

AFRICAN CENTRE OF EXCELLENCE FOR LEGAL EMPOWERMENT IN SOUTH AFRICA FEASIBILITY STUDY

Field Visit Report (6-27 July, 2-8 September 2016)
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Field visit report prepared to determine the necessity, viability and sustainability of the proposed African Centre of Excellence for Legal Empowerment in South Africa through consultation with five partner organisations across the continent.

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I. Introduction

This field visit report forms part of a broader feasibility study undertaken to establish whether the proposed African Centre of Excellence for Legal Empowerment in South Africa (“African Centre”) is well founded and likely to fulfil the needs of the African continent in improving access to justice and promoting legal empowerment in the continent. This study will detail the economic and financial, institutional and management, environmental and socio-cultural, and operational aspects of the African Centre.

This field visit was undertaken through consultation with five partner organizations across the continent thematically focused on access to justice through the work of community advice offices. These are, Kituo Cha Sheria (Kenya), Timap for Justice (Sierra Leone), Legal Aid Forum (Rwanda), Paralegal Advice Services Institute (Malawi) and the Association of Community Advice Offices of South Africa (ACAOSA) (South Africa). It is envisioned that the data collected through these consultations will assist in first of all understanding the potential gap that the proposed African Centre shall fill and in the second instance provide details for the economic, financial, institutional, managerial, environmental, socio-cultural and operational aspects of the proposed African Centre.

II. Background and Methodologies

The field visit was undertaken from July – September 2016 with visits to five (5) different partner organizations in five (5) countries regionally representative of sub-Saharan Africa. The visit was a consultation with future stakeholders in the African Centre on the modus operandi going forward, should it be accepted that this Centre is necessary and feasible. It was also designed as a learning experience between these different organizations that good practices and challenges may be shared, in order to develop a solid network of access to justice practitioners. It is also set to establish an information sharing chain where these organizations can directly liaise with each other to disseminate and develop knowledge in the field.

The overarching objectives of the field visit were to investigate:

- The relevance of the proposed African Centre project.
- The feasibility and potential scope of the African Centre.
- The sustainability of the African Centre and its supporting work, and flag some operational concerns
- To highlight detailed project activities

The field visit team comprised of four primary researchers, Ebenezer Durojaye, Esther Gumboh, Meetali Jain and Anyango Oyieke based in South Africa and Kenya. It was decided for the field visits in Rwanda, Malawi, Sierra Leone, and Kenya that there was no need to develop a specific questionnaire or survey due to the nature of the meetings, which as previously mentioned were rather about consultation and experience sharing rather than quantitative data collection and analysis. Although this was the main methodology adopted, the team received statistics where made available for inclusion in this report. The role of the consulting team in this respect was very clear: to record the conversations taking place between these different organizations on the feasibility and form of the proposed African Centre and to convert that information into a report for dissemination and discussion.

The rationale for this form of data collection was to ensure that discussions were steered and owned by the main stakeholders and not driven by the agenda of the field visit team. Information was provided through narratives and through conversations that developed organically from the various presentations led by each host organization. There was however a set of standard questions posed to each host organization for consideration in the preparation of their presentations. These were:

- a) What do you understand the proposed African Centre to be?
- b) What is the envisioned contribution of the African Centre to the work that you do? [Research support? Monetary support? A space for networking?]
- c) Offer a brief overview of the work undertaken by your organization. [To tie CAOs with the overall project, what are the kind of activities they undertake to gain abroad understanding of the work that will be supported]
- d) Kindly share some best practices that you have developed through the years? [Best practices that can be contextualized in other contexts and perhaps replicated].
- e) What are the challenges faced in the work undertaken?
- f) Any specific learning experiences/narratives to share? [Specific stories or anecdotes that can be used to bolster the rationale for the African Centre and the different organizations it envisions it will serve).

The field visit team members charged with conducting focus groups with community advice offices in South Africa, through ACAOSA, however, opted to develop a general question guide to frame the conversations between community-based paralegals. In the end, though, these guides were not fixed and simply provided a roadmap to steer the discussion to the most

useful and relevant topics under consideration. That question guide is attached to this document as Annex A.

Each host organization was responsible for developing their programme of activities for the few days that the field visit team was present.

III. Country visits

Legal empowerment involves strengthening the capacity of people to exercise their rights collectively or individually. Legal empowerment focuses on justice at the grassroots level ensuring that the law is available and accessible to the ordinary man on the street.¹ It manifests itself in several ways including access to justice, poverty reduction, legal aid, and human rights amongst others. The key elements however are empowerment through offering practical solutions to every day justice problems to those who are not able to otherwise access the law. It involves the management of the balance between rights and responsibilities, and employs a combination of tools through the use of paralegals and other non-lawyers as agents of change. Legal empowerment aims to hold more powerful agents to account and facilitates the involvement of marginalized communities and their composite members in local governance and public policy issues. Legal empowerment also employs an integrated approach to plural legal systems and respects both traditional cultural and formal legal practices, building a bridge between them for the positive evolution of both.²

In many countries across the African continent, there is a general shortage of resources, lack of political will and a host of bureaucratic impediments that make access to justice, particularly for the poor and dispossessed, especially difficult. It is thus timely to consider alternative means of accessing justice that operate alongside “formal” systems and the various contributions to the realization of access to justice in an African context. The focus of this study is legal empowerment at a grass root level through reliance on community paralegals working under the auspices of the five identified partner organizations.

Community paralegals rely on basic knowledge of the law to offer solutions to various instances of injustices through the reliance on skills like mediation, advocacy and human rights training. Community paralegal programs are diverse and vary in approach, jurisdiction and in thematic focus. There are a variety of strategies used to advance justice such as public awareness to

1 Open Society Justice Initiative, “Legal empowerment: An integrated approach to justice and development,” (2012) available at <https://www.opensocietyfoundations.org/sites/default/files/lep-working-paper-20120701.pdf>.

2 As above.

educate community members on their rights, offer advice on available legal options, offering assistance in the navigation of legal authorities and institutions, mediation of disputes, galvanizing collective action, advocacy, fact-finding and investigations.

The advantages of community paralegals include the promotion of legal empowerment through fostering awareness and agency, the provision of tailored legal solutions based on an intimate knowledge of the local context. They are also cost effective and more accessible than lawyers. Their solutions have potential to impact individuals and communities. Due to their specific location, paralegals are also able to engage a wide range of institutions, including customary authorities. They are also able to offer justice through the negotiation of a just and equitable resolution rather than focusing on the rights of one party.

The proposed African Centre presents an opportunity for strategic engagement, reflection, education and training in order to generate robust empirical knowledge and develop critical thinking around alternative avenues of justice. The ultimate aim of the African Centre is to centralize these regional efforts in order to support the work of the sector and drive its sustainability.

A. Kenya – Kituo cha Sheria

i. Country profile

Access to justice through formal systems is limited in Kenya. There is a general lack of confidence in the justice system and police services. This has been attributed to poor case management and inaccessible judgments, amongst other reasons. There is also a reported lack of familiarity with the various human rights obligations amongst state agencies at the front line of access to justice alongside excessive delays in the follow through of matters that come before the courts. Further to this, the judiciary is poorly resourced. Courts are few and far between and remain inaccessible in relation to distance, cost and available staff. It is also noted that legal instruments remain inaccessible due to language barriers as well as availability of physical copies. Another problem is the availability of lawyers who are few and very expensive and thus most people are not able to access legal representation before courts.³

³ Danish Institute for Human Rights, "Access to Justice and Legal Aid in East Africa: A comparison of the legal aid schemes used in the region and the level of co-operation and co-ordination between the various actors," (2011) available at http://www.humanrights.dk/files/media/billede/udgivelser/legal_aid_east_africa_dec_2011_dihhr_study_final.pdf.

The access to justice sphere in Kenya is also influenced by the recent post-election violence in 2008 when fighting broke out due to contested presidential election results. This experience was a culmination of years of ethnic tension fuelled by factors such as poverty and an inability to access certain opportunities based on your ethnic group. Several harms were committed against and between Kenyan citizens during this period of violence and it became apparent that the Kenyan judiciary could not handle the demand for justice after the fact. Despite the institution of certain mechanisms such as the Truth, Justice and Reconciliation Commission, the Commission of Inquiry on Post-Election Violence, justice in the aftermath of that period remain elusive and frustrations continue to grow.

Many Kenyans thus resort to alternative systems to access justice, such as mediation processes facilitated by paralegals alongside reliance on community-based traditional justice systems. There is however a level of interplay between the formal and informal justice systems with noted instances of referral between the two systems. Despite the above, there are some initiatives over the years that may open up opportunities for increased access to justice in Kenya. The most notable in this context is the legal aid provision in the new Constitution, according to which, “the state shall ensure access to justice for all persons and if any fee is required it shall be reasonable and not impede access to justice.”⁴ Pursuant to this provision, the Legal Aid Act 6 of 2016 was adopted in Kenya to give effect to the provisions of the Constitution facilitating access to justice and social justice. It is also the document that is to guide the establishment of the national legal aid service and to regulate the provision and funding of legal aid in Kenya and connected purposes. The rationale for this was adopted from the Malawi context where the legal aid service board is also a parastatal.

According to section 3, the objects of the Act include the establishment of a legal and institutional framework to promote access to justice through various means including the provision of legal aid to the poor and supporting community legal services financially. The full impact of this Act is yet to be felt as the processes for its effective implementation are still under discussion and design. Section 35(1) of the Act provides that the service shall provide legal aid services at the expense of the state to persons who qualify for legal aid services under the Act. According to section 36(1) a person is eligible to receive legal aid if they are indigent, resident in Kenya and amongst others a child, refugee under the Refugees Act, a Kenyan citizen or a victim of human trafficking. The Act does, however, acknowledge the existence of paralegals as a legitimate legal service and defines them in section 1 as, persons employed by the service or an accredited legal aid

⁴ Article 48 of the Constitution of the republic of Kenya, 2010.

provider who has completed a training course in the relevant field of study in an institution approved by the council of legal education service. The Act further defines accredited paralegals as persons accredited by the service to provide paralegal services under the supervision of an advocate or an accredited legal aid provider. A legal aid provider includes in its definition a paralegal.

ii. **Organisational profile of Kituo**

Kituo is a legal advice centre in Kenya running a comprehensive paralegal programme. All of the programmes are aimed at empowerment of the poor and marginalised to enable them to access justice through formal and informal platforms.

Kituo's programmes fall under three thematic areas: Legal Aid and Education Programme (LEAP), Advocacy, Governance and Community Partnerships Programme (AGCP) and the Forced Migration Programme (FMP). Kituo will strengthen its work around research, communication and documentation and strategic leadership and governance. All the programs aim at empowering poor and marginalized people to effectively access justice and enjoy human and people's rights. Unlike the situation in South Africa, where there is a coordinating body for all paralegal services, Kenya has a loose arrangement which allows each organization to exist on its own.⁵

With respect to access to justice, Kituo offers the following services:

1. Legal advice clinics which provide free legal assistance to the public from the head office
2. Justice centres which are community based organizations giving legal advice. These centres aim to contextualise legal empowerment and build capacity for community driven management of legal aid provision
3. Mhaki Platform (M-Haki – Haki Mkononi) which is a low cost SMS-based interactive platform between clients and advocates/paralegals that allows for the provision of legal advice within a period of 48 hours. As a pilot programme of the Dutch Embassy in Kenya, it is an innovative technology developed by Ushahidi Forum in collaboration with Kituo. Its intended impact is to reduce the costs related to access of justice in Kenya through the use of mobile phones. There is a dedicated mobile number (0700777333) that receives legal questions from the public to be answered at a small fee by Kituo lawyers and volunteer advocates.

⁵ The Paralegal Service Alliance did not work as an alliance

The platform is also used as an advocacy tool to build their capacity on legal issues and create awareness. There is need to build more capacity to attend to queries given the high volume of queries received via this platform.

4. Partnerships with other the government to promote alternative justice mechanisms, an initiative led by the Judicial Training Institute alongside Kituo and doctoral candidates working in the field.

Kituo maintains partnerships with other civil society organisations such as the Legal Resource Foundation (LRF), a justice centre involved in education and training of paralegals, and the Federation of Women Lawyers (FIDA-Kenya), a membership-based organisation that offers free legal service to mostly indigent women. Both these organizations use Kituo's curriculum for the training of their paralegals.

Kituo has reported major landmarks in its growth. These include: institutionalization of the planning process; shift in orientation from legal aid to legal empowerment; focus on public interest litigation; expansion into marginalized areas through satellite offices; designing of innovative and responsive programs and establishment of a proactive board that represents the interests of poor and marginalized groups.

Kituo's ethos is based on: respect for and promotion of human rights; commitment to justice and equity while upholding the rule of law; solidarity with the poor and marginalized; commitment to volunteerism, social transformation aimed at empowering the disadvantaged, creativity and innovation supported by information technology and integrity, transparency, accountability and professionalism.

iii. Field visits to justice centres

There are several justice centres currently being operated by Kituo. During the field visit, our team visited the Kamiti Prison Justice Centre and the Kamkunji Justice Centre.

a. Kamiti Prison Justice Centre

This justice centre is unique in that it trains prison inmates in the Kamiti Maximum Prison on the outskirts of Nairobi as paralegals to enable them to assist other prisoners with uncomplicated legal matters. With support from Kituo, this centre was established in 2012 with an initial training of 28 inmates and 5 prison staff. As the main prison for capital offenders, most inmates are serving life imprisonment and facing the death penalty. There are a limited number of lawyers relative to the Kenyan population and most

remain inaccessible due to high costs associated with these services and lack of a national legal aid scheme. Through its work, this centre has helped rectify cases of unwarranted imprisonment. This justice centre receives legal support from Kituo for the more complicated legal matters.

There have been several successes from this justice centre, the most notable being that the first criminal application to the supreme court originated in this office and is currently awaiting judgment to be handed down. The justice centre faces resource constraints (office space, administrative support, and out-dated equipment).

b. Kamkunji Justice Centre

This justice centre also established and supported by Kituo operates in the Korogocho and Kibera areas of Nairobi to offer legal advice to a largely indigent community. It operates on a voluntary basis and there is absolutely no remuneration for any services offered at these justice centres. The cases received are varied and range from petty theft to rent disputes. There are 20 community based paralegals and 10 Human Rights monitors trained by Kituo cha Sheria. These monitors are young community members who report human rights abuses to paralegals at the justice centre for follow-up. They also educate people on various human rights issues. There are also peace agents who work under the umbrella of the justice centre and mainly monitor conflicts between small groups and explore alternative dispute resolution mechanisms to ensure that these conflicts do not escalate.

Prior to the establishment of this centre, legal assistance was largely inaccessible. Community based organisations in the area formed a network and then approached Kituo cha Sheria to assist with training. Two members from each ward were selected for the training and came back to form the justice centre. This justice centre was very much a community initiative, with Kituo coming in to offer support for training and legal advice. Despite initial resistance, the work carried out here at the centre has come to be recognised by community members and local government. Subsequent paralegals and volunteers associated with this justice centre are identified community leaders, or youth leaders in the community. New staff are identified as promising leaders and approached to be a part of the Centre due to their position within the community. Subsequent trainings are then organised and facilitated through Kituo cha Sheria.

These justice centres work in partnership with other stakeholders such as other community centres, government organisations, local administration and community based organisations and civil society representatives.

It is argued that engagement with the justice centre has opened up the justice system to the community due to its description as an area of trust. “Justice centres allow barriers to be broken pertaining to the law that has not been broken before.”⁶ People are more willing to engage because help comes from one of their own.

For these volunteers, success is the only motivation necessary and when they are able to see a matter to its logical conclusion there is a deep sense of pride. The community has also come to understand the role played by the community centre, which is one of intervention where necessary and not to drive any particular developmental agenda.

iv. Challenges faced by Kituo

The main challenge faced by Kituo is that its work is fully donor based which poses challenges in terms of sustainable resourcing.

There is also the challenge of ‘rogue’ paralegals that do not adhere to the code of conduct developed by Kituo for their paralegals. This code of conduct serves as a memorandum of understanding between Kituo and all its paralegals. Perhaps a more stringent vetting system is necessary upon recruitment of paralegals.

There is also a noted lack of appreciation of the importance of the work of paralegals, especially by chiefs and other administrative authorities. There is therefore a need to be clear about the specific role of paralegals.

The overregulation of paralegalism through the insistence on minimum qualifications is considered to be detrimental to the movement as most paralegals in Kenya have limited education.

There is also a noted lack of communication between programmes across the continent. It is therefore imperative that there is greater communication between programmes that organizations can benefit from learning exchanges to strengthen their own programmes.

There is also a challenge of overcoming language barriers when assisting refugees. It is thus suggested that certain activists be identified and trained on the Kituo curriculum in Swahili or Somali to overcome this problem.

A specific challenge was noted with respect to the M-Haki platform. The responders on this platform are youth. It was noted however that there is a need to offer mentorship for young people that they may be interested and

⁶ Community Based Paralegal, Kamkunji Justice Centre Focus Group Discussion, 14 July 2016.

committed to the access to justice agenda. It was argued that youth are too focused on wealth accumulation and recent law graduates are not interested in serving their communities. Mentorship would help ensure that they remain interested and committed to the access to justice cause.

Finally, data and case management at a community level also has its challenges. There is no systematic means of documenting the successes noted at a community level for future reference. Kenya may be able to borrow from Rwanda in this respect, which is a mile ahead through the use of paralegal diaries in the capturing of information.

v. Input for the Centre

It emerged from the field visit that for Kituo and its network partners, the proposed African Centre is necessary. In the first instance it would offer a space of collaboration and networking between advocates for access to justice that would allow them to understand each other and speak with one voice. It would also be a space to brainstorm on how to work around sustainable funding channels. It would also be able to offer research support by serving as a repository for data collected from the composite regions to be easily accessed and widely disseminated across partners. It is further envisioned that the centre will provide a space for learning and sharing on how best to further the work being undertaken across the continent, focused at a community level.

It was suggested that the centre organises its operations along a set of emerging/relevant thematic focal points. The suggested focal points from Kituo's perspective are issues pertaining to sexual abused violence (SGBV), natural resource management (access to land), labour, housing, education and forced migration.

It is proposed that the Centre develop an overarching policy or regulation on legal empowerment and access to justice on the continent to standardise the work coming from these different channels across the continent. That is, a unified statement on what legal empowerment and access to justice will mean in the context of the Centre and its network organisations. This will ensure that there is understanding across the region on the nature of the work that is being undertaken.

It is imperative that the role of each host organisation be explicitly stated relative to their location within their national access to justice movement and the regional African Centre.

Another role of the proposed African Centre is to help organise paralegal structures in dynamic countries like Kenya that require the creative

interaction between government and civil society in the provision of affordable and accessible legal services.

With respect to regulation, it is important to regulate the movement such that individuals are not able to act as paralegals in their own capacity but as part of an organization. The challenge for the African Centre is to ensure that an enabling regulatory system is developed that takes account of the nuances that come with regulation based on the educational levels of paralegals.

B. Sierra Leone – Timap for Justice

i. Country profile

Access to justice has been a point of concern in Sierra Leone and has formed the central theme for reforms in the justice sector since the end of the decade long civil war in 2001. The imperative to access justice in post-conflict Sierra Leone is further exacerbated by the fact that an inability to access justice was one of the contributors to the escalation of the war. There was a noted discontent with the state of governance in the country and a lack of sufficient avenues through which these grievances could be addressed.⁷ It is on this basis that access to justice is a matter of serious concern in Sierra Leone enjoying support from both government and international organizations. It is imperative that this right is promoted and protected for fear of reverting to the period of civil unrest.

The barriers in accessing justice in Sierra Leone have been categorised as cost related, structure related and social barriers.⁸ The vast majority of Sierra Leoneans, especially the poor and marginalised, are unable to access justice due to a variety of reasons. Like most other African countries, the costs of accessing justice remain prohibitive. Courts are few, lawyers are also few and located mainly in the city, and are also very expensive. There is also a general sense of distrust in the judiciary and its processes because access thereto is determined by one's class and material condition. Another challenge in accessing justice in Sierra Leone is the mixed dual legal system that grants authority to customary local courts and the tension between these spaces and more formal justice systems. Recently, however, the imperative of access to justice has been gathering momentum in this country. Of the several possibilities, the provision of legal aid, has been

7 Jang SY, "The causes of the Sierra Leone Civil War," (2012) E-international relations, available at <http://www.e-ir.info/2012/10/25/the-causes-of-the-sierra-leone-civil-war-underlying-grievances-and-the-role-of-the-revolutionary-united-front/> [Accessed 1 November 2016].

8 Dale P, "Access to Justice in Sierra Leone: A review of the literature," (2008) World bank, justice for the poor programme, available at <http://siteresources.worldbank.org/INTJUSFORPOOR/Resources/Access2JusticeSierraLeoneLitReview.pdf>.

identified as one through which the poor in Sierra Leone may access justice.⁹

Access to affordable legal services is a constitutional imperative in Sierra Leone.¹⁰ Accordingly, the country adopted the Legal Aid Act in 2012.¹¹ The Act recognises paralegals and civil society as providers of legal aid services. Significantly, it also explicitly dictates that paralegals should be deployed to each of Sierra Leone's 149 chiefdoms. This is to ensure that a flexible and cost effective provision of justice services is available to majority of the people currently unserved. Sierra Leone has a chain of different services provided by paralegals, which makes for an interesting case study for possible adoption by other jurisdictions.

Section 20 of the Act provides that indigent arrested, detained and accused persons have a right to legal advice and assistance, and legal representation throughout the criminal process including the appellate process in appropriate cases. A similar right is extended to indigent plaintiffs in civil matters

Section 1 defines a legal aid provider as a legal practitioner, civil society organization, non-governmental organization, university law clinic or paralegal accredited to provide legal aid. An accredited paralegal is defined as a person employed by the Board, a government department, an accredited civil society organization or a non-governmental organization and who has completed a training course in the relevant field of study at the Judicial and Legal Training Institute or an educational institution approved by the Board.

ii. **Organisational profile for Timap**

Established in 2003, Timap (which mean "stand up") is Sierra Leone's largest paralegal network with a mission to provide access to basic justice services, empower communities, and utilize its experience to create social and legal impact. Due to a nationwide shortage of lawyers and the nature of Sierra Leone's dualist legal structure, Timap's model features community-based paralegals rather than lawyers. The organization combines services such as education, mediation, negotiation and advocacy.

Timap's focus areas are women and children's rights, criminal justice and community engagement. Its work is informed by a philosophy which

9 Open Society Justice Initiative, "Legal empowerment: An integrated approach to justice and development," (2012) available at <https://www.opensocietyfoundations.org/sites/default/files/lep-working-paper-20120701.pdf>.

10 See section 28(5) of the Constitution

11 The Legal Aid Act No 6 of 2012.

focusses on putting clients first; team work; solving justice problems; empowerment; transparent and effective use of resources; rigor and discipline in delivering services; and confidentiality. Timap programs have succeeded in achieving solutions to thousands of justice related problems for the poor. Indeed, the 2012 Legal Aid Act endorses Timap's community-based approach.

Timap relies on community-based paralegals as the engine for social change through the provision of primary justice services to indigent Sierra Leoneans. Paralegals are recruited from local communities and trained by seasoned lawyers. Paralegals operate with the approval of the governing chiefs and traditional leaders. They are also allowed to participate in Traditional Leadership structures, as is the case in certain provinces of South Africa and Malawi. Timap makes its paralegal services available through a variety of initiatives such as:

1. Community-based paralegal program (CORE) which is the backbone of Timap's work that allows paralegals to work with the judiciary, correctional services and police stations. Paralegals are spread out across the country to ensure that dispute resolution is sped up and localized.
2. Mobile clinics target remote areas where there is difficulty in accessing justice services. Paralegals provide consultation on legal matters and also gain insight into community challenges which may later be addressed through community dialogue meetings or community mediation programs.
3. Community dialogue meetings which provide a forum for the discussion of community issues between the public and their leaders. Meetings are conducted with the assistance from Community Oversight Board (COB) members and Contact Persons (CP).¹² Paralegals act as facilitators and resource persons.

¹² Community Oversight Board members are appointed in consultation with paramount chiefs, other chiefs and local organizations. Each COB is made up of four members drawn from the traditional leadership and heads of women's and youth groups. Education is not a requirement for membership of these boards, although at least one member ought to be able to read and write. The role of this board is to act as a bridge between the community and TIMAP assisting with the development of various interventions through conducting regular community needs assessments. They also ensure continued and rigorous supervision of community-based paralegals and meet regularly with program directors to provide feedback on paralegals' work. Contact Persons are volunteers, and steer the constitution of Mobile Clinics and Community Dialogue Meetings. There are four contact persons per chiefdom, one for each cluster within a chiefdom and chosen by residents from the included villages. Once appointed, they are trained and mentored by TIMAP and their paralegals. Their responsibilities include securing and preparing the venue to hold mobile clinic sessions, informing cluster members about paralegals' movements, assisting

4. Community Mediation Program which is active in rural areas and focuses on resolution of disputes at the community level through mediation facilitated by trained volunteers. The field team had a chance to attend a mediation session that revolved around inheritance, custody of children and cultural practices relating to the future life of a widow. The matter was well mediated and consensus was reached after a heated debate. The ensuing agreement was in writing and would be monitored by paralegals for compliance.
5. Criminal Justice Program which provides systematic access to justice for detainees at police stations, courts and prisons in Makeni, Bo, Magburaka, Kenema and Moyamba. The program works to reduce detention and provide legal assistance to detainees. To date, Timap has handled over 4,300 cases secured the release of approximately 2,300 detainees. The research team had a chance to speak with some stakeholders that have benefited from Timap's criminal justice paralegal program. For instance, the Correctional Services Department appreciated that the program has been instrumental in decongesting prisons and speeding up trials. Thanks to the good relationship, the department has with Timap, the program has also enhanced transparency in the prison system. Senior judicial officers also affirmed the role Timap has played in reducing case backlogs and ensuring that cases are dealt with expeditiously.¹³ It was also noted that the criminal justice program has made the judiciary more progressive and strengthened its interaction with the public and other key institutions.¹⁴
6. Lawyers are at times engaged to conduct litigation depending on the severity of the injustice and the potential to set important precedents. Timap focuses especially on those cases concerning women, children, and individuals who live in remote areas.

Timap works on both criminal and civil matters. A major success has been the introduction of information desks in various courts where paralegals assist court users. These desks have improved the organisation of the day to day work of the courts.

iii. Challenges faced by Timap

paralegals in delivering letters or messages to parties involved in cases and providing logistical support to paralegals for Community Dialogue Meetings.

¹³ Conversation with Justice Allan B. Holloway, Justice of the Court of Appeals, Kenema

¹⁴ Justice Nicholas C. Browne-Marke, Justice Of The Supreme Court, Freetown

One challenge relates to monitoring and evaluation of the work of paralegals. It is all about experimentation and opening up to criticism in order to grow and function better.

Another challenge is the question of sustainability and independence. Since it performs a state function, Timap must enjoy long term support from the national fiscus. However, this could undermine the independence of paralegals from the government. It was suggested that one way around this is to have the legal aid board provide funding from government where all accredited providers could competitively apply for funding. Meanwhile, Timap is focussing on low cost innovative ways of managing the organization and is also exploring a paralegal model from the Netherlands that charges a nominal fee for services. Beyond that, Timap strives on organizing communities to take collective action and thus carrying out its work through social movements that are not fund intensive.

A general challenge mentioned by a judicial officer is the tension between lawyers and paralegals. It was noted that while the judiciary is receptive to and encourages the use of paralegals, there is need to educate people on the function of paralegals and their contribution to the broader justice agenda.

iv. Input for the African Centre

The uniqueness of what the African Centre proposes to be is its focus on access to justice and the illumination of informal justice spaces where most dispute resolution takes place. Paralegals straddle both worlds and draw on all available resources in order to ensure the most favourable conclusion for all parties is reached. Litigation is not and should not always be the first resort in the resolution of disputes. The African Centre would be well placed as a galvanizing space, bringing together access to justice and legal empowerment activists from across the continent to share ideas and brainstorm on how best to carry the movement forward.

Thematically, the Centre should align itself to the areas that are common to the different host organizations. Perhaps rather than reinvent the wheel, it should focus on the areas that its composite organizations are strongest in and use that as leverage to set itself apart as a leader on access to justice from those specified perspectives.

Notwithstanding the diversity of the host organizations and legal systems that make up the different national contexts, it is important to ensure that the Centre speaks with one voice. This simply refers to an agreement of respective roles and expectations from each host organization from the Centre. It is also important to have clarity on the Centre's expectations and

deliverables from each host organization to ensure that the relationship remains amicable. This should be revised after a set number of years to accommodate changes that may occur

In order to confront these challenges, Timap engages and collaborates with local communities, traditional authorities, and government institutions.

C. *Rwanda – Legal Aid Forum (LAF)*

i. Country profile

During the 1994 genocide in Rwanda, up to one million people perished and as many as 250,000 women were raped. This left a huge traumatic scar on the populace and a severely incapacitated infrastructural system. In the aftermath of the genocide, the government embarked on a justice and reconciliation process with the ultimate aim of creating a society where all Rwandans living together in peace. Judicial responses took the form of the International Criminal Tribunal for Rwanda, the national court system and the gacaca courts. Over 120, 000 were detained and accused of bearing criminal responsibility for their participation in the killings.

The Rwandan government remains committed to ensuring access to justice and redress the harms of the genocide. There is also a national commitment towards the attainment of peace by and for all and in this context access to justice is embodied in all sectors of society. Like Sierra Leone, Rwanda considers access to justice as an important element of maintaining peace after the civil war. For this reason, access to justice initiatives are taken very seriously. However, as is the case with several other African countries, the country still faces challenged with access to justice through the formal systems. These include the absence of an enabling legal and regulatory framework, limited monitoring and evaluation, poor documentation of challenges, best practices and client information. The justice sector is also plagued with limited and disjointed funding, a limited number of advocates with a limited geographic reach heavily in favour of the urban. There is also a limited awareness of available legal aid services amongst the population.

Rwanda does not have a specific piece of legislation on access to justice and legal aid. The constitution provides in Article 15 that all are equal under the law and entitled to equal protection of the law. The Constitution also entrenches in Article 29 the right to due process of the law, which includes the right to be to be informed of the nature and cause of charges and the right to defense and legal representation.

However, efforts are being made by the government through the Ministry of Justice to promote and develop the infrastructure for legal aid through the

Maison d' Access a la Justice (MAJ), which are Access to Justice Bureaus intended to be established in all districts. In addition, the Ministry has developed a legal aid policy that aims to amongst others, increase the level of access to justice for all Rwandans by expanding the legal aid provisions, streamlining and improving the alternative dispute resolution systems through effective coordination, establishing the legal aid fund and by setting up a stakeholder legal aid committee and Access to Justice Unit to coordinate the day-to-day management of legal aid provisions. It also defines the main eligibility criteria for legal aid.

The idea of having lay people involved in legal processes in Rwanda developed in the aftermath of the genocide in 1994. The government trained people with secondary level education in basic legal skills to serve as judges, prosecutors and defence lawyers and try matters at a community level. After a year of this formal process, government reverted to *gacaca* courts as an alternative mediation space to resolve the issues that arose. The *gacaca* courts were created to deal specifically with genocide cases and once all cases were tried they were declared defunct. However, mediation committees have been developed called *abunzi* committees. Per legislation, if the complaint value of a matter, excluding criminal matters, is lower than 5 million it must go through mediation.

Paralegals in Rwanda are defined as those offering certain legal services without a legal degree. The focus here is on the type of work or services being offered. Paralegals are recognised in the legal aid policy and also have their own regulatory mechanism in the form of a board. Legal aid in Rwanda is accessed through seven categories of state (access to justice bureaus, mediation committees (Abunzi) and non-professional bailiffs) and non-state institutions (university legal aid clinics, Rwanda Bar Association, professional bailiffs and civil society organisations). Several of these institutions are members of the Legal Aid Foundation (LAF) and form part of its overall monitoring.

ii. Organisational profile of the Legal Aid Forum

The Legal Aid Forum (LAF) was established in 2006 through a collaborative process of 30 civil society organizations. Its aims are to create a space where organizations that wished to provide legal aid to indigent and vulnerable groups could share information and best practices and collaborate in capacity building, research, and evidence-based advocacy. Registered as a national NGO in 2009, the LAF envisions a society where indigent and vulnerable groups have equitable access to justice.

The LAF is a fully independent entity composed of 38 national and international NGOs, professional bodies, universities, legal aid clinics, faith based organizations, and trade unions that provide or support legal aid services to the indigent and vulnerable population of Rwanda. The organization supports government endeavors through capacity building, research, advocacy, and the provision of legal aid services through various means such as through the establishment of local access to justice offices.

The LAF carries out its operations along three main thematic areas: capacity building, legal aid, research and advocacy. Collectively, LAF has a 2837 strong paralegal contingent spread across all 416 Rwandan administrative sectors. Paralegalism is voluntary and non-remunerated. However, paralegals receive various incentives such as certificates of training, medical insurance and transport allowances to ease access across sectors and districts. There is a certain pride associated with being a paralegal as they are recognised to play a significant role in society. Paralegals are community-based and have other means of sustenance, working as paralegals part-time as and when a need arises. They are trained on a regular basis and are able to provide basic legal advice without having to revert to an office each time. Paralegals are also involved in legal and human rights education.

LAF is made up of different organisations that run paralegal programmes. They each have specialised areas of work and focus primarily in those thematic areas for greater efficiency. For example, there are organisations that focus on legal and social support for domestic and other forms of violence against women and children. There are other organisations that focus on workers' rights and use their paralegals to resolve disputes that arise within the labour sphere. LAF also partners with the Rwandan Law Society for the Legal Aid Week run by paralegals and held in prisons. LAF paralegals also run an efficient system of recording cases through the diaries they keep. This has been noted as a useful practice that may be adopted in other countries for the sake of knowledge production and general monitoring and evaluation of the successes and failures of these programmes.

The research team had a chance to meet with several of LAF's partners and member organisations such as Haguruka, Rwanda's largest paralegal organization focusing on women and children's rights. Haguruka works mainly in advocacy, capacity building, and research, mediation, legal and social support. It also operates safe houses for access by clients/victims of domestic violence.

Another key partner of the LAF is the Ministry of Justice and Community Services. The Ministry partners with LAF at all levels including policy and

law reform, training and other capacity building initiatives, advocacy and organisation of community outreach programmes.

Paralegals also collaborate with already existing structures, especially the *abunzi*, offering mediation services and referring cases that are beyond their scope. Most of the matters dealt with relate to land and succession.

Driven by the need to promote and support the provision of accessible and quality legal aid services, the LAF has since 2006 been engaged in legal aid, research, training of lawyer and paralegals, advocacy, and law reform such as laws which regulate the Bar Association, the national legal aid policy and bailiffs. Amongst its many successes, the LAF has been instrumental in developing a law governing bailiffs and drafting a law which allows lawyers from civil society organizations to represent clients in court; increasing legal aid services for poor and vulnerable communities especially in rural areas; reducing conflicts in communities due to mediation and sensitization; creating awareness of legal aid services; and securing the release of detainees. The work of the LAF is underscored by respect people in their diversities; accountability and transparency; independence; innovation and the best interests of our member organizations.

The LAF is currently running an ICT project, using tablets to monitor perceptions of access to justice in communities. One paralegal is assigned per district, to collect data through a questionnaire. Responses are then forwarded electronically to a central database. Each paralegal is required to speak to at least 5 people a week.

iii. Dialogue with LAF member organisations

The research team had an opportunity to hold a session to engage various LAF member organisations in a dialogue. These organisations work in diverse areas ranging from labour rights, women's and children's protection services, to legal aid clinics and research institutes within universities and legal aid clinics. The members highlighted the range of paralegal services offered under the umbrella of the LAF. Through its different member organisations, the LAF's paralegal network offers a varied legal services across a broad range of thematic areas. The overall theme from these brief presentations is that paralegals step in to offer basic legal assistance to a varied range of clients on matters ranging from family disputes to assisting refugees with applications for asylum.

An interesting conversation centred on the role of academics and legal aid clinics attached to universities. These were identified as an underutilized resource with an imperative to contribute to the broader access to justice agenda. Academics also have an imperative to engage in community

outreach and perhaps this would be possible through the provision of legal aid and mediation services, as most academics are also admitted attorneys. Legal aid clinics attached to universities also occupy an interesting space. It should be possible in this respect to rely on students to serve as paralegals and assist in the resolution of matters at community level. Paralegalism is after all about the service rather than the person and would function the same whether they are referred to as students or paralegals.

The Bar Association is another resource as it is obliged to provide free legal services and does so through a realisation of the collective social responsibility to those less fortunate.

It was apparent from this session that the paralegal network is wide and that there is still space for exploration and proper utilization of certain sectors that have not been sufficiently utilized to date such as academia, legal aid clinics and professional legal associations.

iv. Challenges faced by the LAF

A major challenge identified by the LAF is the high turnover of laws due to the fact that Rwanda is currently undergoing a process of massive legal reform. Although welcome, it also means that there is a constant need for training to ensure that all are familiar with the law. This is linked to funding challenges, as money must be sourced from already allocated funds to facilitate these trainings.

Documentation of the work going on at a community level is also a challenge. It is difficult to ensure that all the cases that are mediated at a community level are recorded and stored for purposes of future reference.

Another challenge is the collation of information from the field. The information that paralegals do manage to collect and record is not always disseminated to the LAF for proper record keeping. There is therefore a lot of useful information that falls through the cracks and cannot be relied on for future reference. Moreover, there is a challenge of communication between paralegals which undermines efforts to ensure that there is no overlap of functions. Communication between paralegals and beneficiaries is also a challenge.

A further challenge faced is communication between community-based paralegals. The distances that one must travel between villages to respond to the various requests for paralegal services are quite vast. There is also a need to communicate between paralegals within the LAF to ensure that there is no overlap of jurisdictions.

Local leaders are quite suspicious of the work paralegals do. Thus, it is a constant challenge raising awareness on the importance of paralegalism and the specific role they play. The support from the LAF to partner organisations like Haguruka is appreciated. However, there should be more engagement with various stakeholders in the access to justice chain.

v. Input for the Centre

The Centre would be useful in the dissemination of information from a centrally located repository. This would enable the LAF to access resources from other jurisdictions from one central location.

The Centre would also ideally serve as a space for dialogue and sharing of ideas, fostering a sense of collegiality and solidarity within the legal empowerment and access to justice movement.

It is envisioned that the proposed African Centre will be a space to facilitate such training by drawing on experiences from other parts of the continent. It is envisioned that through the African Centre, it may be possible to offer an upgrade on certificate trainings by offering longer and more intensive training programmes for paralegals.

It was suggested that there should be thematic areas of research focused on contemporary issues to move forward discussions around legal empowerment and access to justice. It is time for a change in tongue and practice to ensure that the movement remains relevant. This also has implications for funding purposes, as donors are more likely to fund initiatives aligned with emerging jurisprudence.

There was also caution to remember to couple rights talk with talks of responsibility. There is need to entrench the idea that rights must be exercised relative to a responsibility to our fellow human beings and in Rwanda relative to the collective social responsibility to maintain peace.

The role of academic institutions is important in the work the Centre proposes to undertake. The Centre should therefore look at engaging academic institutions to be a part of the movement. Beyond offering research assistance, universities may be useful through the use of their legal aid clinics and also as spaces of dialogue.

LAF member organizations would like to contribute actively to the work of the Centre rather than be involved merely as case studies from which to draw best practices. The organisations hence want the autonomy to create their own local structure within the space of the Centre that would be uniquely Rwandan and make a meaningful contribution to the broader aims of the regional intervention.

It is ultimately envisioned that the proposed Centre would give agency to people on the ground who are not used to speaking out in defence of their rights and responsibilities, and also those who are not used to speaking to one another.

D. Malawi – Paralegal Advisory Service Institute (PASI)

i. Country context

Malawi has a dual legal system that relies on customary law and formal law. A recent study on access to justice in Malawi found that access to justice in this context does not merely refer to access to (legal) institutions, but also means access to fair laws, procedures, affordable, implementable and appropriate remedies in terms of values that are in conformity to constitutional values and directives. Poverty was identified as the key barrier to the access of justice. Other identified issues affecting access to justice are distance to institutions, competing values, the influence of lay or professional decision-makers and a lack of accountability of court functionaries (in both systems).¹⁵

Section 12 of the Constitution provides that as all persons have equal status before the law, the only justifiable limitations to lawful rights are those necessary to ensure peaceful human interaction in an open and democratic society and that all institutions and persons shall observe and uphold the Constitution and the rule of law and no institution or person shall stand above the law. Section 41 further provides for the right to access justice and legal remedies to all without favour.

The Legal Aid Act allows for limited eligibility of persons besides legal practitioners to provide legal aid for purposes of the act. Legal aid assistants, according to the Act, are people who are not qualified as legal practitioners but who have attained the requisite level of education as prescribed by the Council of Legal Education to enable them to provide services as envisioned in the Act.

ii. Organizational profile of PASI

The Paralegal Advisory Service started in Malawi in May 2000 as a partnership of Penal Reform International (PRI) with four Malawian NGOs, to provide legal assistance to people awaiting trial in prison and defend their legal and constitutional rights. It is currently a nation-wide programme, deploying trained paralegals to provide legal education, advice and

¹⁵ Scharf W *et al*, "Access to justice for the poor of Malawi? An appraisal of access to justice provided to the poor of Malawi by the lower subordinate courts and the customary justice forums," (1999) available at <http://www.gsdr.org/docs/open/ssaj99.pdf>.

assistance throughout the criminal justice processes, from arrest to appeal, which complement and facilitate the work of the lawyers.

The object of PASI is to make justice accessible to all people in Malawi especially the poor and vulnerable. Its initial intervention was to respond to the deplorable conditions in Malawi prisons, which were overcrowded and wrought with police brutality and torture. There was a lack of meaningful rehabilitative programs and prisoners often languished in jail for several years awaiting trial. It was however also noted that poor people struggled to access justice due to the prohibitive costs of legal advice across the board. What was needed the most was advice, assistance, mediation and referral services alongside the realisation that courts were not the only space in which problems could be solved. PASI therefore developed a presence in police stations, in courts and in communities to provide affordable services to those who were not able to access them.

It provides legal aid at all stages of the criminal process and also trains paralegals. These paralegal services have contributed significantly to reducing the proportion of people awaiting trial in prison in Malawi to 18%, one of the lowest rates in Africa.

PASI is also involved in advocacy work such as research with the goal of influencing policy change and law reform. The organization also promotes networking and collaboration of different justice agencies in Malawi and beyond.

PASI's work has been well recognized across the globe. With Penal Reform International support, the PASI programme has been adapted and replicated both in civil and common law countries in Africa and beyond.

iii. Current programs

a. Partnerships with key public institutions

PASI has several institutionalised relationships buffered by memorandums of understanding with key institutions such as the police, prison, the judiciary, the Legal Aid Bureau, the Inspectorate of Prisons, Directorate of Public Prosecutions, Legal Aid Department, the Ministry of Justice, the Ministry of Women and Child Development and Ministry of Health. For instance, these relationships have enabled an open door policy individual prisons and police stations. PASI is currently working in all four judicial regions in Malawi, deploying trained paralegals to provide legal education, advice and assistance throughout the criminal justice processes, from arrest to appeal.

PASI also has partnerships with other NGOs working in the justice sector such as the Child Rights Advocacy and Paralegal Advice Centre (CRAPAC), the Catholic Commission for Justice and Peace (CCJP), the Centre for Human Rights and Rehabilitation (CHRR). These organizations seek to promote human rights and also assist poor and vulnerable groups to access justice through among other things education, mediation, assistance in police stations and prisons, and provision of litigation advice for compensation claims.

b. The Village Mediation Programme

While in the informal justice system, PASI's Village Mediation Programme (VMP) provides mediation services to the poor and vulnerable that are otherwise constrained to access justice. The VMP complements both the formal and the informal justice systems by resolving disputes at the early stages before they escalate. Currently PASI has trained about 1,120 community volunteers as village mediators who complement the work of traditional leaders in resolving disputes. The village mediation services also help to reduce caseload in the formal as well as informal justice systems by assisting with the referral of matters from formal to primary justice agencies.

The VMP has built linkages with rural communities and community-based organisations, to spread information about the criminal justice system, and to develop effective referral mechanisms between communities and the justice institutions, particularly as it relates to juveniles, with a view to promoting diversionary and reintegration mechanisms in the community. Some community mediators are illiterate but are able to skilfully mediate and have proven very effective.

Field visit to Salima Paralegal Office

The research team visited the Salima Paralegal Office which reportedly has the best VMP. There are 180 mediators in Salima operating on a voluntary basis chosen by local chiefs based on the identified qualities of a good mediator, namely confidentiality and neutrality. There are 2 mediators assigned to every matter unless it is a human rights matter where the Salima office sets up a special mediation. Paralegals are the first point of contact and their aim is to foster reconciliation between disputing parties. This intervention is very important because there is only one court in the Salima area, which means people have to travel long distances. Police stations are also far and paralegals thus assist by offering mediation services so that disputes can be solved timeously. Paralegals work hand in hand with the police, assessing matters before they appear in court to determine if they can be resolved at a community level. If so, they are reverted for mediation in order to ease the burden on the police and courts. Paralegals also act as

human rights representatives during mediations and offer legal advice when there is a lack of clarity on the way forward. Police must handle all criminal matters, but gradually they are beginning to allow paralegals to offer advice. Most of the matters at a community level are civil matters, which should be resolved by the chiefs. Paralegals are increasingly involved in the resolution of civil matters, freeing up chiefs to focus on developmental issues and adjudication of criminal matters. Paralegals and village mediators focus on reconciliation between disputing parties.

iv. Challenges faced by PASI

Some of the challenges faced by PASI include the fact that there is no prison paralegal policy and implementation framework. The illiteracy levels of inmates, alongside language barriers and poverty are also a hindrance in the full efficiency of the prison paralegal program. Another challenge is the lack of cooperation from other stakeholders such as the police experienced in some cases.

PASI also has funding problems and grapples with ensuring its sustainability outside of donor funds.

v. Input for the African Centre

PASI considers that the most useful role the African Centre is to pull together stakeholders in order to fill the various gaps noted with respect to knowledge production and management. It would provide a space through which different organisations can draw on a consolidated pool of knowledge to enhance their own work. It was also suggested that the Centre would be able to act as a repository for various memoranda on access to justice within countries and across different regions to be able to keep track of the partnerships and alliances being formed and to further track how these may be supported. These agreements would also be archival material for future reference.

The African Centre will give a stronger voice for the legal empowerment network to be able to rely on each other to for continental access to justice. There is power in the collective and that can be galvanised and tapped on through this resource.

The need to align the African Centre's focal areas along emerging issues and issues in which there is collective strength was reiterated. The Centre would, through collation, serve as a source of evidence and persuasion for the support of paralegalism along certain thematic areas at a national regional and international level.

It was highlighted once more that the Centre needs to carefully think through and craft in a signed understanding, how it shall relate to its different composite organisations. It is also important for the African Centre to speak clearly on how different organisations at a national level will relate with each other and how organisations will relate at a regional level. The partnerships need to be carefully agreed upon and expectations managed to ensure that all parties are in agreement before proceeding with the arrangement.

E. South Africa – The Association of Community Advice Offices of South Africa (ACAOSA)

i. Country profile

The apartheid system that was in place in South Africa from 1948 to 1991 is well documented. The system segregated whites from non-whites, forcing the latter to live in separate areas from former and use separate public facilities from them. Non-whites were discriminated against and denied the opportunities that were available to whites. They could not access certain benefits and opportunities. This resulted in, for example, sub-standard education for non-whites, inability to access certain employment opportunities, alongside poor access to basic services such as water, sanitation and housing. Community advice offices emerged during this time to offer services mainly to the disadvantaged members of society.

Despite the formal abolition of apartheid through the repeal of the various segregationist laws and policies over two decades ago, the harmful effects of apartheid continue to linger. Indeed, one's ability to access justice is still determinant on your race due to a combination of historical injustice entrenched in apartheid and its effects that are yet to be effectively redressed. As in other jurisdictions, the most prohibitive factors to the access of justice relate to cost, proximity, language and a general lack of knowledge of the various access to justice options.

The Constitution of the Republic of South Africa is the supreme law of the land and provides in its bill of rights that all are equal before the law and have the right to equal protection and benefit of the law. Discrimination is prohibited on several grounds including race, ethnic or social origin and language.¹⁶ The right to access justice through the courts for any dispute that may be resolved by the application of law is entrenched in section 34 of the Constitution.

Pursuant to the constitutional imperative to provide access to justice through the courts, the Legal Aid Act was passed in 2014. This act provides amongst

¹⁶ Section 9 of the Constitution of the Republic of South Africa Act 108 of 1996.

others that there shall be a public entity to provide legal aid, Legal Aid South Africa, and a Legal Aid Board to govern the administrative affairs of this body. The objects of legal aid are to make available legal aid and services, to provide legal representation to people at the expense of the state and to provide education and information on legal rights and obligations as envisaged in the Constitution and the Act. The Legal Aid Act only makes provisions for legal practitioners to offer free legal services. There are inadequate practitioners to service the needs of the entire population. CAOs through the work of paralegals, help to fill in that gap, as they are more readily accessible to those who require the services most.

ii. The CAO sector

In South Africa, CAOs have a history of assisting and mobilising communities that dates back to the apartheid era. In addition to rights-based information, CAOs educate communities on how and where to access services offered by government departments and agencies. They also form long-term partnerships with governmental departments, social agencies and civil society organisations. CAOs support clients with issues ranging from social grant access, civil matters, labour disputes and land entitlements, among others. They are commonly seen as primary-level entities for marginalised, rural communities. The governance structure is that each CAO is a registered non-profit organization.

The country has experienced several waves of community-based paralegalism. The sector has been enhanced and strengthened through the support and involvement of the National Alliance for the Development of Community Advice Offices (NADCAO). This organisation was formed in 2005 by an alliance of human rights organisations in response to a weakened CAO sector in South Africa. One of NADCAO's priorities was to implement a sector development model that would ensure the sustainability of an effective and unified advice office sector in the country. NADCAO worked with approximately 320 CAOs in all 9 provinces throughout South Africa, each of which had representative structures that created partnerships with relevant stakeholders for provincial funding. NADCAO has since helped with the creation of the Association of Community Advice Offices of South Africa (ACAOSA), a member organization for CAOs in the country.

Presently, there is a draft Paralegal Bill that recognises paralegalism. It establishes a Paralegal Council for community-based CAOs. The Bill seeks is more focused on entrenching the recognition of paralegals than aiming at their regulation.

iii. Organizational profile for ACAOSA

ACAOSA was established in 2008 after it was noted by various stakeholders that there was an absence of a representative national voice and regulatory structure for CAOs in South Africa. Unifying the community advice offices sector through leadership and committees, ACAOSA envisions a society where the human rights of the indigent are promoted, protected and fulfilled. The organization acts as the national representative voice of the CAO sector and ensures the provision of appropriate recognition and regulation of the CAO sector. There are over 300 CAOs across South Africa that are members of ACAOSA.

Among other things, ACAOSA seeks to ensure that CAOs are duly recognized and appropriately regulated to ensure that they provide quality legal, alternative dispute resolution and educational services. To this end, ACAOSA is in the process of developing a regulatory framework and national uniform standards for CAOs in the country. Among other things, ACAOSA also coordinates the activities of CAOs, mobilises funds, collaborates partnerships, and reinforces the capacity of partners in the CAO sector. ACAOSA also provides a space for discussion where organisations can learn from each other and collaborate over initiatives that will both strengthen the capacity of members and facilitate advocacy on issues related to legal service provision

In the South African context, it is necessary to distinguish the role of ACAOSA from that of NADCAO. As noted above, ACAOSA is a membership organisation that provides a unified voice representing CAOs in South Africa. NADCAO, on the other hand, is a facilitating agent concerned with the development and long-term sustainability of the entire sector in the country. It has been instrumental in the establishment and consolidation of ACAOSA, by for instance conducting engagements and consultative meetings with various stakeholders in a bid to garner support for and enhance understanding of the role of CAOs in the country.¹⁷

iv. Field visits to CAOs

The research team held three focus group discussions in three provinces of South Africa to obtain the input of community advice offices into the African Centre. These focus groups were held in Bloemfontein in the Free State, in Johannesburg in Gauteng, and in Cape Town in the Western Cape. The field visit team developed a question guide (see Annex 1) to standardise questions between groups and to facilitate robust discussions.

a. Free State Province

¹⁷ For more information on NADCAO, see www.nadcao.org.za.

Background and work of the CAOs represented

Fifteen CAOs attended the focus group in Bloemfontein. CAOs in the Free State provide wide range of legal support services dealing with issues relating to domestic violence, employment (termination of employment for casual workers in retail shops/supermarkets), housing and forced evictions, social security, refugees and asylum seekers, wills and estate. The CAOs have existed for different number of years ranging from 20 years to six months. Most of the CAOs operate from local communities in rural or semi urban areas and the staff strength range from 2 to about 15. Some of the CAOs have full time paralegals while others rely greatly on the use of volunteers. One common challenge to all the CAOs has to do with a lack of resources. While some claim to receive funding from some government departments others rely on money from donors. Most CAOs collaborate with government departments/institutions including Chapter 9 institutions and the South African Police Service, non-governmental organisations, private actors and community members.

Most CAOs know of NADCAO only through the capacity training and other technical assistance provided to them, for example through the Dullah Omar School for Paralegalism organised by NADCAO.

Input for African Centre

Most of the CAOs present at the focus group believed the proposed African Centre would add value to their work, whether as a hub of ideas where South African CAOs will be able to learn from African colleagues, or as a training ground for paralegals and staff members of CAOs, or as providing valuable research and technical assistance to CAOs. Some of the participants expressed the view that the African Centre can offer accredited courses for paralegals or on administration. Many of them felt that an opportunity for learning exchanges with colleagues from other parts of Africa would facilitate a cross-fertilisation of ideas that could enrich their work. Most of the CAOs present engage to some extent in advocacy around policy reforms, some at the community level and others at the provincial and national levels. Some participants stated that due to their lack of knowledge or expertise, they are sometimes unable to provide informed suggestions and recommendations on policies and legislation. This would provide the proposed African Centre an excellent opportunity to build the capacity of CAO staff to engage on specific advocacy initiatives.

b. Gauteng Province

Background and work of the CAOs represented

Seventeen CAOs attended the focus group in Johannesburg. Some of the offices represented have existed from as early as 1977 while others were established in the 1990s. The role of the CAOs has shifted over the years in that previously while they assisted with abused employees, they were mostly hubs of political activism, working largely within churches and providing help political activists. Their role is now more community oriented and responsive to government structures and political shifts.

The CAOs represented offer a range of services ranging from free legal advice, mediation, referral of cases to other NGOs, legal empowerment, and access to justice issues. The issues they handle include those relating to racism, xenophobia, constitutional rights, evictions and other land issues, housing, maintenance of children, neighbour disputes, labour disputes, property grabbing and restoration, fraud cases, robberies, counselling including that of parolees and ex-offenders, counselling of offenders in prisons, offender and victim mediation, marital/family disputes, disputes in social clubs/societies. However, about 90% of the work of CAOs involves giving legal advice because other activities require funding.

The CAOs also engage in community mobilisation around issues affecting the communities. In some cases, they work with councillors and attend community meetings to address specific needs of the community. These meetings at times inform the topics which can be addressed in workshops. However, due to funding problems, CAOs often rely on other stakeholders in calling for workshops and identifying topics to tackle. The CAOs are also involved in advocacy work relating to issues such as human rights, pensions, compensation, and asylum seeker rights. This work also involves participation in the development of legislation such as the Legal Practice Bill. The CAOs work in partnership with other institutions or organisations such as Chapter 9 institutions, the law society, the Legal Resources Centre, Lawyers for Human Rights, and the Judicial Inspectorate.

The Gauteng CAOs view their relationships with NADCAO and ACAOSA as one of information sharing and providing a standard of uniformity of operations. Additionally, the latter organisations assist CAOs with advocacy, training and non-financial resources, as well as troubleshooting specific problems.

Similar to the Free State, the CAOs do not have permanent staff and instead rely on volunteers particularly in rural areas. Preferred volunteers are youths

who have just finished matric and are at home. However, they often leave after they have been trained to find remunerative work.

Challenges faced

The CAOs face many challenges, most of which stem from financial constraints. Government funding comes with conditions, and often community needs differ from those that are set by the government. The Foundation for Human Rights is quite selective on which CAOs they fund. Management committees are not very helpful, as they are not engaged in raising funds for the CAOs. CAOs also do not enjoy offices that are fully functional with phones, stationery, or computers. They find it difficult to sustain their offices, as they are unable to pay rent and retain staff or volunteers. Though many staff have been trained in case management tools, they end up using physical files because of the shortage of computers/resources. Another challenge is the lack of proper training / certification / accreditation for paralegals. Most officers just acquire experience on the job. It was the view of members present that the lack of accreditation leads to them often being undermined in their work and relations with other stakeholders. They are also unable to monitor CCMA hearings.

Input for the African Centre

The CAOs present were all of the view that the proposed African Centre would be relevant, particularly to offer training and financial support to CAOs. Participants felt the Centre must be independent, apolitical, and aligned with ACAOSA. ACAOSA must have equal representation in the African Centre and must have a say in its funding and monitoring. The African Centre could provide training on various aspects such as leadership skills, managerial skills, outreach programmes, research, governance, conveyancing and diversity courses. It should also engage in research and address economic policies that are creating problems in Africa. CAOs also would value the opportunity to create regional partnerships to learn about how other African colleagues have confronted similar challenges.

There was a debate about the source of funding the African Centre. Some felt funding should be secured through donors with no conditions attached, others felt that the governments of participating countries should provide the funds. A suggestion was also made that the African Centre could raise funds through the sale of African products. Finally, some felt a mix of donor/state funding was optimal. None of the CAOs supported having the African Centre operate as a membership organisation where CAOs would be expected to pay subscription fees. They felt this would create an image of the African Centre as a commercial institution and aggravate existing financial

constraints. It was suggested, however, that ACAOSA be required to pay subscription fees on behalf of the CAOs.

c. Western Cape Province

Background and work of the CAOs represented

5 CAOs attended the focus group discussion in Cape Town. These CAOs have been around from as long ago as 1982 to being more recently established in 2007. Most CAO staff, as in the other provinces, are long-time volunteers and some work from home. Only two youth were present, both having been recently recruited into the CAO sector. Collectively, these CAOs handle a range of matters, ranging from social assistance grants, debt, housing, water supplies, child support, disability, obtaining proof of addresses, to maintenance and wills and divorces. Many CAOs go beyond the provision of legal advice and providing referrals, however. For example, they have made submissions, run community campaigns around the provision of water and electricity, facilitated the availability of bursaries, supported local football teams, established community food projects and contributed to the creation of crèche and 24-hour community health services. Some have also been involved with the creation of a community police forum and a lay assessor's office. Many CAOs also partner with advocates to organise legal education workshops. Other partnerships exist with civil society, municipalities, and academic institutions.

Challenges faced

CAOs spoke quite candidly about their relationships with ACAOSA and NADCAO. Many stated that they have not yet seen the value of having these organisations as partners, and often are confused about the distinction between them. They felt that communication was not forthcoming from ACAOSA about report backs from workshops, and having to work through elected structures stifled the voices of individual CAOs. Without set standards regarding who could participate in these structures, often representatives were selected who do not enjoy a community mandate. CAOs expressed a frustration in obtaining support from these structures to access funding. Where some CAOs felt these organisations have been most useful is in obtaining government recognition, receiving skills training, networking, learning best practices, undertaking research and developing case studies. Yet, there were several critiques of existing training programmes like the Dullah Omar School because of its focus on recruiting youth for paralegal training. In the experience of many CAOs, youth are

simply not interested in becoming paralegals; indeed, many of them assist youth in their communities in securing government positions.

Most CAOs, though having received training in case management skills, are not able to use the systems due to a lack of resources/computers. Sometimes CAOs are not even able to record all cases they handle, and as a result, short sell the office and its impact in the community. It should be noted that while many have expressed the sentiment of the need to regulate paralegals, there are concerns that overregulation may stifle the paralegal movement. Nonetheless pressures have continued to mount for regulation of this sector due to the nefarious and unscrupulous activities of some legal providers. Indeed, NADCAO another partners are currently involved in a draft bill where it is proposed that lawyers and paralegals will form part of the same value chain of justice.

Input for African Centre

CAOs felt that ACAOSA and NADCAO would have to properly consult them to obtain specific input into the establishment of the African Centre, with information about its aims and objectives and sources of funding. They nevertheless felt that such an African Centre could be a valuable resource if responsive to the needs of the CAOs and staffed, at least in part, with community members and perhaps tethered to a university research institution. The African Centre should be autonomous, and not bound by the provincial structures of ACAOSA. In other words, individual CAOs should be able to directly access the resources of the African Centre. However, ACAOSA will retain its status as a founding member of the Africa Centre and remain a distinct partner because of its structure as a membership organisation.

On the regulation front, it was recognised that while recognition of paralegals is a must to keep unscrupulous legal providers in check, overregulation is likely to stifle the paralegal movement. This sentiment is also shared by the South African government. ACAOSA and NADCAO have a drafted a paralegal bill in which paralegals and lawyers form part of the same value chain of justice. And which propose regulation in various forms including through a paralegal council and internal regulations.

The African Centre should investigate and partner with regional African structures and processes to find new avenues of support for access to justice and paralegals, and should incorporate regional legal instruments into national legal submissions. CAOs also felt that the African Centre could train diversity experts to provide input into a range of cultural practices that should influence the interpretation of national laws in favour of communities. In addition to undertaking research on important issues routinely faced by

community paralegals, the African Centre should also be involved in the reform of national laws. It should investigate best practices of how to structure relationships between CAOs and traditional leaders. The African Centre should also examine models for training judges and magistrates to be more effective. In respect of recruitment, the African Centre could investigate how to make community advice offices more dynamic so as to appeal to youth and offer youth development programmes. The African Centre could also create and maintain a database by country of relevant laws and research, as well as a network of CAOs and important contact people, that is directly accessible by CAOs. Some CAOs also felt quite strongly that the African Centre needs to capacitate CAOs to make legislative submissions and create platforms for CAOs to attend and present at parliamentary hearings on their own behalf.

IV. Analysis of the findings

A. Barriers to access justice

Some of the noted barriers to the access to justice from the country visits above include:

- Low advocate/lawyer to population ratio, including the urban bias and a disproportionate lack of lawyers in rural areas in general.
- Prohibitive legal costs related to representation fees and transportation costs.
- Language barriers and restrictive court processes.

In light of the challenges above, the work of paralegals and access to justice through legal empowerment becomes even more imperative. The country visits highlighted the ways in which paralegal organisations have stepped in to fill certain gaps in the justice system and ensure greater access in those contexts. Some of the noted interventions include:

- Diversion of certain matters from the justice system through successful mediation
- Provision of legal advice to prisoners and those in detention
- Follow-up of back log in cases to ensure that matters are cleared off the court register
- Training and advocacy on human rights at a community level.

Despite the good work being carried out by organisations across the continent, there are still some areas of concern that can be noted across the region, including:

- There is no unifying African voice speaking on legal empowerment and access to justice. The loudest voices on these issues do not originate on the Continent and are not always intimately familiar with the various nuances and peculiarities of the challenges in accessing justice in Africa.
- The role of the paralegal is not entirely clear and there is still some resistance faced at national and local levels, especially from legal practitioners who feel that paralegals are usurping their functions.
- Funding remains a challenge as most legal empowerment and access to justice work remains donor funded despite the fact that the work being undertaken is a government function. When does government step in and support organisations that are assisting it to function better?
- Documentation of the beneficial interventions made by community paralegals is lacking, which has the effect of not being able to generate an evidence base from which to assess impact and attract further funding.

B. Input on the African Centre

The African Centre has been put forward as a specific intervention in response to some of the challenges facing the access to justice and legal empowerment movement in Africa as highlighted above. The rationale for the adoption of such an initiative from the various field visit discussions include:

- a) To promote the longevity and sustainability of the access to justice and legal empowerment movement

The importance of the work being undertaken across the continent is clear, however there is a need to consider the ways in which it can be sustained for the longer term in the face of funding challenges. The African Centre is thus proposed as a repository for the various initiatives that are being undertaken across the Continent. This is important for organisations to be able to learn from each other's successes and mistakes to allow them to be able to reflect and consider how they can improve their own operations to ensure that they are efficient and relevant. In the second instance therefore the African Centre will serve as a networking and learning platform, promoting learning exchanges and serving as a space to bring colleagues together.

Beyond the individual organisations, the African Centre is also necessary at a regional level to allow the development of a regional voice on access to justice and legal empowerment. The development of a movement comprised

of a region wide contingent of access to justice activists and practitioners is a necessity to push the movement forward. The African Centre should be the first place people think about when tackling issues related to legal empowerment and access to justice in Africa. The African Centre should identify strategic policy interventions that it can undertake with a unified regional voice to promote the cause of access to justice and legal empowerment.

Despite the justifications for the African Centre, there is a need for the composite organisations to be able to make use of their own resources and capabilities and not rely solely on the African Centre. The idea is not to take over certain functions of the composite organisations, which must remain autonomous bodies that contribute to a larger movement. The idea is to offer support as the various member organisations plan their long-term efforts in a sustainable manner.

b) The production and management of knowledge

At the moment there is no ownership of the discourse emerging out of Africa on access to justice and legal empowerment. There is a wealth of information that is currently being produced at a local level that does not get to be disseminated beyond that point. This has resulted in Africa's challenges and solutions being highlighted and debated by organisations that have little nuanced understanding of the various contexts in which these various initiatives operate. The African Centre should aim to elevate paralegalism in Africa, in the context of Africa, from the mouths and experiences of Africa.

The African Centre needs to provide a space for dialogue, criticism and contestation with the view of developing a new kind of jurisprudence that speaks to Africans and the particularity of their problems. It is time to base the discussions around access to justice on our own African experiences. Rwanda is ready for this, and started these difficult discussions after the genocide. South Africa relies heavily on notions of Ubuntu and perhaps the African Centre is the space to facilitate the development of different notions of access to justice at a community level.

It is about shifting discourse and not conforming to a set global standard, which does not take into account the nuances within the African continent. "It would be nice to have an African based centre that collects and gathers all the knowledge in an African way and that realises diversity in culture."¹⁸ The African Centre would need to be something that is localised and

¹⁸ Kituo Cha Sheria Partner Meeting Discussant, Group discussion held 15 July 2016, Nairobi Kenya.

addresses our issues. It needs to be something of and by the various composite regions and organisations. It is time we spoke on our own terms, and the African Centre provides a space to allow this to happen. It would serve as a space to share stories, case studies, and co-ordinate people to sit and share experiences and learn from each other and see how as Africans we can address our challenges.

A huge amount of knowledge has been produced and accumulated over the years. The African Centre should serve as a repository for the different projects that have been undertaken over the years, including the project being run by the Dullah Omar School within the University of the Western Cape to bring more young people into the sector.

The African Centre would also be beneficial in monitoring the work that is being done on access to justice and legal empowerment. This is to avoid duplication of efforts. It is important to remember that the contribution of the African Centre is to bring people together to share information and disseminate available knowledge, not to take on projects that have already been undertaken by organisations within the network.

c) Formalisation and clarification of the role of paralegals in the justice system

It is very important that paralegals and associated services receive some clarity in law. There are some jurisdictions such as Rwanda that have already defined what this means within its context and others that do not even recognize paralegalism as a form of legal practice. It is important to have this clarity for a number of reasons. Defining of roles will in the first instance put those in legal practice at ease by clearly highlighting the complementarity and uniqueness of paralegal services.

Sierra Leone, for example, has in its Constitution, section 28(5) a provision for financial assistance to indigent citizens for access to legal representation. However, as with most other governments they are still not at the point where they make funds available for such services. These discussions are still very much linked to the “formal” legal profession and refuse to fully acknowledge other forms of legal representation in the profession, such as paralegals.

It is imperative that in the first instance, paralegals and their mandate should be clearly defined in law to legitimize the services provided. In this respect, there is a need to demystify the ideal of legal empowerment and access to justice.

The envisioned role of the African Centre in this respect is to build a presentation of the collective importance of paralegal work across the continent based on a rigorous evidence base. The evidence would then speak for itself and host organisations would through their networks be able to highlight in a tangible manner the importance of paralegal work at a regional and national level.

d) Alternative dispute resolution

Another thematic focus of the African Centre would be in the further development of alternative dispute resolution mechanisms to divert certain matters from the formal justice system.

From the information above, paralegalism is an effective diversion mechanism within the context of formal justice procedures and at a community level. It offers an alternative means of resolving disputes away from expensive and protracted court cases. It ensures the saving of time and money and should perhaps be the first port of call before courts. In Sierra Leone, for example, commercial courts resort to mediation or arbitration of a matter before it comes to court. The arbiter is the judge who sees how he can intervene before invoking more formal justice processes. The South African model of a court-annexed mediation is something that should be explored for replication in other jurisdictions.

The anecdotes from the various country visits indicate clearly that paralegals are able to bring parties together to resolve disputes at a community level, diverting several matters from the formal justice systems. Paralegals are also useful in human rights advocacy and for ensuring that the accused know their rights. Their collaborations with correctional and police Services have for example ensured that charges are correct and that accused are aware of the charges they are responding to saving more time and money.

It seems increasingly that countries are beginning to recognise the value of diversion and the exploration of alternative means of dispute resolution. It is accepted that not all matters need end up in court. This offers a unique space for potential future work of the African Centre contributing to the knowledge production around how to further develop alternative dispute resolution mechanisms. Once again the role of the African Centre in this respect would be to collect the relevant data in one repository.

e) Foster community ownership and accountability

The importance of community ownership and accountability emerged as an important facet of the Centre. "Everything starts and ends in the

community”¹⁹ At an operational level, the African Centre must foster community ownership and accountability. An interesting intervention from Timap is the community ownership of the paralegal services offered. Timap has a community oversight board composed of one representative from the youth, women, representative of paramount chief and a secretary who is literate and can record the discussions. The communities decide collectively Timap’s focus on the ground and relay this through the board. There is community ownership of all processes and roles are publicly debated and explained.

It is important to ensure that chiefs and other local authorities are involved from the very beginning. Timap initially dealt with community level problems that were beyond the scope of individual members in the community. The buy-in of the chiefs gave the process legitimacy and allowed Timap to make its role clear before moving forward with the work. It is a slow and tedious process building the necessary relationships to ensure that the work done by paralegals is accepted and recognised by the community. There needs to be a deeper conversation within communities to offer support for volunteers working as paralegals in their communities.

In this respect, the Centre through its exposition of various ways in which communities are galvanising to discuss topical human and legal issues, or meeting to resolve disputes collectively and amicably with justice and fairness at the core of all discussions would cause a shift in focus and the realisation that access to justice must operate at a community level. In thinking about its programmes and interventions the African Centre must endeavour to remember that everything starts and ends at the community as that is the level at which legal empowerment is aimed.

V. Recommendations

The following recommendations operate on a dual level. In the first instance, there are recommendations that are relevant to specific organisations given the challenges noted from their presentations. The second set of recommendations are aimed at the larger regional sphere, with respect to discussions around the envisioned role and form of the African Centre:

A. Recommendations to host organisations

- a) There is a need to look at the frequency of and curriculum for trainings provided for prison paralegal programmes to keep up with changes in law. It is also necessary to look at recruitment processes of paralegals, particularly for those run by inmates and

¹⁹ Organization dialogue, Kituo Cha Sheria, Nairobi, Kenya

to look at funding models in order to sustain these programmes outside of donor funds. Post-prison integration and follow-up is also important.

- b) Pro-bono work and legal aid is important for ensuring a greater reach. Legal empowerment programmes should consider engagement with law firms directly to offer services, or law society or judiciary and academic institutions/law clinics (spread the burden rather than one organisation being the “saviour”). The capacity of paralegals should be developed away from host organisations. Formalised apprenticeships should be considered.
- c) Organisations should engage with government departments directly. Access to funding and other forms of support are merely a matter of understanding how to manoeuvre the power relations in order to access the requisite services.
- d) The relationship with the judiciary is an asset that has not been capitalised on and should be further explored moving forward in all the host countries.

B. Recommendations for the proposed African Centre for Legal excellence

- a) There should be a more targeted and sustained engagement with academia and academics.
- b) The focus of the African Centre should be on community-based awareness and dissemination of information at that level and should focus its thematic areas on emerging and shared issues, such as extractive industries. This ensures that it is visible, relevant and also able to attract donor funding that is hinged on the issue of popularity at that moment.
- c) The African Centre, through its various affiliates, should move to apply for observer status for correctional services institutions at national, regional and international level. There is a need to think about the structure of the African Centre and how the different host organisations will fit in terms of legal incorporation and registration. Will they form a core component of the internal structures or will they merely sign memorandums of understanding with the Centre? The challenges of transnational registration must be carefully and thoroughly manoeuvred.
- d) There is also a need to carefully assess and highlight what each unique experience each partner brings to the partnership. The efficacy of the proposed centre may be strengthened through its reliance on the specific strengths of its composite members.
- e) As proposals for the structure, function and operation of the African Centre is underway, community scholars, such as those

recruited by the Centre for Civil Society in Kwa Zulu Natal in South Africa, should be invited to provide input. These are the stalwarts in the CAO sector who may be guided in writing case studies about their experiences to the benefit of the proposed Centre.

- f) It is also important to identify prospective facilitators and put them through training. It is important for the proposed Centre to develop cadreship or leadership within the access to justice field.
- g) The proposed Centre also needs to offer scholarships to research fellows and facilitate learning exchanges.
- h) It is important to highlight that the centre will not be an alternative source of funding but merely a space through which ideas can be shared, skills developed and support offered to grow the movement of access to justice through paralegalism.

VI. Conclusion

It is evident from all the information provided above that the work that community advice offices and paralegals are involved in is of the utmost importance in bringing justice to those who are otherwise not able to access these services. In all countries visited, formal legal assistance is difficult to access simply because the costs are prohibitive. This means that a large section of the population remains unserved and is thus not able to realise justice for the various violations of their rights.

The proposed African Centre is seen across the board as a welcome initiative, primarily because it is viewed as a potential space for African communities to share on their own terms their definitions and experiences of access to justice and legal empowerment. It is hoped that the African Centre can serve as a nexus around which different regions can come together and dialogue on how to push the access to justice agenda forward. Beyond offering a space for networking and dialogue, the African Centre is envisioned as a repository of the vast experiences of accessing justice in Africa. This includes the archiving of successes and the failures, emerging best practices, challenges faced that there may be a body of knowledge that is uniquely African in character. It is hoped that through the African Centre, the access to justice movement, will be able to speak authoritatively with a unified voice and establish itself as the leading source of information and expertise on the role of community advice offices in Africa. The value of speaking as a unified force has been exemplified in various contexts around the world, and through the African Centre, a regional force can be galvanised to speak on policy issues of a legislative, regulatory and financial character.

ANNEX A

NADCAO Feasibility Study:

Proposed African Centre of Excellence for Leadership Development

SA Community Advice Offices

Focus Group Question Guide

September 2016

Three focus groups will be convened with nine community advice offices in South Africa to invite perspectives from Gauteng, the Free State and the Western Cape into establishing a proposed African Centre of Excellence for Leadership Development. This guide is meant to assist the interviewers / facilitators with probing questions that will stimulate participants to provide information critical to a thorough appraisal of the proposed Centre.

The questions below are intended to solicit important perspectives into the following issues:

- A. the relevance of the proposed Centre
- B. the feasibility and potential of the proposed Centre
- C. the sustainability of the proposed Centre
- D. the operational aspects of the proposed Centre (i.e. detailed project activities)

All focus group participants should be handed an informed consent form before the focus group commences. Interviewers should review the forms with the participants, answer any questions or concerns of any participants, and collect properly executed forms. The focus group can then proceed with those participants who have signed the forms.

Question Guide

General

1. Tell us about the work of the community advice office (CAO) in which you work. What kind of cases / matters do you routinely handle? What other types of activities do you engage in at this office?
2. What types of partnerships does your CAO enter into and with which institutions/organisations?

3. What is the staff complement at your CAO? Are paralegals employed or volunteer, and are there other staff/volunteers? How long and in what capacity have you been employed / work there?
4. Have the paralegals been formally certified to offer paralegal services, and if so, with whom did they obtain their qualifications?
5. How long has your CAO been serving the community? Has its role in the community shifted over time, and if so, how?
6. How often do you engage with / rely upon the services of ACAOSA and NADCAO? And for which services / tasks?
7. What have been the chief challenges in your work? Are there operational gaps in your CAO that ACAOSA and NADCAO have not been able to address?

Relevance of Centre

8. Do you support the establishment of the proposed Centre? Why/why not? Would it add value given that in South Africa there is already ACAOSA and NADCAO representing and supporting, respectively, the work of CAOs?
9. Where do you believe the Centre should physically be located to be most effective?
10. What value added would this Centre provide to your work? (For example, would the Centre provide additional space / research capacity / monetary assistance / networking opportunities / advocacy / training / governance / organising / other – please probe here.)
11. Does your community advice office work on advocacy-related projects? For example, has it provided input into the draft legislation regulating paralegals? Is it aware of Sustainable Development Goal 16 and its relationship to community-based paralegal programmes?

Feasibility and potential of Centre

12. What nine best practices do you take away from working with community paralegals?
13. Can you identify any individual narratives of success in your work? In other words, can you tell us about individual stories that illustrate how the CAO in your community succeeded as an invaluable resource in someone's life, or in the life of the community?
14. How useful would it be to cultivate regional exchanges between paralegal programmes? Would your CAO be interested in such opportunities?

Sustainability of Centre

15. If you believe the Centre would be a useful resource to establish, how would you propose it be funded? Do you think it should operate as a membership organisation, with participating organisations – like your CAO – paying modest annual dues? Do you think it should be entirely externally funded through donors / governments?
16. Do you think the Centre should stand alone, or be affiliated to a university or a research centre?

Operational aspects of Centre

17. What case management tools do you use? Have you received adequate training in these tools? Would having a regional centre with resources dedicated to providing on-going training be useful to your CAO?
18. Do you run workshops in the community on various legal issues that are relevant for the community? If so, where do you source the educational materials you use to prepare for these workshops? Do you receive any/adequate training on facilitation of workshops?
19. Do you help to mobilise your community around specific issues? Do you feel you have received adequate training in mobilisation?
20. What percentage of your CAO's matters involves advice giving? Do you have adequately trained to provide legal advice?
21. What are your recruitment practices, particularly amongst young people in the community, for the CAO?
22. Where do you derive funding to support your community advice office? What funding models do you use in the community? Would it be helpful to have a database of other funding models used throughout Africa?
23. How do you regulate the professional standards used by the paralegals at your community advice office? Would it be helpful to have a database of other professional codes of conduct used elsewhere?
24. Are there community accountability mechanisms in place for your CAO? Would it be helpful to learn about practices elsewhere on the Continent for how to keep community paralegals accountable to communities?