whenever he or she is in conflict with the law and with no assistance to enable him defend his or her case.

d. International Convention on Elimination of All Forms of Discrimination Against Women (CEDAW)

International Convention on the Rights of Women contains elements of access which if broadly interpreted will mean state obligation to ensure women are accorded all assistance to access justice. These include legal aid services for the category of women who are unable to afford these services from attorneys for their own.

Regional

Various initiatives have been undertaken at the regional level which includes preparation of various regional human rights instruments directly providing access to justice to people in Africa. Some of these instruments are discussed below.

a. African Charter on Human and Peoples Rights (ACHPR)

The oldest of all is³ which does not explicitly contain provision on legal aid but does contain a provision on fair trial. The broader interpretation of article 7 (1) (c) imposes responsibility on the states to ensure people who are charged with criminal offences are accorded fair hearing which will include counsel to enable and individual to defend his or her case. It goes further to imply that, where individual is unable to afford counsel to defend his case due to his limited financial means it is then the responsibility of the state member to ensure such individual is provided with such assistance. It goes without saying the person charged with criminal offenses facing capital punishment should in particular be accorded such assistance otherwise the imposition of capital punishment to such individual will mean total violation of article 4 of the charter, which is right to life.

b. African Charter on the Rights and Welfare of the Child (ACRWC)

Apart from the Banjul charter the other explicit convention is the African Charter on the Rights and welfare of the Child (ACRWC)⁴ which provides for the rights and welfare of children in Africa. Article 17 (1) of the charter provides that, “every child accused or found guilty of having infringed penal law shall have the right to special treatment in a manner consistent with the child's sense of dignity and worth and which reinforces the child's respect for human rights and fundamental freedoms of others”. In particular and

³The Banjul Charter was adopted 27 June 1981 (OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982)), and entered into force 21 October 1986.

⁴entered into force on 29 November and can be found at
1999http://www.africaunion.org/official_documents/Treaties_%20Conventions_%20Protocols/a.%20C.%20O%20N%20THE%20RIGHT%20AND%20WELF%20OF%20CHILD.pdf

more relevant on legal aid art. 17 (2) (c) requires states to ensure minors are “afforded legal and other appropriate assistance in the preparation and presentation of his defence”. Obligation to assist minor to defend his case may be interpreted to mean obligation on states to assign minors legal counsel when faced with in criminal cases to enable them defend their cases fairly. This assistance should be provided regardless of the nature of the offence and the severity of a possible penalty. It may be worth noting that, African Convention on the Rights and Welfare of the Child is the only document ratified by all states in Africa.

c. Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (ACHPRWA)

Beside the two conventions, Maputo Protocol ()is yet another convention which binds Tanzania and is explicit with regard the subject of legal aid. Article 8 (a) and (b) requires states to take steps in ensuring women with effective access to judicial as well as legal services. It does encourage international, regional and local institutions to take up steps to ensure women are accorded with access to legal services including legal aid services.

Tanzania takes cognizance of various other international and regional initiatives which upholds individuals’ access to legal services including legal aid services. These are such as Dakar Declaration, Principles and Guidelines on the Rights to a Fair Trial and Legal Assistance in Africa, Lilongwe Declaration and Kyiv Declaration.

Of recent, the adopted Global Sustainable Development Goals contains under goal 16 the aspiration of ensuring access to access to justice for all which if to be realized will include provision of legal services to the marginalized to ensure their equitable access legal services.

Domestic

At domestic level various steps have been taken to ensure access to legal services by all. These are divided among the various stakeholders including the Government, Judiciary and Civil Society Organizations notable of them being provision of legal aid to ensure access to legal aid for the poor and marginalized in the country.

Various efforts undertaken by the State in ensuring access to legal aid services include among others to put in place legal framework to facilitate realization of legal services to its population.

Tanzania has enacted the **Legal Aid Act, in 3rd March 2017**. The Law is expected to regulate issues related to the provision of free legal aid and paralegals in the country. The law will open a new chapter, enabling Tanzania to implement meaningful reforms that will guarantee effective access to justice for all, including the poor and vulnerable. This law has harmonized the existing efforts which were in place as provided below and has amended the Legal Aid (Criminal Proceeding) Act which was regulating provision of Legal Aid in Criminal cases. Currently the Government is in the final stages of finalizing **Legal Aid Regulations** which are expected to be implemented in July 2017. The following below is the analysis of the efforts undertaken by state in ensuring access to legal aid services to its population **before** the enactment of **Legal Aid Act, 2017**;

i) The Constitution

The Constitution of the United Republic of Tanzania 1977 is a basic legal document which provides a possibility for the provision of legal aid in the country. Articles 13 (6) (a) require courts to accord individuals charged with criminal offences fair hearing. The interpretation of fair hearing within the meaning of this article includes according the accused right to be heard and defend his case that may include obtaining such legal assistance to enable him or her defend his case fairly. It is from this article one can infer state responsibility to provide legal aid to people especially those charged with criminal offences.

ii) Legal Aid (Criminal Proceedings) Act

Section 3 of the Legal Aid (Criminal Proceedings) Act 1969 obliges Judiciary to take steps to ensure peoples' representation. It specifically requires a judge to take steps to

protect the interest of a person who appears before the court unrepresented but whom for the interest of justice requires such representation, the Judge may certify that person as needing legal aid and upon such certification the registrar will assign such person an advocate to represent him or her. The wording in the provision of this Act makes certification discretionary and limits such representation in criminal matters. The past practice indicated that, only people charged with capital offences (murder and treason which attracts death penalty) are accorded with this assistance. However, rules⁵ made under section 7 of this Act have expanded the scope of beneficiaries in this Act through rule 3. People who can be accorded legal representation now include all those who are charged with offences attracting penalty of not less than fifteen years imprisonment, people facing extradition, children and people suffering from serious illness or disabilities.

iii) Criminal Procedure Act

Section 310 of the Criminal Procedure Act, 1985 allows individuals who are charged with various offences to be represented by Advocates when in court save for the Primary courts. Advocates will help the accused persons in defending their cases and will support them in preparation of their defense. Application of this right is indivisible and should apply to all people including people who have no means of employing advocate of their own. In this respect, the Government provides such possibility but again it is for the Government to ensure people who have no means to hire advocates of their own to represent them, then they provide such assistance to ensure these people are represented as all other people in the country.

Bar Associations

One of the very important player when it comes to legal aid provision in Tanzania is bar associations. Tanganyika Law Society(TLS) has been very active player in the provision of legal aid Tanzania. Apart from advocates been assigned dock brief by the High Court Registrar, they are also required by the advocates rules to take up legal aid files

⁵ See Legal Aid (Criminal Proceedings) Rules, 2014.

assigned to them by the Society. These include matters of indigent persons who seeks legal aid from the society and in most cases those who require legal representation. It is therefore, of a particular interest to note that TLS has adopted internal rules that require its members to accept legal aid briefs assigned to them. Lack of what is legal aid and type of cases which qualify as legal aid under these rules makes it possible for the society to take up various cases of indigent persons.

University Based Legal Aid Clinics

These are perhaps the oldest legal aid providers in the country. The very first legal aid clinic to be established was the Legal Aid Clinic/Committee of the University of Dar es Salaam which was established in 1967. The legal aid committee as all other university based legal aid clinics was established to provide legal aid services to the community as sign of giving back to the community. Today legal aid services provided by the legal aid committee forms part of the University mission of community or public services. It should be worth noting that while Universities legal aid clinics in Tanzania serve public in general they are in most cases reference point for paralegals who face challenges in the cause of provision of legal aid services.

MODE OF SERVICE DELIVERY

In Tanzania provision of legal aid services is categorized to include provision of various legal services to the public. These include the following activities;

Legal Education

Legal education involves raising public awareness on the basic legal concepts including human rights, legal systems, existing complaints mechanisms i.e courts system etc. Different methods are used by the Legal Aid Providers in raising public awareness which include targeted campaigns, public seminars and lectures, debates, media campaigns which include running various programs in the radio and TV, publication of simplified reading materials i.e leaflets, brochures, posters, pamphlets, handouts and self-help kit books. Innovatively, paralegals uses forums such as religious gatherings, village meetings, clan meetings and other organized gatherings to disseminate information that is vital for such group. This method has proved to be very effective for

conducting public education sessions as it targets certain organized groups of people in the community and information disseminated to that group is always customized to suit the needs of such group.

Legal Advice

Include provision of qualified legal opinion and resolution of the small scale dispute at their emergency. In this stage legal aid providers intervene the situation by providing necessary information to the clients or intervening the situation by supporting parties involved in dispute to settle their differences amicably. Legal advice or counselling involves provision of information to individuals, groups of people or community on various available solutions to their problem. This may include, information on what the law says about the matter referred for assistance, existing forums which can entertain and resolve such dispute and available support services i.e advocates for representation purposes. As said above, at this stage Legal Aid Providers engage in dispute resolution with the aim of ensuring emerging disputes are settled right at their emergency or at source. In this respect, LAPs, applies various dispute resolution techniques which are sometimes known as alternative dispute resolution mechanisms (ADR). Reportedly LAPs have been involved in reconciliation and mediation of parties to ensure they settle their disputes amicably. Given these intervention by LAPs only those disputes requiring court decision i.e criminal cases have been channeled to court or where application of ADR proves failure.

Legal Assistance

Involves provision of qualified professional legal services to a person in need of such service. It involves preparation of the legal documents or initiation of the claims which in the end forms part of the formal legal proceedings. As part of legal assistance, LAPs support their clients by issuing qualified legal opinion or writing various documents such as demand letter or letter of intent to initiate legal proceedings, drafting legal documents according to the prescription of the laws, i.e complaint, written statements of defense, rejoinder, written submission etc. In other instance, LAPs coaches their clients by providing them with necessary information on how to behave and deal with the information they meet in the court i.e how to address the court, how to respond to the questions posed by the opponents or how to cross or re-examine. They do also support

clients by making follow up on the clients' cases pending at the court and advice their clients accordingly.

Legal representation

Involves litigating case in the adjudication forums such as courts of law or established tribunals. Some of the established LAPs provide representation services to their clients with the intention of assisting them in defending their cases before these tribunals. LAPs who provide these services are those with individuals enrolled and practicing as advocates. Some of the LAPs who have been proactive in providing legal services include, Tanganyika Law Society, Legal and Human Rights Center, Legal Aid Committee of the School of Law of the University of Dar es Salaam, Women's Legal Aid Center, Tanzania Women Lawyers Association to mention a few.

LEGAL AID STATISTICAL DATA FROM 2013 - 2016

1.0 Legal aid statistics from 2013 to 2015

The study conducted by TANLAP shows that the total number of cases that were reported by TANLAP Members were 73,228 between October 2013 and September 2015. Highly reported legal disputes being land disputes (92.1%), matrimonial and probate cases (90.8%), respectively and gender violence (89.5%). Others are child maintenance (69.7%), criminal offence (40.8%) and labour disputes (38.2%).

2.0 Legal aid statistical data for 2016

The survey shows that the community is accessing legal aid largely from legal aid providers. It was revealed that 96.2% of services provided were legal advice and coaching, 92.23 % were legal education and human rights awareness. Most reported cases are Land Cases (94.1%), Matrimonial cases and Gender Based Violence (88.2%) respectively and Probate cases (86.3%) as well as child maintenance (74.5%). The study conducted by TANLAP shows that the total number of cases that were reported to TANLAP by Members were 55,741 between October 2015 and September 2016. Land cases were 21333, labour cases were 7340, probate cases were 7245 , child maintenances 6868, matrimonial cases 6616, Gender Based Violence 3595, other civil cases 1471 and criminal cases 1273.

MECHANISM OF COMMUNICATING LEGAL AID SERVICES IN TANZANIA

Generally there is no formal strategy to guide the delivery of legal services in the country; however, the legal aid actors have adopted several channels to inform the general population of their legal aid activities.

generally speaking there are different legal aid providers in Tanzania some of whom have put in place some form of strategies to make the general population aware of their existence, in other way round, there are some significant differences between one service provider and the other with regard to the mechanism adopted in communicating to the general population, legal aid services or activities offered.

The activities which are conducted by Legal aid providers so far to make the general population aware of the legal aid schemes offered in Tanzania include;

Preparation and participation in “Law day week” which attempt to offer a number of services including Legal assistance, legal awareness and referral on issues of representation. Legal Aid Week in Tanzania has been coordinated by Tanzania Network of Legal Aid Providers(TANLAP), the Legal Aid Secretariat (LAS) in collaboration with the bar association for this purpose Tanganyika Law Society (TLS) who coordinates its members to offer pro bono services.

Another strategy which has been so common among legal aid providers in the country is the use of web based system where the legal aid actors use the platform to publish annual reports, simplified laws and legal aid kits, brochures, directory of legal aid providers which provides for the location and the distribution of legal aid providers in the country,

The other strategy for some of legal aid providers particularly the economically powerfully organizations in informing the public of its legal aid services is the use of Media both radio and Television programmes, a good example being, Tanzania Network of Legal Aid Providers, Legal and Human Rights Centre and the Tanzania Women Lawyers Association. The likeminded organizations make use of innovative approaches of providing their legal aid services through Hot line and telephone of which Women in law and Development (WiLDAF), AICIL, Women Legal Aid Centre (WLAC)

and Tanganyika Law Society (TLS) through the support of LSF have been taking lead on.

The most useful ways in which legal aid providers embark on, in terms of offering legal aid services and informing the public of their existence is the engagement of face to face empowerment trainings, workshops, campaigns and legal awareness meeting or exhibitions. These methodologies are friendly to all groups of legal aid organizations, the middle income and the powerful ones.

Furthermore, many of the organizations in the country and members from the university based clinics actively seeks to establish linkages with other local service providers, such as district paralegals, religious leaders, local government leaders, government departments and institutions, such as the police, the courts and prisons, in order to make officials within these agencies aware of the legal aid work conducted by lawyers, as for police and prison, the two receives very eligible client for legal aid whom they should been assisting.

ELIGIBILITY

The NGOs and paralegals in Tanzania mainland similarly tend to use a “means test”, as to inquire into a person’s income and financial wellbeing of a person to determine the person eligibility for legal aid, thus in some cases organizations apply a rule that persons with a monthly Income above a minimum wage of 150 USD per month are not entitled to legal aid services. Furthermore, NGOs and paralegals in Tanzania mainland tend to focus on vulnerable groups, such as women, children and the elderly who may be at risk of being abused, unfairly discriminated against or exploited.

The last factor to determine eligibility is Merit test, which is defined in the Legal Aid (Criminal Proceedings) Act, 1969, it states that for the purpose of an accused to have legal representation in the preparation and conduct of his defense or appeal, legal aid will be granted to him if the certifying authority satisfy itself that it is for the interest of justice or the accused has no sufficient means to pay for legal assistance.⁶

⁶Legal Aid (Criminal Proceedings) Act [Cap 21 RE 2002] Section 3, which provides that

In practice however, NGOs and paralegals in Tanzania usually use either a registration form or an oral interview to decide whether these criteria are met. NGOs that use paralegals in Tanzania mainland do not require any form of self-payment from their clients, but in most cases incidental costs such as photocopying and filing fees or may be paid by the client.

SCOPE OR DEPTH OF LEGAL AID SERVICES IN TANZANIA.

Legal aid is both provided in criminal and civil cases. Usually Services offered by CSOs under civil cases include Representation, drafting, advice, follow-up, reconciliation, and in Criminal cases follow-up to the police posts and stations and referrals. However in criminal cases most of the legal aid providers who are CSOs do not prefer to work on those types of cases with exception of one NGO and bar association(Tanganyika Law Society) which provides legal aid to the remandees and accused persons.

On the other hand the government provides pro-bono legal aid to the suspects of capital offences (murder and treason) alone have been accorded with pro bono legal aid by the government, S.3 of the Legal Aid (Criminal Proceedings) Act. As a matter of practice the registrar of the High Court assigns criminal cases to the practicing advocates to represent the accused charged of murder or treason. Most of the reported legal issues are related to land, marriage, domestic and gender based violence, inheritance, and children. The types of cases handled can be grouped as follows: land disputes, probate, matrimonial, GBV, labor and child maintenance.

It is expected that with this new Legal Aid Law now many cases of Criminal matters will be reported as the law provides for the provision of legal aid in Criminal cases.

Coverage

“Where in any proceeding it appears to the certifying authority that it is desirable, in the interests of justice, that an accused should have legal aid in the preparation and conduct of his defence or appeal, as the case may be, and that his means are insufficient to enable him to obtain such aid, the certifying authority may certify that the accused ought to have such legal aid and upon such certificate being issued the Registrar shall, where it is practicable so to do, assign to the accused an advocate for the purpose of the preparation and conduct of his defense or appeal, as the case may be.”

Most of the legal aid providers are found in urban centers and towns. In making sure that justice accessed easily and timely, LAPs have trained paralegals who are based in every district of Tanzania. According to Legal Services Facility, currently the number of paralegals trained is 4800. The roles of paralegals are providing legal education and legal aid to their vicinities. Different groups in the community benefit from legal aid services such as women, men, children, and people with disabilities. Some of the legal aid providers are specifically working with special groups like women, PWD and children.

FUNDS FOR LEGAL AID/SOURCE OF FUNDING

Previously and after the enactment of the new legal aid Act there is no legal frame work for legal aid funding. Unlike other legal aid laws from other jurisdiction, Tanzanian law does not establish legal aid fund for legal aid. In practice funding of legal aid scheme is not mainly funded by the government of Tanzania. Legal aid is totally depending on development partners both local and international donors.

Currently legal aid funding is mainly provided by the Legal Services Facility but it is not the only local donor. Legal Services Facility is a basket fund organization established in 2011 by DANIDA to enhance increase of access to justice, the basket fund is also supported by UKAID (DFID). Since its establishment LSF has funded legal aid scheme for more than 10.4 Million USD. However there other Development partners who contribute to the LAPs directly to the organizations such as Open Society of Initiatives for East Africa (OSIEA), USAID, Terre des Hommes, Stephen Lewis Foundations and different Government development agencies like SIDA, CIDA, DANIDA, DFID GTZ-TGPSH, World Bank, Embassy of Ireland, and international NGOs such as Ford Foundation, Well Spring Foundation, Tides Foundation, Fredrick Ebert Stiftung (FES), Konrad Aderneur Stiftung (KAS), Oxfam, and African Women Development Fund (AWDF). Others include PACT Tanzania, Action Aid Tanzania and World Vision, just to mention a few. Most of the financial support given to LAPs is not for legal aid services only, but for the program work as a whole. Other program activities implemented by LAPs may include advocacy for gender equity issues, good governance and election monitoring, just to mention a few.

In practice, the Government provides support to legal aid work, currently under the Legal Sector Reform Program (LSRP). This has been done through providing some funding for legal aid activities, i.e. the contribution to the establishment of the legal aid network, TLS legal aid week, and some LAPs reported to have benefited. Between 2009 and 2011, an estimated total sum of TShs. 10 to 20 million per year per organization from the LSRP was accessed by CSOs. The above context indicates that the funding base for legal aid in Tanzania is shaky and unreliable as it is donor dependent.

Annual budgets expenditure

The majority legal aid providers are funded by LSF and few by other development partners. The annual budget expenditure from 2012 to 2016 as per LSF officials 16,0645,519 USD have been awarded as grant to the legal aid providers in Tanzania. According to baseline survey conducted by LSF in 2012 it was indicated that LAPs have annual budgets over TShs one billion (US \$600,000), around 40% have annual budgets in the range from TShs 500-1,000 million (US \$ 300,000 to 600,000), while the remaining 40% have annual budgets under TShs 500 million (Us \$ 300,000) It is good to note that the budget range reflects cost of program, not only legal aid activities.

Sustainability

As introduced above, legal aid future looks foggy in terms of running funds. The legal aid Act does not establish sources of legal aid funds, it is silent. This puts legal aid future unpredictable as there is no commitment shown by the government. Basically legal aid depends on the development partners only.

CONCLUSION

Generally there is high demand for legal aid services by the community, and the community is much willing to work with legal aid providers in resolving legal matters. Legal aid organizations have been complementing Government for a considerable longer period of time, and this further shows that legal aid providers have a great role in resolving community disputes and hence contributing positively in reducing violence's

and human rights violations in the country. TANLAP recognizes the efforts by the Government to enact Legal Aid Act that will regulate and recognize paralegals in the country hence facilitate easy the provision of Legal services .With that progress, therefore, sustainable financial capacity to legal aid providers and paralegals now remain a challenge which calls for the support from development partners and the Government so that legal aid is effectively provided to the poor and marginalized people in Tanzania.