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Conference Report



International Conference on Equitable Access to Justice: Legal Aid and Legal Empowerment

17 –18 November 2012
New Delhi, India

Organised by:
Department of Justice, Government of India and
the United Nations Development Programme

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LIST OF ABBREVIATIONS

A2J	:	Access to Justice
CLC	:	Community Legal Centres
CSO	:	Civil Society Organisation
DLSA	:	District Legal Service Authorities
DoJ	:	Department of Justice
Gol	:	Government of India
ICT	:	Information Communication Technology
JC	:	Justice Centre
LAC	:	Legal Aid Commission
LAHRC	:	Legal Aid Human Rights Committee
MDG	:	Millennium Development Goal
NADCAO	:	National Alliance for the Development of Community Advice offices
NALSA	:	National Legal Services Authorities
NGO	:	Non-Governmental Organisation
NLU	:	National Law University
NSAJ	:	National Strategy for Access to Justice
NUJS	:	National University of Juridical Sciences
NJA	:	National Judicial Academy
PASI	:	Paralegal Advisory Service Institution
RTI	:	Right to Information
SLSA	:	State Legal Services Authorities
UNDP	:	United Nations Development Programme
UN	:	United Nations

TABLE OF CONTENTS

List of Abbreviations	3
Executive Summary	7
1. Introduction	10
1.1. Global and Regional Perspective on Legal Aid and Legal Empowerment: UNDP	10
1.2. Access to Justice Overview: India.....	11
2. Legal Aid Services: Global Models and Country Perspectives	13
2.1. Ensuring Quality Legal Aid for the Poor and Marginalised: The Pre – Requisites	13
2.2. Holistic Approach to Delivery of Legal Aid: South Africa	13
2.3. Legal Aid Structure in India.....	15
2.4. Quest for Inclusion and Empowerment in Rule of Law and Justice Agenda:	15
Lessons from Europe and Central Asia	
2.5. Legal Aid in the Post Conflict Context: Sri Lanka.....	16
2.6. Legal Aid Strategies: Brazil.....	17
3. Highlights from field visits to Sierra Leone, Indonesia, South Africa and Malawi.....	18
3.1. Indonesia.....	18
3.2. Malawi	18
3.3. Sierra Leone.....	19
3.4. South Africa.....	20
4. Innovations in Legal Professional Education.....	21
4.1. Achieving Justice through Legal Aid Cells: India.....	21
4.2. Rendering Legal Services to the Marginalised through Law Clinics: South Africa	22
4.3. Judicial Strengthening on Gender Equality Issues: Asia Pacific Advisory Forum for	23
Judicial Education on Equality Issues	
4.4. Experiences and Reflections on Community Legal Education: Thailand.....	24
4.5. Legal Aid and Clinical Education: China.....	24

5. Innovative Strategies to Strengthen Access to Justice	26
5.1. Institutionalising Paralegal Training for Improving Access to Justice: PASI, Malawi.....	26
5.2. Successful Community Led Initiative on Legal Aid: TIMAP, Sierra Leone.....	27
5.3. Lok Adalats and their role in Access to Justice: India	27
5.4. Using Alternate Dispute Resolution Mechanisms for accessing Justice: Bangladesh.....	28
6. Legal Awareness and Legal Empowerment Initiatives: Strengthening Equitable Access to Justice by Addressing the Demand Side	29
6.1. Legal Empowerment and its Link to Development, Poverty Alleviation and Growth	29
6.2. Legal Awareness for Community Rights: India.....	29
6.3. Role of the Bar Association: Nepal	30
6.4. Promoting Women's Rights through Legal Empowerment: Maghreb.....	31
7. Towards a Systematic and Strategic Approach to Strengthening Equitable Access to Quality Justice	32
7.1. Identifying common strategies for legal aid and legal empowerment to strengthen access to justice initiatives – India	32
7.2. Impact of the legal aid delivery system: Australia.....	33
7.3. Developing National Strategy and legislating for strengthening access to justice: Indonesia	34
7.4. Key lessons for the future: South Africa	35
7.5. Strategizing on access to justice: the way forward.....	36
8. Conclusion	37
8.1. Valedictory Address.....	37
8.2. Concluding Observations	38
8.3. Vote of Thanks	38
9. Annexure	39
Annex 1: Conference Schedule	39
<i>List of Participants</i>	<i>43</i>
<i>The Team that made it possible</i>	<i>50</i>

EXECUTIVE SUMMARY

“The first step to achieving justice is to make injustice visible.”

Mahatma Gandhi

The Department of Justice (DoJ), Ministry of Law and Justice, Government of India (GoI) is implementing a Project on “Access to Justice for Marginalized People” (A2J) with support from the United Nations Development Programme (UNDP). The A2J Project aims to strengthen access to justice for the marginalised, particularly, women and those from Scheduled Castes, Scheduled Tribes and minorities, by supporting strategies and initiatives which seek to address the barriers they face, due to lack of awareness, inaccessibility of legal aid and absence of other support services to facilitate access to justice. The Project focuses on the demand side by empowering the poor and marginalised to be aware of their rights and demand justice, while at the same time addresses the supply side by supporting key justice delivery institutions in providing improved services to the poor.

The DoJ and UNDP, through their stakeholders, have rolled out pilot programmes on legal awareness, capacity building of intermediaries (including paralegals) and assisted vulnerable groups in accessing legal services across select districts in the 7 Project States (Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Odisha, Rajasthan and Uttar Pradesh). Linkages have been developed with other relevant government ministries/departments to reach out to the marginalised people through legal literacy programmes. The results have been encouraging. The Project has reached out to approximately 2 million people in the 7 Project States. 7000 paralegal workers and 300 lawyers have been trained and sensitised. Many knowledge products have been developed including booklets containing simplified legal information, short films, community radio programmes, training modules etc.

Over the years, the concept of legal empowerment has become an integral part of access to justice initiatives. It allows the use of legal services and development activities to increase the control of marginalised communities over their own lives. Across the world, several legal aid and legal empowerment strategies are in place. In India, legislative frameworks mandate legal aid service provision. In addition, several non-governmental actors also provide legal empowerment services. However, several challenges remain to be overcome, especially in terms of outreach and the quality of legal aid services.

To address these challenges and to strengthen strategies aimed at increasing access to justice through legal aid and legal empowerment services, an International Conference on Equitable Access to Justice: Legal Aid and Legal Empowerment was held in New Delhi on 17- 18 November 2012. This international conference offered a platform to peer review and exchange experiences highlighting successful models and best practices on access to justice and legal aid from across the world, which could possibly be replicated in India or elsewhere. It presented and discussed the challenges faced and the strategies adopted by the existing legal aid systems across the world. The conference also added immense value to the A2J project in India, which is scheduled for a new phase of programming from 2013.

The key objectives of the conference were:

- a. Exchange on global and regional legal aid and legal empowerment practices: international frameworks, best practices and challenges in ensuring quality legal aid services.
- b. Sharing on strategies for capacity development of service delivery institutions and strengthening equitable access to justice.

The conference sought participation from a range of countries and experts which have experimented with justice sector assessments, access to justice strategies, judicial training and sensitisation, legal aid, legal awareness and legal empowerment of communities. About 150 participants from 22¹ countries attended the conference comprising senior judges, government officers, representatives from judicial academies, legal aid authorities, civil society, other experts and academicians, and development practitioners, including from UN agencies. The conference was inaugurated by the Union Minister of Law and Justice. It concluded with a valedictory address by the Chief Justice of India.

In addition to the inaugural and the valedictory sessions, there were six key sessions at the conference. The first session focused on Legal Aid Services which allowed an illustration of the prerequisites for legal aid provision and establishment of rule of law. It also brought in country perspectives from South Africa, Sri Lanka, Brazil, India, Balkan and Caucasus region and Canada. The country presentations highlighted an overview of legislative frameworks, resources involved, roles and responsibilities of various state institutions and monitoring and evaluation systems that give insight into the impact of such programmes. The presentations shared common norms as well as identified best practices, challenges and impact of legal aid services on increasing access to justice.

The second session provided an overview of some of the critical learnings from the four field visits organised for Indian delegates from the Legal Services Authorities and the Department of Justice. These field visits to Sierra Leone, Malawi, Indonesia and South Africa provided learning platforms for the delegations on legal aid and legal empowerment strategies, their strengths and challenges, and feasibility of their replication and adaptation in the Indian context.

The third session focused on innovations in legal professional education. Innovative approaches to access to justice, which integrate state and non-state efforts to promote legal aid, were explored. The experience of law school based legal aid clinics, judicial education and legal literacy projects, specifically in terms of impact, were shared. This included looking at experiences from legal aid clinics such as the ones run from Salgaocar Law College, Goa and other colleges from select states in India, the Wits law clinic in the University of Witwatersrand in Johannesburg (South Africa) and Remnin University in China. A panel discussion on judicial education explored its role in enhancing access to justice, especially in the context of gender-based concerns and women's access to justice. It also brought to light interesting experiences on judicial education undertaken in the Asia Pacific region through the state run National Judicial Academy in India, judge – NGO partnerships and programmes run in Thailand on educating judges.

The second day of the conference comprised of three primary sessions. Session four focused on innovative strategies to strengthen access to justice. Models of legal empowerment which have developed as a result of a gap in the state led legal aid services were discussed in terms of their strategies and impact. It also explored the significant trend of paralegals in the delivery of legal aid. The focus was specifically on the critical role that they have come to play, especially in terms of demystifying laws and procedures and facilitating legal awareness amongst marginalised communities, as has been in the case of Malawi and Sierra Leone. The session also highlighted the use of alternate dispute resolution mechanisms both in India and Bangladesh, and how these efforts have led to an increase in access to justice.

Session five was on legal awareness and legal empowerment initiatives seeking to strengthen equitable access to justice by addressing the gaps on the demand side. It dealt with the development of a bottom up approach to legal empowerment of the poor, which is founded on the understanding that increasing awareness of rights amongst marginalised groups will raise the demand for the fulfilment of those rights. The session looked at initiatives that have responded to the demand side and facilitated an enabling and empowering environment.

¹ Afghanistan, Australia, Bangladesh, Brazil, Canada, China, Egypt, Georgia, India, Indonesia, Malawi, Mongolia, Myanmar, Nepal, Sierra Leone, Sri Lanka, South Africa, Thailand, Uganda, Vietnam and others representing the CIS and the Maghreb region

The session also explored the link between poverty alleviation and legal aid and empowerment. Some of the key experiences shared in the session included legal awareness and empowerment of communities on issues of forest rights in India, the work of the Bar in Nepal and the strategies used in Morocco to address women's rights through legal empowerment.

The last session before the closing of the conference invited the speakers to deliberate upon and provide suggestions on how to create a systemic and strategic approach to strengthening equitable access to justice. An overview of comprehensive and multi-stakeholder strategies for legal aid and legal empowerment were highlighted for the future, both from the Indian and Global perspective. The experiences of providing systemic legal aid assistance through legal aid providers in Australia were shared, along with the relatively new National Strategy on Access to Justice from Indonesia and the lessons learnt from the South African context.

At the conference, three knowledge products- a training manual for judges on laws and issues related to marginalised communities; a training module & handbook for the judicial officers on anti-human trafficking; and a set of 3 user manuals on Forest Rights Act and Panchayat (Extension to Scheduled Areas Act, 1996) of India were also released.

The key outcomes of this conference and the rich discussions throughout its proceedings will allow the Department of Justice and UNDP to get some critical inputs for planning the next phase of the project cycle.



1

INTRODUCTION²

1.1 Global and Regional Perspective on Legal Aid and Legal Empowerment: UNDP

As a step forward in achieving development goals, the international community promised to achieve 8 Millennium Development Goals³ (MDGs) in 2000. Since then, substantial progress has been made in Asia to achieve these goals, including on access to justice and rule of law, which are central to UNDP's mandate as being essential to human development and the reduction of poverty. The UNDP recognises that the poor are very often unable to seek justice, and engages in ground breaking work in over 100 countries to ensure that vulnerable and marginalised communities have access to justice.



For UNDP and the UN family at large, the question of legal aid and legal empowerment is not only a technical matter relevant to lawyers and justice sector specialists, but a deeper recognition of the fact that the absence of legal aid and legal empowerment means the deprivation of access to justice, and therefore a denial of fundamental human rights. In India, the government has enacted laws⁴ which mandate free delivery of legal aid services to the marginalised. This is supported by one of the most progressive constitutions in the world, an active judiciary and civil society which have played an important role in advancing access to justice and

promoting the rule of law. India can take pride in being one of the first countries to enshrine a provision in its constitution obligating the State to provide free legal aid with a view to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

The Indian Constitution⁵ and the Universal Declaration of Human Rights are interlinked with each other. They were drafted around the same period and historical context, and are related by being touched and influenced by individuals like Hansa Mehta⁶ and Lakshmi Menon⁷ who were part of both processes. The Indian connection to democratic principles like provision of legal aid was further deepened by Amartya Sen who pioneered the Human Development concept and underscored the connection between poverty and justice.

²The opening session was conducted by Ms. Lise Grande (UN Resident Coordinator and UNDP Resident Representative for India), Mr. Marcus Brand (Human Rights and Access to Justice Advisor, UNDP APRC), Mr. DK Sikri (Secretary, Department of Justice, India).

³ <http://www.un.org/millenniumgoals/>

⁴ LEGAL SERVICE AUTHORITIES ACT, 1987 (<http://lawmin.nic.in/la/subord/nalsa.htm>)

⁵ <http://lawmin.nic.in/coi/coiason29july08.pdf>

⁶ A prominent educationist

⁷ India's Permanent Representative at the UN at the time the UDHR was being framed

The nexus between poverty and access to the court system has been understood over many years. Emerging welfare states of the now developed world introduced state provided legal aid in the middle of the 20th century as part of their comprehensive social policies. These legal systems have evolved various structures and strategies to administer legal aid services, such as formal representation in courts, through public defenders or subsidies on the costs of court proceedings without specific provisions on the delivery of such aid.

The quality of the legal services provided has been central to this evolution and is an area of concern. It has also led to a move away from a purely formalistic requirement towards a much more broad-based concept of *effectively* providing for legal identity, legal information, legal education, and ultimately, legal empowerment and, thus, *effective* access to justice.

A variety of models have emerged across the globe, warranting rich exchange on experiences and key strategies for implementation. Central to implementation is the need for lawyers to reach beyond their disciplines, and bring economists, finance and administrative experts, sociologists, anthropologists, as well as grass roots civil society into the legal aid structures and discussions. Doing so ensures rigorous self-assessment and continuous improvement of the models.

Elements of Successful Judicial Reform

- Result orientation (including a focus on monitoring and evaluation)
- Leadership and participation
- Data and evidence-based decision making
- Sensible use of new technologies, especially information technology
- Pre requisites for their success include time, learning through innovation, partnerships and integration with other reforms

1.2 Access to Justice Overview: India⁸

As early as in 1951, the Supreme Court of India stated that where an accused is disabled from accessing justice due to poverty, it will amount to negation of fair trial. The Supreme Court has since then categorically asserted that right to a fair and reasonable trial includes the right to counsel of one's choice. In Hussainara Khatoon's⁹ case the Supreme Court held that an indigent person should have access to quality justice in order for a trial to be fair and just.

"The Supreme Court of India elevated the right to fair trial as a basic structure of the Constitution thus making it inalienable, unamendable and primordial."

Dr. Ashwani Kumar, Hon'ble Union Minister of Law and Justice, India



India is not only a parliamentary democracy but also a constitutional democracy. The Constitution obligates the State to ensure access to justice for all people through a variety of means including legal aid. The right to justice is now an inalienable, integral and primordial part of the basic structure of the constitution. The constitutional right to justice has been now translated into a statutory right through the enactment of the Legal Services Authorities Act, 1987. The question, however, is whether this right will remain just on paper, or will it become a reality for poor and vulnerable sections of the society. To

make right to legal aid meaningful for the people, it is essential to ensure that there are adequate numbers of trained and motivated judges, lawyers, and paralegals to provide access to justice to all who need it.

⁸ Inaugural Address delivered by Hon'ble Minister Dr. Ashwani Kumar, Ministry of Law and Justice, India and Introductory Remarks by Mr. D.K. Sikri, Secretary, Department of Justice, Ministry of Law and Justice, India

⁹ Hussainara Khatoon & Ors vs Home Secretary, State Of Bihar, 1979 AIR 1819, 1979 SCR (3)1276

The Government of India is committed to ensuring equitable access to justice for the poor. There are several laws, schemes and social programmes in India that have adopted a rights-based approach to ensure basic rights to education, health, food, employment etc. These require a robust legal aid system, which can help the poor in accessing their rights and entitlements. Recognising that long delays, pendency and backlog of cases put unacceptable pressure on the judicial system and impact the ability of the people to access justice in time, the Ministry of Law and Justice has launched a variety of initiatives to address this problem. An important initiative is the establishment of citizen centric eCourts; an initiative which has allocated over Rs. 935 crore (USD 187 million) towards ensuring ICT enablement and improved services to the people. The Thirteenth Finance Commission (TFC) has provided Rs. 5000 crore (USD 1 billion) for the period 2010-2015 to the Justice sector, primarily for reducing pendency, improving infrastructure, legal aid, training and speedy justice delivery. The Government has also allocated Rs. 130 crore (USD 26 million) during the 12th Five Year Plan period (2012 – 2017) for setting up model courts. Another forward-looking initiative of the Department of Justice is the setting up of the National Mission for Justice Delivery and Legal Reforms¹⁰ with the twin objectives of a) Increasing access by reducing delays and arrears in the system, and b) Enhancing accountability through structural changes and by setting performance standards and capacities.



The Access to Justice Project (2009-2012) implemented by the Department of Justice in collaboration with the UNDP is an example of efforts being made for creating sustainable and positive change across the States. With a focus on those who are vulnerable and those that live at the periphery of society, the project has yielded inspirational results by empowering women, children, Scheduled Tribes, Scheduled Castes and the poor by arming them with information on their rights and by demystifying the justice delivery systems.

The Department of Justice and UNDP's Access to Justice Project will carry forward the objectives achieved in the past 4 years through the next phase of programming. It will be necessary, though, to look into the reforms and work closely with other departments, which are relevant for the marginalised groups. The focus will be on strengthening existing relations with judicial academies and creating sustainable partnerships with the National and State Legal Services Authorities. The aim of these initiatives is to ensure effective and innovative delivery of justice, which contributes to growth and poverty reduction in the country.

Achievements of the Access to Justice Project

- Over 2 million people have been made aware of their rights and entitlements.
- Over 7000 paralegals have been trained.
- Over 300 legal aid lawyers have been trained and sensitized.
- Knowledge products have been created to sensitize judiciary and other stakeholders on laws and issues relating to marginalized communities.
- IEC materials have been created and synergies forged with existing programmes of the Government. For example, legal literacy modules have been integrated in the National Literacy Mission's adult literacy programme, *Sakshar Bharat*

¹⁰ National Mission for Justice Delivery and Legal Reforms available at: <https://doj.gov.in>

LEGAL AID SERVICES: GLOBAL MODELS AND COUNTRY PERSPECTIVES

2

There are several models of legal aid across the world. These models have evolved over a period of time and will continue to evolve ensuring that lessons learnt are incorporated to make the system more responsive to those who need it the most. This session explored some of the pre requisites for delivering quality legal aid. It also focused on varied country perspectives, experiences and challenges.

2.1 Ensuring quality legal aid for the poor and marginalised: The pre requisites¹¹

There are four propositions that guide the jurisprudence of providing access to justice through legal aid. These are:

- Legal aid is a condition precedent for the rule of law: When the poor and vulnerable have no access to legal aid they are merely subject to the coercive power of law. When they do have legal aid, they have access to law with all its protective powers, through which they can compel others to respect their rights.
- People should choose their own empowerment: People are the best judges of what they need and the community's needs should be the priority of legal aid systems.
- Legal Aid should be comprehensive in its scope: This means that legal aid should be available for both criminal and civil cases.
- Legal aid should draw on all empowerment tools: Providing legal aid at a later stage is not adequate. Legal Aid should be available at all stages. It should be provided to create awareness, provide alternate dispute resolution mechanism, counselling, litigation and legal reform.

2.2 Holistic approach to the delivery of legal aid: South Africa¹²

South Africa has one of the most progressive Constitutions in the world. It guarantees the right to justice in several ways including access to courts to have one's disputes resolved in a fair manner, the right to legal assistance at state expense for accused, charged or detained persons when they cannot afford the cost of their own legal representation or when substantial injustice would otherwise result. This has created the constitutional and legal framework to develop a high performance legal aid entity that is able to increase access to justice for hundreds of thousands of South Africans.



¹¹ Mr. Larry Taman, Senior Specialist, Justice Sector Reform

¹² Ms. Vidu Vedalankar, CEO, Legal Aid Board, South Africa

Some of the key highlights from South Africa are:

- The Legal Aid Act (Act 22 of 1969 as amended) provides the statutory framework for legal aid in South Africa.
- The largest provider of legal aid services is Legal Aid South Africa, which is funded by the state and provides legal aid assistance through lawyers, advocates and paralegals as per its legislative mandate. Legal aid is provided in criminal and civil matters at state expense where substantial injustice would otherwise result.
- Before 2000, the Legal Aid Board was in a state of collapse and it was unable to cope with the demand for legal assistance by the poor. Management and administration systems were not geared to ensure effective and efficient functioning of Legal Aid Board. Judicare¹³ was the primary system for delivery. However, it could not prove to be a cost effective model. Poor financial management created an opportunity for defrauding the organisation. Debt and contingent liability were estimated to be about R 1 billion by 1998-99. The Legal Aid Board was virtually bankrupt.
- After 2000, the delivery system changed to a more sustainable model able to reach many more South Africans. The Government as the primary funder of legal aid agreed to restructure legal aid and to attend to its financial and governance challenges. It rolled out a new model employing salaried lawyers including Candidate Attorneys¹⁴ who would deliver legal aid to clients from Justice Centres (JCs)¹⁵. The organisation re-gearred to serve post-democratic South Africa; thereby creating a shift to meet the Constitutional mandate, special focus being on the poor and vulnerable. A national footprint was established with local JCs linking directly to clients across the country as well as regional and national offices, providing assistance in criminal and civil matters. Management and administration systems were overhauled and geared to ensure effective and efficient functioning of Legal Aid South Africa.
- Paralegal services are provided through academic institutions which offer tailor made qualification for paralegals. Community based paralegal offices have grouped themselves under the auspices of the National Alliance for the Development of Community Advice offices (NADCAO). NGOs are also involved in improving access to justice and several NGOs focus on impact litigation matters focused on realising the various rights enshrined in the Constitution. The Legal Aid Board in South Africa currently employs paralegals to screen the remand population in 20 of the most congested prisons.
- There are legal quality intervention programmes being conducted periodically to ensure that the quality and standard of legal aid delivery remains high. This includes mentorship, coaching, individual development plans and research assistance to practitioners. Client relationship management training is carried out, which is supplemented by feedback forms, telephonic surveys, complaints registers and a toll free ethics hotline.
- In 2004, the Cape Law Society made it mandatory for its attorney members to perform pro bono work on an annual basis.
- Legal Aid South Africa has cooperation agreements with various universities that have law clinics. The law clinics provide legal assistance to their communities.

Benefits of the Justice Centre model

- Improved cost efficiencies.
- Improved control and management and therefore delivery of quality.
- Employing of Candidate Attorneys at the JCs allows hundreds of black legal graduates' access to the profession thus contributing to the transformation of the profession.

¹³ This is a delivery system for legal aid through instructing private legal practitioners to represent individual legal aid clients.

¹⁴ These are persons with law degree serving articles of clerkship under a principal attorney. .

¹⁵ These are Legal Aid South Africa centres or offices for administering and providing legal aid in many parts of South Africa.

Some of the challenges have been:

- Access to Legal Aid South Africa offices by clients in many rural areas is difficult.
- Limited capacity to render civil legal aid services.
- Unequal resourcing across the justice cluster, sustainability of level and quality of service (due to impact of global recession and government budget cuts).
- Recession impacting donor funding.
- The ratio of law practitioners per court is low, and is insufficient to meet the demands at courts. This results in high case loads for practitioners.

2.3 Legal Aid Structure in India¹⁶

Right to free legal aid in criminal matters has been established by several decisions of the Supreme Court as a fundamental right under Article 21¹⁷ of the Constitution and is considered one of the most basic Constitutional and Human Right.

In 1976, through an amendment of the Indian Constitution, Article 39 A was incorporated which mandates a mechanism for delivering legal aid. In 1987, the Legal Service Authorities Act was enacted. A hierarchy of legal services institutions have been created from the National level down to sub-district level in the States. The Institutions consist of the National Legal Services Authorities (NALSA), State Legal Services Authorities (SLSA), District Legal Service Authorities (DLSA) and Taluka Legal Services Committees (TLSCs). In addition, the Supreme Court and the High Courts have their own Legal Services Committees. Legal Services Institutions in India are government funded bodies led by the judiciary and comprising a range of stakeholders from the judiciary, bar, government and civil society. The Legal Services Institutions provide legal aid in both civil and criminal matters to a range of stakeholders including those earning below USD 2000 annually, all women, children, Schedules Castes, Scheduled Tribes, people in custody and those living with disabilities etc. They are also mandated to create legal awareness and assist people in settling their disputes using alternate dispute resolution mechanisms.

The National Legal Services Authority has recently launched a programme to establish a network of paralegal workers who will act as a bridge between the Legal Services Authorities and the marginalised communities.

2.4 Quest for Inclusion and Empowerment in Rule of Law and Justice Agenda: Lessons from Europe and Central Asia¹⁸

The 'Quest for Inclusion and Empowerment in Rule of Law and Justice Agenda; Lessons from Europe and Central Asia' is a UNDP study which has documented and analysed the functioning of legal aid systems in the Balkan and Caucasus region.

The study has shown that each sub-region has its own set of potentials & challenges. Some of the current challenges in the region include an excessive number of laws, formalistic and expensive legal procedures, and limited youth & CSO engagement. Vulnerable groups face greater



¹⁶ Mr. Sarath Chandran, Member Secretary, National Legal Services Authority (NALSA), India.

¹⁷ Article 21: No person shall be deprived of his life or personal liberty except according to procedure established by law

¹⁸ Mr. A.H. Monjurul Kabir, Policy Adviser & Team Leader, Rule of Law, Human Rights and Justice, UNDP Europe and CIS, Regional Centre in Bratislava (UNDP BRC)

challenges in Armenia, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan in using the law to protect their rights and interests. People need assistance and resources to overcome legal problems.

By far, Georgia has developed the most advanced system of state guaranteed access to lawyers in this region. The Legal Aid Act of 2007 provides an extensive system of publicly funded legal assistance in criminal, civil and administrative matters. Armenia's office of Public Defender is, on the other hand, suffering from lack of resources to extend coverage for legal protection.

Equitable justice may be achieved by programming around legal awareness, legal protection, adjudication, enforcement, civil society and parliamentary engagement. It is equally important to strengthen legal aid systems and to engage Bar Associations.

Across the region, persistent governance deficits include:

- Shrinking democratic space-Limited CSO and youth engagements
- Poor legal and policy frameworks
- Weak institutional capacity for justice
- Limited access to justice
- Threats to human rights equality & non-discrimination;
- Lack of public accountability
- Poorly conceived & implemented decentralization
- Consequent lack of trust in public institutions & policies

2.5 Legal Aid in Post Conflict Context: Sri Lanka¹⁹

Almost 30 years of civil war in Sri Lanka resulted in gross denial of human rights in many parts of the country resulting in a state with effectively no rule of law. The Legal Aid Commission of Sri Lanka (LAC) which was established in 1978²⁰ is the foremost amongst the various other institutions and organisations that cater to this necessary requirement of creating access to justice.



Legal Aid was accelerated after the tsunami disaster in 2004 and the Northern conflicts which ended in May 2009, with the active support of the State and donors including the United Nations to establish a wide spread legal aid network, island wide dealing with over 10000 cases and several consultations in the year 2011. The years 2010 and 2011 were significant years for the LAC as it had a daunting task of assisting the post conflict victims in the Northern and Eastern Provinces of Sri Lanka, who had suffered physically and psychologically after 3 decades of civil strife. Assistance was provided in many ways, especially to replace lost legal documents and to provide legal assistance to recover from the rule

and the diktats of LTTE. The LAC, with the support of donors re-established legal aid centres in those two provinces and launched a special programme of legal recovery which is currently on going.

In the past 5 years, legal aid centres have been established all over the country and their number has increased from 11 to 73, with two more centres to be added soon. The ultimate aim is to have a legal aid centre at every court complex. The Legal Aid Commission of Sri Lanka pays its lawyers for legal aid services. Aid is given on the basis of means test or justice test. Free legal aid and representation is provided to deserving persons²¹, women seeking maintenance, children and in matters of public interest/ class action²².

¹⁹ Justice Udalagama, Legal Aid Commission, Sri Lanka & Ms. Malkanthi Wickramasinghe, Secretary, Ministry of National Languages and Social Integration, Sri Lanka

²⁰ Act No.27 of 1978

²¹ Means test: Individual receiving a monthly income of less than Rs. 12000/-.

²² Justice test

The Commission is funded by an annual grant via the Ministry of Justice and other funding agencies like UNDP. Challenges to legal aid delivery, among others, come in the form of financial constraints. Although State funding is welcome, such funding is subject to governmental regulations. Such regulations tend to restrict essential spending and thereby delay efficiency. Sometimes, under extreme circumstances, such impractical restrictive regulations frustrate progress.

Another challenge to legal aid delivery in Sri Lanka is the negative attitude taken by certain lawyers who obstruct the establishment of legal aid centres, on the basis that their income from the profession is threatened.

2.6 Legal Aid Strategies: Brazil²³

Brazil follows the French model of positive law. Legal aid is a free public system. This system was created by a constitutional amendment which makes legal aid a Constitutional guarantee in Brazil.

Brazil faces challenges similar to those in India. The system treats rich and poor unequally, with 70 percent of its population earning less than USD 500 per month. More than 9 million cases are currently pending in Brazil. The average duration of a civil suit in the country is 20 years. The challenges relating to civil law are similar to the challenges faced by the other countries present at the conference.



With increasing government concern over access to justice, a special secretariat for justice coordination has been set up in the Ministry of Justice. Legal aid in Brazil covers criminal, civil matters, family, and consumer matters. Alternative means of conflict resolution like mediation, arbitration and conciliation are being increasingly adopted to address the problem.

²³ Mr. Washington Bonini, In Charge of General-Coordination of Modernization of Justice Administration, Ministry of Justice, Brazil

3

HIGHLIGHTS FROM FIELD VISITS TO SIERRA LEONE, INDONESIA, SOUTH AFRICA AND MALAWI

The UNDP supported project on Access to Justice for Marginalized People in India supported visits of 4 delegations comprising the Legal Services Authorities and the Department of Justice to Indonesia, Malawi, Sierra Leone and South Africa with a view to study good practices in legal aid and empowerment.

3.1 Indonesia²⁴

Indonesia follows the civil law system inherited from the Dutch. It has a variety of courts. The Constitutional Court deals with cases involving the constitutional validity of laws, authority of state institutions, dissolution of political parties, results of a general election, as well as actions to dismiss a President from office. The Supreme Court oversees High Courts and the District Courts. Indonesia also has Religious Courts (for Muslims), Military Courts, and Administrative Courts²⁵.

Aside from the general justice system and the syariah justice system (informed by Islamic legal principles), there is an informal justice system called the *adat* system (informed by fluid and evolving customary values). In Aceh, legislation has been passed that formally recognises the role of *adat* in dispute resolution.

Till 2011, there was no comprehensive law on legal aid mandating the State to provide budget and establish structures for legal aid. Until then, various other legislations partially addressed legal aid. The Law No. 16 of 2011 Concerning Legal Aid (to be implemented from 2013) seeks to provide legal counsel to every indigent citizen involved in civil and criminal matters. State funding will be provided to “legal aid providers” accredited by the Government. The legal aid providers may use the services of lawyers, paralegals, lecturers, and law students to provide legal aid services.



An interesting strategy adopted in Indonesia is the creation of a National Strategy on Access to Justice, which is an important component of the National Mid-Term Development Plan 2010-2014. The National Strategy is being implemented not as another free-standing policy but rather as an approach incorporated into the Government’s existing body of policies.

3.2 Malawi²⁶

The Constitution of Malawi was adopted in 1994 and it provided right to access to justice and legal remedies at State expense. The Malawian Legal Aid Act was passed in 1994. Under this Act, a Legal Aid Department was established in the Ministry of Justice which comprised of salaried lawyers who assisted in Civil and Criminal cases.

²⁴ Presentation by Mr. Pramod Kumar Goel, Member Secretary, U.P. State Legal Services Authority.

²⁵ Information taken from a paper entitled “Access to Justice Assessment for Indonesia South Sulawesi Province” published by American Bar Association in January 2012.

²⁶ Presentation by Mr. Munish Singhal, Member Secretary, Punjab State Legal Services Authority

Due to the wide spread poverty and illiteracy in the country, very few people have an access to justice. The Legal Aid Department needs to play a proactive role to provide legal aid to the underprivileged. Courts are flooded with cases and pendency of cases is on the rise. The overcrowding of prisons led to a need to assist the undertrials in accessing justice. There is, however, a paucity of trained lawyers.

The concept of paralegals has, thus, emerged out of necessity. Paralegals in Malawi undergo a minimum of 12 month training course. They do not provide legal advice but assist the undertrials, lawyers as well as the courts in the dispensation of justice.

CSOs in the country have set up paralegal services to work in prisons in response to the needs of the marginalised communities and lack of lawyers. These paralegal programmes brought significant changes in terms of access to justice and they were so successful that they are being replicated in other African countries as well as in other regions of the world.



3.3 Sierra Leone²⁷

The 1991 Constitution of Sierra Leone established the Judiciary. A three-tiered system of Common Law based on the British system, Customary Law and Islamic Law characterises the legal system.

The Justice Sector Coordination Office (JSCO) is a support mechanism to the Government of Sierra Leone's Justice Sector Strategy which sets out a holistic reform and investment strategy for the ministries, departments and agencies that together make up the justice sector.

The country has very few judges and about 200 lawyers to address the justice needs of the country's six million-plus people. This shortage of trained lawyers, particularly in rural parts of the country, prompted the Justice Initiative to invest in building a network of community-based paralegals in communities outside the capital of Freetown. These paralegals are trained to help solve the most common justice related problems that community members face and at the same time strengthen their communities.



The Sierra Leone paralegal programme has been developed to bridge the gap between formal law, government institutions and customary justice mechanisms by virtue of their familiarity with local communities, informal systems and local power dynamics. The community-based paralegals avert conflict, resolve disputes and translate local needs into legal action.

70% of the cases in Sierra Leone are resolved through the informal ADR systems by village heads and chiefs.

In 2012, the Legal Aid Act was passed to provide for the establishment of the Legal Aid Board, to provide accessible, affordable, credible and sustainable legal aid services to indigent persons and for other related matters. The Board accredits persons or bodies to provide legal aid, determines the types of persons and cases for which legal aid may be granted, determines the circumstances in which contributions towards legal aid shall be paid, and enters into cooperation agreements with legal practitioners, civil society and NGOs, university clinics and law departments.

²⁷ Presentation by Mr. B.K. Goswami, Member Secretary, Jharkhand State Legal Services Authority

3.4 South Africa²⁸

Post-apartheid Constitutional reform in South Africa opened doors for legal aid innovations such as setting up of justice centres and State – Civil Society partnerships which have yielded positive results and created a legal aid and empowerment system that has been hailed as one of the most successful in the world.

The legal aid board aside from setting up justice centres has also partnered with actors in the non – State realm to ensure outreach. This has been done through the Lawyers for Human Rights, a South African NGO that has a 30-year track record of providing legal advocacy and representation to vulnerable and marginalised communities, whereby private attorneys have been organised for rural towns to employ law interns to do legal aid work. The Board assisted financially by paying the interns' salaries while LHR recruited appropriate attorneys and monitored the progress of the project. The project provided access to legal aid services in rural areas and provided employment in the legal profession to formerly disadvantaged individuals in the areas where they lived.

The Legal Aid Board has also entered into a cooperation agreement with the Legal Resources Centre (LRC), an organisation specialised in High Impact Social Litigation, which it funds with part of its allocation for legal aid. LRC is a non-profit public interest law firm.

Legal Aid South Africa has cooperation agreements with various universities that have law clinics. The law clinics provide legal assistance to their communities. Independently funded university law clinics provide training and practical skills for senior law students, as well as a valuable service for indigent members of the community.

The Legal Aid Board in South Africa currently employs paralegals to screen the remand population in 20 of the most congested prisons, based on the work of the Paralegal Advisory Service Institute (PASI). Paralegal advice offices have been set up around the country.



Key recommendations from Delegations for the Indian Justice Sector based on best practices observed during the field missions:

- Paralegals have proved to be of immense help in dispensing justice. They can be accredited by the government and provided extensive good quality training. They can communicate in the local language and are easily accessible to people. The paralegal system is at very initial stages in India but good practices on training, mentoring and monitoring paralegals can be adapted to the Indian context with a view to reach out to the communities in an effective manner.
- Pro-bono lawyering is one of the significant interventions in South Africa. For promoting such initiatives in India, Bar Council of India must examine the existing law and policies.
- Law school based legal aid clinics must be strengthened in India and linked with the Legal Services Authorities. In fact, one stop justice centres from South Africa could be replicated in India. This will strengthen the work of the Legal Services Authorities.
- Street law programmes assist in demystifying the law and building awareness on how it can protect people. Street law also explains what the laws expects you to do in certain cases, and helps people to understand different legal problems and how they can be solved. Such programmes are very successful in South Africa and can be adapted into the Indian context.

²⁸ Presentation by Mr. Viswanath V. Angadi, Member Secretary, Karnataka State Legal Services Authority

INNOVATIONS IN LEGAL PROFESSIONAL EDUCATION

4

Litigation is not the only strategy and mechanism to provide legal aid.

Legal aid includes within its realm not just availing legal representation but also legal advice, legal awareness, paralegal services, public interest litigation, promoting alternate dispute resolution and law reform. Law students are restricted only from representing their clients in a court of law but are free to participate in the remaining avenues of legal aid and contribute significantly to promote access to justice. They should be viewed as a critical resource to addressing the challenges within legal aid delivery.



An important source of legal aid is the development of jurisprudence and thought, through the judiciary. Programmes aimed at judges, to enhance, supplement and strengthen their knowledge have been seen as widely successful in bringing about change in attitude and the way the law is interpreted.

Select University Law Clinics in India

- Around 40 off campus clinics are being run by the students of V. M. Salgaocar College of Law in Goa.
- Students sit at the village community centre and carry their clinic work which includes providing paralegal services, creating legal awareness through street plays, interacting with gram sabhas (village level local governance body comprising all adults in a village or contiguous villages), helping the community in getting senior citizen cards, job cards and in accessing other benefits under the existing social welfare schemes.
- Jindal Global Law School and Institute for Rural Research and Development has initiated legal aid clinics, which provide awareness on good rural governance by training villagers on the Right to Information (RTI) and other government run welfare schemes.
- National University of Juridical Sciences (NUJS), Kolkata provides legal aid to prisoners.
- National Law University (NLU) Delhi provides legal aid clinics to construction workers in Greater Noida.

4.1 Achieving justice through legal aid cells: India

Only 20 percent of the population in India takes recourse to courts. Due to this, priority must be given to practices that are cost effective and reach out to maximum number of people²⁹. Currently in India, over 200,000 law students are enrolled in law courses and are an important resource that can engage effectively in providing legal aid and effectuating positive change in access to justice for poor and marginalised people.

In 1997, the Bar Council of India made legal aid a compulsory practical paper to be taught in all law schools in India. In 2008, it approved the rules on “Standards of Legal Education and Recognition of Degrees in Law”, which make it mandatory for all law colleges to “establish and run a legal aid clinic under the supervision of a senior faculty member”.

²⁹ Prof. Madhava Menon, Jurist, India.

Several law colleges in India are actively engaged in providing effective legal aid to the needy across the country. Best practices in providing legal aid include organising literacy camps, street plays, consumer clinics, and public mediation; providing paralegal services and suggestions on law reform/ improved law enforcement; assisting people in accessing benefits under the government welfare programmes; visiting jails to assist undertrials; filing public interest litigation, and creating linkages with NGOs, legal aid authorities, and other government authorities.



Although money is not a condition precedent to start a legal aid clinic, some seed money is needed to meet basic needs. Collaboration with the legal services authorities, therefore, is crucial to sustain the clinics. Involvement of the Bench and the Bar, academic credits for students, and presence of competent and qualified clinical law educators at law colleges would go a long way in providing a strong and fruitful system of law school based legal aid in India.

A study supported by the Government of India and UNDP Project on Access to Justice found that several legal aid clinics were started merely as a formality to fulfil the mandatory requirement prescribed by the Bar Council of India. Often, these Clinics have no proper functional structure or policy on the kind of services they would extend. Most of the activities of the Clinics are restricted to organising a few Legal Literacy Camps. The Bar Council and Law Colleges need to play a more proactive role in establishing a culture of legal aid clinics in the country. Some of the key steps would include identifying expert clinical faculty to prepare training manuals on implementing law school based legal aid clinics, initiating Regional Training of Trainers Program, and developing networking and sharing best practices.

4.2 Rendering Legal Services to the Marginalised through Law Clinics: South Africa³⁰

“Money, high level of support from leadership, employing dedicated and highly qualified staff, and strategic partnerships with funders and legislative support are essential towards building a strong foundation for provision of legal aid at the University level.”

Prof. Stephen Tuson, Wits Law Clinic, South Africa

The Wits Law clinic at the University of Witwatersrand, South Africa, was started 40 years ago by students and law faculty professors. It focuses on free legal services which can be rendered to the poor and on skills, which students can acquire in a ‘live client’ law clinic. The clinic is a partnership between the University and the Government. Clients are drawn mainly from the community. The Clinic employs 8 practising attorneys and trains and employs 10

candidate attorneys (articled clerks) on a full time employment basis. It gives consultation to almost 12,000 people a year, opens 900 files a year, and teaches 400 law students in a fully functioning office facility. It is funded by the law faculty budget. The Law clinics are recognised as an accredited entity. The Clinic also provides the students an opportunity to do their articles of clerkship for moving ahead in the profession.



³⁰ Mr. Stephen Tuson, Wits Law Clinic, University of the Witwatersrand, Johannesburg.

With a view to address funding and programmatic gaps, the Legal Aid Board South Africa has entered into partnerships with universities in order to promote provision of legal aid to those in need.

Legal services offered at the clinic include family law, tort law, labour law, housing and evictions, refugee clinics and a general clinic for consumer, credit and contract related issues. The Law Clinic has also litigated in Constitutional Law Courts.

4.3 Judicial strengthening on gender equality issues: Asia Pacific Advisory Forum on Judicial Education on Equality Issues³¹

Judicial indifference towards women's position in the society in general and their vulnerability to violence and abuse in particular, is a major impediment in claiming and upholding women's rights. Proper understanding by the judiciary of the issues of equality and dignity of women is a prerequisite to bringing about visible change in the prevailing attitudes in dispensing legal aid and access to justice. This sensitivity and understanding of the issue comes only when one encounters certain primary questions on law and its purpose. What is justice? What is access? What is one's purpose in the profession? These are some of the questions which motivate lawyers and judges to carry out the much required change.

Although Indian judiciary has taken proactive steps towards recognising legal aid as a constitutional right, there have been some shocking instances of insensitivity meted out by it in the past. In 1989, the Supreme Court reduced the sentence of 2 policemen from 10 years to 5 years for raping a minor girl on the ground that she was of 'loose character'. Although disheartening, judgments such as these have been one of the reasons why so many activists have stood up to carry forward the baton against injustice and inequality.

This led to the genesis of the Asia Pacific Advisory Forum for Judicial Education on Equality Issues. This Asia Pacific wide project was a unique judge – NGO collaboration that brought in judges from across the world to educate other judges. The experiential learning process created a high impact, as the judges were able to place themselves in the shoes of the women and girls who experience injustice and violence. They were able to understand the realities that governed such experiences and were able to empathise with the need to deliver justice substantively. One indirect outcome of interventions through the Asia Pacific Advisory Forum for Judicial Education on Equality Issues was the Supreme Court of India's Guidelines on Sexual Harassment at the workplace, which also helped propagate the idea of equality within formal and informal workplaces.



Components of Successful Training of Judges Programmes

- A multi-disciplinary approach is needed
- Proof/evidence is needed to show the judges that there is a problem
- Thought needed on whether judging is a mere scientific exercise or is it a real social context thing where human problems need to be understood in their context and decisions given in that context. The difference in the two approaches is that of giving a decision and providing justice.
- Experiential learning is very important when training any adult including judges
- The success of such judicial education programmes is also dependent on leadership which has the courage and vision to take this forward

³¹ Presentation by Adv. Naina Kapur, Asia Pacific Advisory Forum for Judicial Education on Equality Issues.

4.4 Experiences and Reflections on Community Legal Education: Thailand³²

Most judges and lawyers come from the upper echelons of society. Quite often they are not aware of the problems existing in those communities which require legal aid the most, along with unclogged access to justice. Thus, it is necessary to train and sensitise future lawyers and judges right at the law college level to effect the desired changes. They must be exposed to access-to-justice issues as they exist on the ground in order to sensitise them to the problems and realities of those they would be administering justice to.

There are four levels to approach the access to justice education and sensitisation.

- A. First level:** Tolerance. At this level of sensitivity, the lawyers will merely represent their clients without any attempt to understand their context.
- B. Second level:** Acceptance. At this level, the lawyers accept that people different from their context exist in the society but the lawyers still do not understand their context or respect it.
- C. Third level:** Respect. At this level of sensitivity, the lawyers understand the context of people different from them and respect their values and rights.
- D. Fourth level:** to stand in solidarity with the person. At this stage, the lawyers are able to put themselves in the shoes of others and defend their choices and context. The lawyers do not judge the people from different contexts.

It is at the fourth level, where judges and lawyers can stand in solidarity with the person who needs assistance and access to justice, which is the highest level of clinical legal education. This is the level that all legal education programmes should strive for, as it changes attitudes, creates empathy and understanding for different lived realities, and ultimately brings in positive change.



4.5 Legal Aid and Clinical Education: China³³

The current legal system in China was put into place in the late Qing Dynasty period with the aim of setting up legal frameworks based on the German law model. However, it was not until 1980 that China established the first Provisional Regulations on Lawyers. In 1996, the Law of the People's Republic of China on Lawyers was officially promulgated and implemented in which a whole chapter was devoted to legal aid. The year 2003 saw the State Council enact the Regulations on Legal Aid. In general, the current legal aid system is regulated through three documents, namely, the Law on Lawyers, The Regulations on Legal Aid and the Criminal Procedure Code³⁴.



³² Mr. Bruce Lasky, Bridges Across Borders Southeast Asia (BABSEA), Community Legal Education Initiative, Thailand.

³³ Presentation by Prof Liu Gang, Remnin University, China.

³⁴ From "Annual Report on China's Legal Development under Rule of Law (2011)".

Since 2000, eight universities in China have been offering courses on clinical legal education. These courses aim at improving students' ability of practicing law and encouraging them to serve those in need. To this year, more than 100 law schools have started clinical legal education courses. Legal aid in China is mainly offered via pro bono criminal defence, civil and administrative case handling, legal documents writing and professional consultations. Legal Aid provided by the law students is mainly organised by the legal aid centres, set up and developed by universities.

The National Judicial Academy (NJA), India

- The NJA works on strengthening the administration of justice through judicial education, research and policy development.
- The academic programmes are guided by the National Judicial Education Strategy which looks at creating solutions to overcome obstacles in the administration of justice.
- The educational programmes are offered to judges from the subordinate and higher courts of the judiciary and focus on issues ranging from criminal justice administration, gender justice, problems relating to pendency and arrears, court excellence enhancement programmes amongst others.

5

INNOVATIVE STRATEGIES TO STRENGTHEN ACCESS TO JUSTICE

In this session, innovative strategies to strengthen access to justice from across the world were shared. The successful experiments with paralegals from Malawi and Sierra Leone, which filled a critical gap in the provision of legal aid and legal empowerment, were shared. Aside from working with paralegals, the setting up of systems and mechanisms to deal with out-of-court settlements reached through the use of alternate dispute resolution mechanisms not only provide speedier access to justice, but also lessen the burden on the existing formal justice system.

5.1. Institutionalising paralegal training for improving access to justice: PASI, Malawi³⁵

Prison conditions in Malawi are very poor with large-scale overcrowding because over 95% of prisoners cannot afford a lawyer. Criminal legal aid, which is existing, is often limited to capital cases and other very serious offences.

The 1996 Pan-African seminar on Prison Conditions in Africa noted that prisoners on remand constitute up to 80% of the total prison population in some African countries.

Recognising this, the Paralegal Advisory Services (PAS) employs 38 paralegals throughout Malawi working in 23 prisons (holding 90% of the total prison population), in the four main court centres and regional and local police stations.

In the first few months, the paralegals develop a programme of work arising from their observations, discussions with prisoners and in consultation with prison officers. They help in bringing compelling cases to the attention of police and judges, assist the resource-starved criminal justice agencies (prisons, police and courts) manage their case load and conduct ad hoc training programmes for prisoners on criminal law and procedure.

Establishing and widening the role of paralegals in the criminal justice is a work under progress. It is important to ensure that the services rendered should be appropriate to the needs, within the competence of the paralegal to provide, and should complement and not replace those already offered by the legal establishment.

In order to ensure competence and standardisation of working practice, the PAS developed a training programme over 18 months in 13 modules. The gestation period from the inception of the scheme as a pilot in May 2000 was helpful as it enabled paralegals to identify gaps in their knowledge. Although common sense, courtesy and respect go a long way, technical know-how is needed to address the problems faced by the people and to find viable solutions.

There is considerable political commitment in Africa to address the challenge of improving prison conditions. Paralegals have proven to be highly successful in reducing pre-trial detention in a number of countries, primarily in Africa and Asia. There is a recent initiative by the University of KwaZulu-Natal (South Africa) and the Paralegal Advisory Services Institute (Malawi) to scale up paralegal training



³⁵ Mr. Chimwemwe Ndalahoma, Paralegal Advisory Services Institute (PASI), Malawi

and deploy paralegals across Africa and possibly beyond. UNDP is the ideal partner for these institutions on this project. This presents UNDP with an opportunity to be part of regional project that will improve access to justice, protect human rights, and strengthen livelihoods for tens of thousands of highly vulnerable people.

5.2. Successful community-led initiative on legal aid –Timap, Sierra Leone³⁶

At Timap, frontline paralegals are trained in terms of basic legal skills with respect to law and procedure. The paralegals work at the community level and are connected to lawyers. Currently, 40% of the population in Sierra Leone is being served by paralegals.

In July 2012, the legal aid legislation was enacted where paralegals were given recognition by the government of Sierra Leone, and a mandate was set for provision of paralegals to the population in order to facilitate access to justice. Paralegals in the country facilitate advocacy, mediation, and legal education. Litigation is treated as a last resort.

In the Indian context, providing quality legal aid at a large scale is a big challenge. Paralegals can be used innovatively in this context. However, for effective working of the paralegal system, a monitoring mechanism to track the individual performance and elaborate information sharing network has to be established. Indeed, the issue of quality control - ensuring that the frontline paralegals provide consistent good quality legal aid – is one of the foremost challenges faced by any system that uses their services. Some of the key learnings from the Sierra Leone experience which may be useful in the Indian context include effective training of the paralegals and effective supervision systems. Legal professionals or senior paralegals visiting frontline paralegal offices every now and then to guide and monitor is a good way of ensuring quality control. Creating oversight boards comprising the community is another strong accountability system. In addition, ongoing relationship of paralegals with the lawyers and an ongoing process of learning and development of paralegals is a good way of improving quality of services offered by the paralegals. Further, it is important to create a strong data system which can be used to monitor and improve the quality of services. The data system should be able to help policy makers collate information on what innovative remedies have emerged in certain kinds of problems, what tools were used, were clients satisfied, were lawyers used etc.

In devising paralegal programmes, a fine balance needs to be achieved between state recognition and maintaining independence of front line paralegals. The paralegals should be able to hold the state accountable. Community paralegals are not just trying to defend their clients, but are trying to get the police officials to do their job. In the US, legal aid officers are not able to challenge the State but in South Africa, the legal aid board holds the State government accountable, although it is also funded by public funds. The latter is a good model to follow.

5.3. Lok Adalats and their role in Access to Justice: India³⁷

The literal meaning of the phrase '*Lok Adalat*' is 'People's Court'. It is an innovative formal Alternate Dispute Resolution (ADR) mechanism. *Lok Adalats* are governed by the Legal Services Authorities Act, 1987 and the National Legal Services Authority (Lok Adalat) Regulations, 2009.

Lok Adalats have power to take up any pending case³⁸ before any court and pre-litigation dispute, except any case relating to an offence not compoundable under any law³⁹, and matters relating to divorce and bail⁴⁰. The

³⁶ Mr. Vivek Maru, Namati (via Video conference)

³⁷ Mr. Deepak Gupta, Member Secretary, Haryana State Legal Services Authority

³⁸ Civil or Revenue Cases, Compoundable Criminal Cases, MACT-Motor Accident Compensation Claim Cases, Insurance Claim Cases, Partition Claims, Matrimonial & Family Disputes, Bank Loan Cases, Mutation of Land Cases, Land Pattas, Damages Claim Cases, Arrears of Retirement Benefit Cases, Forest Cases, Bonded Labour Cases, Land Acquisition Cases, Electricity cases

³⁹ [Section 19 (5), LSA Act]

⁴⁰ Reg. 12 & 37, NALSA Regulations

Court can refer cases to *Lok Adalats* if the court is satisfied that there are chances of settlement and either or both parties agree to it⁴¹. If the dispute is at the pre-litigation stage, then the matter can be taken up on the application of the either party⁴².

Lok Adalats have procedural powers of a civil court⁴³. However, they can only help parties to arrive at compromise/settlement but are not empowered to issue any direction or order⁴⁴. The award of a *Lok Adalat* is final & binding on all parties, and no appeal can be filed once the award has been made. The award is deemed to be decree of the Court. In case of matters pending before a court, the court fees is refunded to the parties⁴⁵ after the award from the *Lok Adalat*.

Lok Adalat provides a final, speedy and inexpensive remedy with legal status. Also, because of the fact that the award is based on mutual consent, relations between the disputing parties remain cordial. The mechanism has also helped in making some dent in problem of mounting backlog of cases before the Indian Courts.



5.4. Using Alternate Dispute Resolution mechanisms for accessing justice: Bangladesh⁴⁶

There is huge backlog of cases before various courts in Bangladesh. Because of the long pendency, litigants lose time, money and energy in pursuing litigation. The government of Bangladesh had tried to deal with the problem of pendency by training judges but this turned out to be inadequate. The alternate dispute resolution is an effective way to reduce pendency. The government is encouraging use of ADR mechanisms by promising reimbursement of court fees to the litigating party, if the matter is settled through ADR.



⁴¹ Section 20 (1), LSA Act; Reg. 11 & 13, NALSA Regulations

⁴² [Section 20 (2), LSA Act]

⁴³ Section 22, LSA Act: Summoning & enforcing attendance of any witness and to examine him on Oath; Discovery & production of any document; Reception of evidence on merits; Requisitioning of any public record or document or copy thereof, from any court or office

⁴⁴ Regulation 10: NALSA Regulations

⁴⁵ [Section 21, LSA Act]

⁴⁶ Mr. Mizanur Rehman, District and Sessions Judge, Bangladesh

LEGAL AWARENESS AND LEGAL EMPOWERMENT INITIATIVES: STRENGTHENING EQUITABLE ACCESS TO JUSTICE BY ADDRESSING THE DEMAND SIDE

6

Innovations in creating legal empowerment and raising awareness go a long way in providing access to justice. These innovations also address the serious gaps that have been created by the inadequacy and, in some cases, poor quality of legal aid services being offered to the poor and marginalised. In order for marginalised people to arrive at an adequate understanding of access to justice and to be able to receive or demand justice, it is imperative that legal empowerment initiatives not only create awareness of rights and entitlements but also arm them with knowledge tools and support networks.

6.1 Legal Empowerment and its link to Development, Poverty Alleviation and Growth⁴⁷

The law has to necessarily and without failure be the weapon of the weak. However, more often than not it has swerved to the other extreme by being exclusively pre-occupied in serving the interests of the ruling classes. The legal system inherited from colonial rulers is not in sync with the norms and requirements of the common people. Looking at the demand side, it is necessary to understand what people are actually seeking.

Many developing countries have very vibrant civil societies, which take up a number of issues on access to justice for the poor. In India, this is in ample evidence everywhere, be it the activism around the Right to Information Act or the National Rural Employment Guarantee Act. However, often there is hardly any interface between the civil society and the legal community. It is this divide that needs to be bridged. This challenge is also reflected within other professions. Professions like doctors, judges, lawyers etc. do not like intrusions and interference from other professions. But public policy is and has to be interdisciplinary. It is this challenge which has to be overcome to secure a strong demand side. It is necessary to create more synergy between different professions that are ultimately working towards similar causes.

6.2 Legal Awareness for Community Rights: India⁴⁸

The recognition of community rights and investing in them is the key to long term sustainability of both resources and livelihoods. Although the Constitution of India does not per se have specific provisions to define and elaborate upon community rights, historically these rights have been recognised in various revenue and tenancy laws, such as public right over public land and customary community rights in tribal areas.

"Linkages between different professions are necessary to address the demand side of legal empowerment."

Prof. Sudarshan, Dean, Jindal School of Government and Public Policy

Currently, community rights is seen as a group of rights to common participation and possession over forest resources including rights over fish and products of water bodies, grazing, pastoral rights, habitat rights, pre-agricultural and forest communities' rights over community forest resource; rights under traditional and customary law (North-East India context); community intellectual property and any other traditional community rights.

⁴⁷ Prof. Sudarshan, Dean, Jindal School of Government and Public Policy

⁴⁸ Presentation by Mr. Sanjay Upadhayay, Environment Law and Development Foundation, India.

A large percentage of population of India is directly dependent on community rights over forest resources, which are lifelines of marginalised communities. It leads to better negotiating positions for communities once the community rights are recognised and vested. They can provide huge incentives and add to current incomes from nature based resources. Knowledge of community rights help to manage natural resources even for future generations.

A key challenge in ensuring community rights in India is that the Constitutional position on community rights is largely missing. There is a preference of individual rights over community rights and a complicated process of recognition of community rights. There is also reluctance of the state in recognising these rights for fear of losing control over vital natural resource. In addition, there is an unnecessary underlying conflict between development policies and community rights based on a mistaken assumption that the concerned communities are incapable of managing community resources.



6.3 Legal Aid in Nepal: Role of the Bar Association⁴⁹

The Central Legal Aid Committee is led by the Minister of Law and Justice under the Legal Aid Act, 1997. It has Legal Aid Desks in 32 districts out of 75, and plans to establish desks in all the districts for providing legal aid service. 3 of the 5 representative of this Committee are from the Nepal Bar Association. All units of the Bar Association are responsible for legal service to women and the poor. The Nepal Bar Association has been organizing free legal aid services and legal awareness programs throughout the nation.



There are legal aid desks established in police offices of seven districts, following the partnership of Nepal Bar Association with the UNDP Access to Justice Project, for providing primary legal aid to the women who suffer domestic violence. In addition, a new project (2013-2017) has been planned between the Government of Nepal and UNDP, placing Nepal Bar Association as the major beneficiary partner responsible for establishing integrated legal aid service through a single window system, training the legal aid lawyers as well as providing legal aid at all levels of judicial and quasi - judicial bodies.

Property Rights of Women in Nepal

Because of a social movement led by feminists after the people's movement, in 1990 there has been a drastic change in Nepal with regards to the property rights of women. The principal changes in women's property rights in Nepal have been:

- A daughter can obtain division of property as a son.
- After marriage, the daughter having property from parents may continue the right over the property she has obtained from the parents.
- A woman can freely sell her property without obtaining prior approval of her husband/son.

⁴⁹ Presentation by Mr. Bijaya Misra, General Secretary, Nepal Bar Association, Nepal.

6.4 Promoting Women's Human Rights through Legal Empowerment: Maghreb⁵⁰

In the Maghreb region, aspects of legal, social and religious context on women's rights and sexuality create personal obstacles to knowing and defending rights. Taboos with respect to sexuality, shame, isolation, illiteracy, lack of knowledge of laws and rights, and fear with respect to abandonment by family are inhibitors in the process. In addition, non-responsive public justice officials, differences in interpretation, discriminatory practices in application of laws, and contradiction between codes also result in detrimental conditions for women's rights.



The training programme of the Global Rights in the Maghreb region on the grass roots level human rights and legal rights education program for illiterate women in marginalised communities focused not just on transmission of rights information, but also on capacity building activities, group skills and advocacy. This created a situation where women were able to break their silence. Over a period of time, NGOs learnt more about women's needs and perspectives and were able to cater to them better. Young women members of local NGOs trained as legal "accompagnatrices" focusing primarily on family law, violence against women as well as civil status.

Accompaniment programme for women in Maghreb

- This programme started in 2006 to deal with the negative experiences that women faced while engaging with public actors. This ranged from abuse and intimidation; corruption and bribery; difficult paperwork; lack of knowledge amongst public actors; language barriers and insufficient infrastructure.
- Young women from local NGOs were trained to be 'accompagnatrices' in grassroots NGOs, on primarily family law, violence against women and civil status.
- They provided legal information and advice, and accompanied women to diverse public offices such as judicial, police, medical, administrative, education and employment offices.
- They assisted other women in the facilitation of judicial/administrative processes and helped them navigate systems
- They served as watchdogs, and monitored and documented treatment of women and the process in terms of attitudes, practices and behaviors.

The change so created resulted in women standing up for themselves to defend rights in individual circumstances, seeking assistance from NGOs and public services, and acquiring skills with respect to dealing with documentation and paperwork. Negotiations with local government officials helped in creating a more proactive and informed setting. The knowledge gained by women clarified the concept of who defines legal empowerment and success, which resulted in women themselves contesting the model of legal empowerment that placed all responsibility on them but absolved men or public actors of their own legal responsibilities.

⁵⁰ Presentation by Ms. Stephanie William Bordat, Regional Director, Global Rights, Maghreb Region.

7

TOWARDS A SYSTEMATIC AND STRATEGIC APPROACH TO STRENGTHENING EQUITABLE ACCESS TO QUALITY JUSTICE

In a way, legal aid and legal empowerment determine the fate of the country itself. Good legal aid, legal empowerment and access to justice are the essence of rule of law and democracy. Great danger lies in the denial of justice to the marginalised.

7.1 Identifying common strategies for legal aid and legal empowerment to strengthen access to justice initiatives - India⁵¹

Any programme for strengthening justice and ensuring legal empowerment must take into account the context in which it will be implemented. It is then important to remember that about 1/6th of the human population happens to live in India. According to the Arjun Sengupta report, 70% of India's population is living below the poverty line. There is great diversity but also appalling inequality and injustice. The majority of the populace require legal aid. This large diverse target group consists of around 400 million children, women, prisoners, disabled persons etc. Significantly, there are already over 30 million cases pending before the courts. Given this, it is not strategic to conceive a programme based only on the litigative model. The best way out may be to devise future preventive strategies aimed at reducing litigation in courts. This is especially true of civil law, which needs to bring in ADR mechanisms.



In India, there are about 1.3 million lawyers, but the legal profession nonetheless remains a private enterprise. For public legal services, a different breed of legal professionals like mediators and arbitrators are needed to help settle legal matters expeditiously. There is also a felt need for having a number of paralegals properly trained to work with the administration and bring justice to the marginalised sections of the society. Students and paralegals could potentially play a greater role in making the process of justice-rendition more efficient. Nevertheless, the onus would lie in convincing the parties concerned to avoid resorting to the confrontational approach in legal disputes.

Given the diversity and the size of the target population, it is a difficult to envisage a single program to cater to the needs of diverse groups. A tailored legal aid programme for each group needs to be developed which prioritises the most vulnerable.

The local government has to be empowered to devise mechanisms at the local level. For making justice more accessible, a multifaceted legal aid programme at the community level needs to be developed. Planning at the grassroots level is constitutionally mandated, but not necessarily followed up on. This must be done.

Lastly, it is important to remember that India may have good laws, but to deliver them, what is needed is the existence of good institutions and delivery guarantors. The need of the hour is to take a comprehensive

⁵¹ Prof. Madhava Menon, Jurist, India

approach for redesigning the legal aid apparatus in the country. In addition, judicial reform and legal re-fabrication are overdue. During the last 65 years since freedom of India, the justice framework, in so far as equal access of the same is concerned, has been relatively neglected by authorities. It was only in the last 5 years or so that this sector has got some attention from the finance and other departments of the government. Today, the government of India has an ambitious plan for bringing reforms within the realm of law and making it more equitable. This provides an ideal opportunity to revisit and redesign the legal aid framework.

7.2 Impact of the legal aid delivery system: Australia⁵²

In 1970, Australia had a traditional approach towards access to justice with primary focus on formal justice system. Legal aid was funded by Federal and State government. Approximately 100 offices with hundreds of outreach services were appointed. It was a mixed model of in-house lawyers and grants for private solicitors to undertake legal aid work.

Between 1990 and 2000, it took the contemporary approach by increasing focus on preventive law through alternative dispute resolution. Demystifying law through plain language, public legal information and education; increased public participation in law reforms; and correcting inadequacies within court and legal aid system are the highlights of the evolution in the work relating to legal aid.



To increase the access to justice, the government has established and funded institutions like Legal Aid and Human Rights Committee; community legal centres/clinical legal education, alternate dispute resolution (e.g., family group conferencing); tribunals (e.g. Victims Compensation, Consumer, Trader and Tenancy, Refugee Review and Guardianship Tribunal). The pro bono State funded telephone and online info and advice are also installed. The State has also appointed interpreters and specialist courts e.g., children's courts, drugs courts, coroner's courts⁵³.

Since early 2000s, pro bono services have also increased greatly. 63% of all law firms have started doing some pro bono work, largely for organisations, persons with intellectual disabilities and people in remote or rural areas.

In 2005, the Legal Aid Human Rights Committee (LAHRC) was set up. It is a joint venture between legal aid, academics and the profession, and also involves students as human rights fellows. The budget of \$ 100,000 per year is allocated for funding public interest test cases. The Committee takes up matters that would otherwise fall outside Legal Aid guidelines, but which raise significant public interest issues affecting human rights and have broader community impact.

LAHRC mainly funds cases on:

- Access to essential health services by prisoners with mental illness
- Violation of employment rights such as forced labour, 'stolen wages', unpaid wages and workplace bullying
- Permanent residents facing cancellation of their visa and deportation on the basis of a criminal offence
- Refugee rights cases

⁵² Ms. Vedna Jivan, Senior Lecturer – UTS Faculty of Law, Australia

⁵³ Typically found in common law countries. A coroner investigates the manner or cause of death. May comment on any matter connected with death.

Community legal centres (CLC) have also been established which are independent, non-profit organisations which provide free advice & assistance to approximately 400,000 people each year. There are 200 such centres in Australia. CLCs involve volunteer lawyers and law students in their service provision.

Australia has an interesting mix of population⁵⁴ with the following composition of marginalised:

- 2.5 % of population are indigenous people.
- Over 50% have a disability or long term health condition.
- 35% of the Australian population has been in poverty at some stage during 2001-2008
- Approximately 100,000 are homeless people

Current access to justice structures are failing to meet needs of such diverse groups. The biggest drawback of the system is that it is completely dependent on government funding. 98% of legal aid recipients receive an income that is considered below the poverty line. This leaves much of Australia unable to afford legal representation but nevertheless ineligible for legal aid (Attorney-General's Department 2009).

Although the amount of the budget allocated for legal aid has increased from 1996-97 (\$367 million) to 2009-2010 (\$510 million) but in real terms, the funding per capita has fallen 22% since 1997. The funds are predominantly for family law and criminal matters. Civil law funding is very limited, if at all. Legal aid has a very small budget, but even then during hard economic times, it is the first one to get slashed further. The legal aid policy should not just be determined by the government but must have input from the profession, NGOs and community should also be taken into consideration. The funding in civil matters needs to be increased.

7.3 Developing National Strategy and legislating for strengthening access to justice: Indonesia⁵⁵

Indonesia provides a good example of planning and budgeting for access to justice. The National Strategy on Access to Justice has been developed based on assessments carried under the National Medium Term Development Plan (5 Years) as well as Government Annual Plans. Access to justice⁵⁶ in Indonesia is not merely focused on the courts but beyond. The National Strategy on Access to Justice (NSAJ), Indonesia has 8 sectors:

- Legal and Judicial Reform
- Legal Aid
- Local Governance
- Land and Natural Resources
- Women
- Children
- Migrant and Child Labors
- The Poor and the Marginalised



The strategy is designed to be implemented as an integrated programme into the existing mainstream national development programmes, especially into the National Poverty Alleviation Programme; National Action Plan

⁵⁴ Population 22,813, 42, 26% born o/seas: UK (21%) NZ (9%) China (6%) India (6%) Italy (4%)

⁵⁵ Ms. Diani Sadiawati, Director – Law and Human Rights, Government BAPPENAS Representative

⁵⁶ Definition of 'Access to Justice': "Situation and process where the state ensures the fulfillment of basic rights as promised by the Constitution of 1945 and the Universal Principles of Human Rights, and guarantees access for every citizen (claim holder) to know, understand, and be able to invoke their fundamental rights in formal and informal institutions – with the support of responsive public complaint mechanisms, and this will allow them to improve their own social welfare" (NSAJ 2009).

for Human Rights 2011-2014, and the annual work plans and budgets of all relevant ministries/agencies/local governments to ensure sustainability and ownership.

The main challenge is to ensure strategic implementation of the action plans both at the national (by ministries/agencies) and sub-national levels as well as performance-based budgeting and an efficient medium-term expenditure framework within the Mid-term National Development Plan, Annual Government Plans, and Ministerial/ Local Government Annual Plans.

7.4 Key lessons for the future: South Africa⁵⁷

South Africa has most certainly learned several valuable lessons in legal administration since 1994, when apartheid was abolished. Soon thereafter, the right to legal aid was enshrined as a fundamental right in its Constitution. Consequently, the number of citizens seeking access to it increased to gargantuan proportions, posing a tough challenge on the existing governmental delivery channels. Some of the key lessons that have emerged from the South Africa experience are:

- Right to legal aid must be located in the appropriate legislation.
- A mechanism should exist to enforce the right.
- The participation of the vibrant civil society must be welcomed. Human rights perspective and cultural inputs must be encouraged.
- An active judiciary, within proper limits, helps in regulating and sustaining the legal atmosphere of the country.
- Relationship between legal aid agencies and government must be sufficiently mature. Government should not control and dictate to the legal aid agencies. The latter should have enough independence and space to determine the course of their actions subject to mutually-acceptable regulations.



Transparency and credibility, along with proper accountability are pivotal to building a relationship of trust between the government and legal aid agencies. Legal advice is of great primacy to legal aid and providing universal access to justice. There should be well-developed legal aid guidelines outlined to define the scheme of responsibilities for legal aid providers. Legal aid societies must have adequate courage to defend and implement their programmes. Strategic partnerships with senior lawyers, NGO, and law firms need to be established.

Important components of a good legal aid programme

- There should be prioritised funding for focus areas.
- Funding should go far and wide. It shouldn't be pushed through narrow and constrained channels.
- Toll free numbers must exist for providing legal aid services over the phone.
- Balance of prioritisation between civil and criminal legal aid depending on the need of the situation.
- Legal aid scheme must remain relevant and not merely perfunctory in nature.
- An effective management structure is of paramount importance. Such a structure must be accountable and efficient at the same time.

⁵⁷ Justice Dunstan Mlambo, Chairperson, Legal Aid Board, South Africa

7.5 Strategizing on access to justice: the way forward⁵⁸

Strategizing for strengthening access to justice must begin with an assessment of the reasons for lack of access to justice. These could be varied: some countries may not have the laws to support access to justice, others may have enacted laws, which exist merely on paper and are not being implemented. Often, governments may be assisted by donors in planning and implementing pilots, which run successfully but are not replicable or scalable. The scalability depends upon the size of the country, its economy and also different contexts operating within the country. These must be kept in mind when developing pilots. Further, marginalized communities are not a homogenous group and no one model can fit all. Often, different marginalized groups may require tailor made solutions and models need to be developed keeping this in mind. Finally, in so far as legal aid is concerned, it needs to be prioritised in the national contexts. Importance of legal aid in ensuring access to justice and its impact in reducing poverty and conflict needs to be recognised and translated into reality by nation states. There is often a disconnect between the international covenants/principles and their national translation but this disconnect manifests very clearly in the area of legal aid and empowerment. Strategies to strengthen access to justice must then be contextualised and focus on availability of legal aid.

⁵⁸ Mr. Atul Kaushik, Joint Secretary, Department of Justice, Ministry of Law and Justice, India

CONCLUSION

8

8.1 The Valedictory Address⁵⁹

Certain things are common to most countries represented at this conference on legal aid and access to justice. It is well known, to the point of becoming a stereotype, that justice becomes inaccessible at worst and debilitating at the least to the ordinary person on account of its expensive nature, complicated procedures and lack of awareness. Even so, people who may be aware of the law and their rights may also not be able to access justice because of economic constraints built into the system.

One of the reasons justice has not been able to reach a huge percentage of the population is the large number of arrears of cases pending before courts. One mechanism to tackle this problem is to engage with Alternate Dispute Resolution mechanism. This could help reduce the burden on the courts, which is the pressing need of the hour.

Lok Adalats (People's Courts) were introduced in India with the purpose of solving disputes or problems across the table without burdening the regular justice dispensing machinery. Accordingly, it was so stipulated that once a matter was settled no further tiers of the justice system could be accessed. *Lok Adalats* get their mandate from the Legal Services Authorities Act, 1987 which also specifies categories of people who are entitled to free legal aid.

The Legal Services Authorities, in their bid to reach to the last person are experimenting with many innovative ideas including training of paralegals and setting up legal aid centres at the village level. The role of paralegals has become crucial to dispensing justice in a country as vast and diverse as India. One school of thought holds the view that an ideal paralegal must be just a little less than lawyer in terms of skills in navigating through often complicated legal quagmires. But NALSA's understanding is that paralegal workers should be from the community itself, with women accorded a pride of place in such setups. It is necessary to have paralegals from within the community because they would potentially engage with people requiring legal advice at the very initial stages. The paralegals should be sufficiently trained to provide this initial response.



⁵⁹ Valedictory address delivered by Hon'ble Justice Shri Altamas Kabir, Chief Justice of India

8.2 Concluding Observations

The participants agreed that the conference was a useful experience to share and learn about good practices on legal aid and empowerment. It was suggested that UNDP and other international agencies working on access to justice issues in India and other countries should facilitate such forums in the future also in different regions of the world so that good practices can be discussed and emulated. The Indian Project on Access to Justice should also factor the need for facilitating such programmes in its next phase of programming.



Some of the ideas that were found worth adapting in the Indian context were also highlighted. These include:

- Strengthening training programmes and monitoring mechanisms for paralegals and legal aid lawyers.
- Strengthening the law school based legal aid clinics with a view to sensitise the law students and to use them in assisting marginalised communities
- Encouraging the Bar to consider mandatory pro-bono lawyering for all lawyers
- Developing mechanisms for coordinated functioning between key agencies on justice delivery

8.3 Vote of Thanks

The conference ended with a formal vote of thanks by UNDP India. All the dignitaries, speakers and participants were thanked for their valuable inputs and contributions to the conference.



ANNEXURE

9

Annex 1

An International Conference on Equitable Access to Justice: Legal Aid and Legal Empowerment

The Oberoi Hotel, 17-18 November 2012, New Delhi

Supported by APRC and GoI-UNDP project on Access to Justice for Marginalized People

Conference Schedule

17 November, 2012 (Day 1)		
Time	Session Detail	Speaker/Resource person
08:30 – 09:30	Registration	
Inaugural Session (9.30-10.30)		
09:30 – 09:35	Welcome Remarks	Ms Lise Grande, UN Resident Coordinator and UNDP Resident Representative India
09:35- 09:50	Legal Aid, Legal Empowerment strategies: Regional Perspective	Mr. Marcus Brand, Human Rights and Access to Justice Advisor, UNDP Asia Pacific Regional Centre
09:50-10:00	Introductory Remarks	Mr. D. K. Sikri, Secretary, Department of Justice (DoJ), Ministry of Law and Justice
10:00-10:05	Release of publications developed under the Department of Justice – UNDP India's Access to Justice Project	
10:05 – 10:15	Inaugural Address	Hon'ble Minister Dr. Ashwani Kumar, Ministry of Law and Justice, India
10:15-10:20	Vote of Thanks	Mr. Atul Kaushik, Joint Secretary, Department of Justice, Ministry of Law and Justice
10:20 – 10: 45	Tea and Networking	
Session 1: Legal Aid Services: Global Models and Country Perspectives Moderated by Justice N. N. Mathur, Vice Chancellor, National Law University, Jodhpur, India 10.45 – 12.30		
10.45- 12.00	Panel Discussion: Global Perspective in Legal Aid	<ul style="list-style-type: none"> • Mr. Larry Taman, Senior Specialist, Justice Sector Reform: Global Perspective on Legal Aid Services; International frameworks, best practices, challenges in ensuring quality legal aid for the poor and marginalised • Ms. Vidhu Vedalankar, CEO, Legal Aid Board, South Africa South Africa: Holistic approach to the delivery of legal aid • Mr. U. Sarathchandran, Member Secretary, National Legal Services Authority (NALSA), India - India: Legal Aid Structures • Mr. A. H. Monjurul Kabir, Policy Adviser & Team Leader, Rule of Law, Human Rights and Justice, UNDP Europe and CIS, Regional Centre in Bratislava (UNDP BRC): Quest for Inclusion and Empowerment in Rule of Law and Justice Agenda; Lessons from Europe and Central Asia

17 November, 2012 (Day 1)		
Time	Session Detail	Speaker/Resource person
		<ul style="list-style-type: none"> Justice Udalagama, Legal Aid Commission, Sri Lanka & Ms. Malkanthi Wickramasinghe, Secretary, Ministry of National Languages and Social Integration, Sri Lanka: Legal Aid in post-conflict situation Mr. Larry Taman, Senior Specialist – Justice Sector Reform, Canada: Provincial Legal Aid Strategies in Canada Mr. Washington Bonini, In Charge of General-Coordination of Modernisation of Justice Administration, Ministry of Justice, Brazil: Legal Aid Strategies in Brazil
12.00-12.30	Interventions/Q&A/ Comments	
12.30-13.15	Lunch Break and networking	
Session 2: Field Visit Presentations - Lessons Learnt from Field Visits to Sierra Leone, Indonesia, Malawi and South Africa to study legal aid and legal empowerment initiatives and strategies 13.15 – 14.25 Field Visit Presentations from Sierra Leone, Indonesia, South Africa and Malawi 13.15 – 13.55		
Panel Discussion: Way Forward for India 13.55 – 14.25 <ul style="list-style-type: none"> Hon'ble Justice Manjula Chellur (Chief Justice of Kerala High Court), Head of Malawi Field Visit Hon'ble Justice Pinaki Ghose (Acting Chief Justice of Andhra Pradesh High Court), Head of South Africa Field Visit Mr. D.K. Sikri (Secretary, Department of Justice, Ministry of Law and Justice, India), Head of Indonesia Field Visit Ms. Snehlata Srivastava (Joint Secretary, Department of Justice, Ministry of Law and Justice, India), Head of Sierra Leone Field Visit 		
14. 25 – 14.35	Interventions/Q&A and Comments	
Session 3: Innovations in legal professional education Moderated by Prof Madhava Menon, Jurist, India 14.35 – 15.05		
14:35 – 14.50	Achieving justice through legal aid cells	<ul style="list-style-type: none"> Prof (Dr.) M. R. K. Prasad, Professor of Law, Indian Law Institute
14. 50 -15.05	South Africa: Rendering legal services to the marginalised through law clinics	<ul style="list-style-type: none"> Mr. Stephen Tuson, Wits Law Clinic, University of the Witwatersrand, Johannesburg
15.05 -15.20	Interventions/Q&A/Comments	
15. 20 - 15.30	Tea Break and Networking	
15.30 - 16.30	Panel Discussion: Experiences and reflections on Judicial Strengthening and Community Legal Education: Impact on Access to Justice Moderator: Hon'ble Justice Dunstan Mlambo, Chairperson, Legal Aid Board, South Africa	<ul style="list-style-type: none"> Dr. Chandrasekhar Pillai – Director, National Judicial Academy Adv. Naina Kapur, Asia Pacific Advisory Forum for Judicial Education on Equality Issues Mr. Bruce Lasky, Bridges Across Borders Southeast Asia (BABSEA), Community Legal Education Initiative, Thailand Prof. Liu Gang, Remnin University, China: Legal Aid & Clinical Legal Education in China
16-30-17.00	Interventions/ Q&A/Comments	
17.00-17.30	High tea and networking	
19.00 onwards	Reception	

18 November, 2012 (Day 2)		
Time	Session Detail	Speaker/Resource person
Session 4: Innovative Strategies to strengthen Access to Justice Moderated by Mr. Nicholas Booth, Policy Advisor, UNDP Vietnam 9.30 – 11.00		
09:30 - 09.45	Malawi- Institutionalising paralegal training for improving access to justice	Mr. Chimwemwe Ndalahoma, Paralegal Advisory Services Institute (PASI), Malawi
09.45-10.00	Sierra Leone- Successful community-led initiative on legal aid -Timap	Mr. Vivek Maru, Namati (via Video conference)
10.00-10.15	Interventions/ Q&A/ Comments	
• 10.15-10.30	India: Lok Adalats and their role in Access to Justice	Mr. Deepak Gupta, Member Secretary, Haryana State Legal Services Authority
10.30-10.45	Bangladesh: Using Alternate Dispute Resolution mechanisms for accessing justice	Md. Mizanur Rehman, District and Sessions Judge, Ministry of Law and Justice and Parliamentary Affairs, Bangladesh
10.45-11.00	Interventions and Q&A / Comments	
11:00-11:30	Tea Break and networking	
Session 5: Legal Awareness and Legal Empowerment Initiatives: Strengthening equitable access to justice by addressing the demand side Panel Discussion led by Prof. R. Sudarshan, Dean, Jindal School of Government and Public Policy, India 11.30 – 13.00		
11.30 – 12.30	Panel Discussion: Legal Awareness and Legal Empowerment Initiatives	<ul style="list-style-type: none"> • Prof. R. Sudarshan, Dean, Jindal School of Government and Public Policy: Overview on legal empowerment and its link to development, poverty alleviation and growth. • Mr. Sanjay Upadhayay, Environment Law and Development Foundation, India : Legal awareness for community rights • Mr. Bijaya Misra, Nepal Bar Association Nepal: Issues of property rights and compensation • Ms. Stephanie Willman Bordat, Regional Director , Global Rights, Maghreb region (Algeria, Tunisia, Morocco): Promoting women's human rights through legal empowerment
12.30-13.00	Interventions / Q&A/ Comments	
13.00 – 13.45	Lunch	
Session 6: Towards a systematic and strategic approach to strengthening equitable access to quality justice Moderated by Mr. Atul Kaushik, Joint Secretary (Justice), Department of Justice, Ministry of Law and Justice 13.45 – 15.15		
13.45 - 14.00	Overview: Identifying common strategies for legal aid and legal empowerment to strengthen access to justice initiatives	<ul style="list-style-type: none"> • Prof. Madhava Menon
14.00 - 14.15	Australia- Impact of the legal aid delivery system	<ul style="list-style-type: none"> • Ms. Vedna Jivan, Senior Lecturer – UTS Faculty of Law, Australia
14.15 – 14.30	Indonesia- Developing National Strategy and legislating for strengthening access to justice	<ul style="list-style-type: none"> • Ms. Diani Sadiawati, Director – Law and Human Rights, Government BAPPENAS Representative

18 November, 2012 (Day 2)		
Time	Session Detail	Speaker/Resource person
14.30 – 14.45	South Africa – Key lessons for the future	• Justice Dunstan Mlambo, Chairperson, Legal Aid Board, South Africa
14.45 -15-15	Interventions/ Q&A Comments	
Session 7: Closing and Valedictory Session 15.15 – 16.00		
15.15 – 15. 25	Remarks on behalf of the United Nations	• Ms. Lise Grande, UN Resident Coordinator and UNDP Resident Representative India
15.25 – 15.35	Remarks on behalf of the Government of India (Gol)	• Mr. D. K. Sikri- Secretary, Department of Justice, Ministry of Law and Justice
15.35 – 15.45	Remarks on behalf of the International Participants	• Justice Dunstan Mlambo, Chairperson, Legal Aid Board, South Africa
15.45 – 16.00	Valedictory Address	• Hon'ble Mr. Justice Altamas Kabir, Chief Justice of India
16.00 – 16.10	Vote of Thanks	• Ms. Sumeeta Banerji, Assistant Country Director and Head (Democratic Governance), UNDP India
16.10 -16-45	High Tea and networking	

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