
CHALLENGES AND OPPORTUNITIES FOR COMMUNITY PARALEGALS:

An Analysis of Legal Recognition, State Regulation and Financing in Kenya and Zambia

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For Community Paralegals:
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State Regulation and Financing
in Kenya and Zambia**

Abridged Version

*A Study Commissioned by Kituo cha Sheria-Legal Advice Centre
in partnership with the African Centre of Excellence for Access
to Justice, Paralegal Alliance Network Zambia, Grassroots Justice
Network and through the generous support of the
International Development Research Centre.*

Acknowledgements

Having worked with community-based paralegals for over fifty years, Kituo cha Sheria- Legal Advice Centre commissioned this research project to address the challenges arising from legal recognition and financing. In collaboration with practitioners and colleagues from the African Centre of Excellence for Access to Justice and the Grassroots Justice Network, the research questions were formulated. A participatory approach was adopted throughout the research project. We wish to specifically acknowledge the following organizations and individuals for contributing towards the development of this research report.

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The Task Force on Justice Report (2019) noted that more than 5.1 billion people worldwide lacked meaningful access to justice. Legal practitioners alone cannot meet the high demand for justice services. Community paralegals continue to play a critical role in narrowing the justice gap for communities in Africa. Community paralegals are closer to the people. They serve the community that they live in. They are first responders to justice challenges affecting the most vulnerable and indigent communities at grassroots levels. As such, community-based paralegals are essential within the access to justice chain working closely with lawyers, legal empowerment organizations, associations, police, local administration, courts and other actors within the justice system.

The term “community paralegal” refers to a person who has basic legal knowledge which is applied to provide justice support services, monitor human rights violations, organize and mobilize for social change and law reform for and within local communities. In different contexts, community-based paralegals are referred to as “parajuristes communautaire”, human rights defenders, village mediators, community-based paralegals, frontline defenders, grassroots justice advocates, barefoot lawyers, community advocates among other terminologies.

The present research was commissioned by Kituo cha Sheria - Legal Advice Centre to address the emerging concerns facing the paralegal movement in Africa including legal recognition which leads to state regulation of paralegal practice, financial sustainability of paralegalism and learning and capacity building of the movement. As a Founding member of the African Centre of Excellence for Access to Justice and Regional Anchor for East and Horn of Africa for the Grassroots Justice Network, we heard and shared experiences and lessons with colleagues and community paralegals in Africa on systemic barriers that limited the impact, legitimacy and sustainability of paralegal programmes in Africa. While these emerging challenges were well known, the solutions remained unclear. Also, the journey towards reaching a shared understanding on key fundamentals such as the model of financing of paralegal programmes was long and winding. For instance, on sustainability we still have unanswered questions as to whether community paralegals should receive state financing, or whether local communities had agency and power to mobilise their own resources for legal empowerment and finally if financing models should include stipends for individual paralegals or grants for paralegal organisations.

Due to the nature of these emerging concerns, a participatory action research methodology was adopted that involved practitioners, community paralegals, respondents and key informants in the design, development of the research tools, data collection and analysis, validation of findings and finally report writing. Community paralegals were involved at all stages of the research project in both Kenya and Zambia. The lead consultant was himself a community paralegal actively involved in grassroots advocacy. The study aimed at collating the views of community paralegals themselves on these pertinent issues. These two countries were selected due to the steps they have taken to establish legal and policy frameworks and programmes governing paralegal practice and legal empowerment programmes. Further, both countries have rich empirical data on the impact of the interaction between these legal and policy frameworks and the paralegal practice that has had both positive and negative effects on community paralegals. We believe the findings, best practices and recommendations arising from the experiences of Zambia and Kenya, documented in this report, will inform other contexts within Africa for a stronger, sustainable and more impactful grassroots justice movement.

Dr. Annette Mbogoh
Executive Director
Kituo cha Sheria - Legal Advice Centre
Kenya

List of Statutes

International Instruments

Universal Declaration on Human Rights, 1948
International Covenant on Civil and Political Rights, 1966
International Covenant on Economic, Social Cultural rights, 1966
Convention on the Rights of Persons with Disabilities (CRPPD), 2006
United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, 2012
United Nations Sustainable Development Goals, 2015

Regional Instruments

African Charter on Human and Peoples Rights, 1981
African Union Agenda 2063, 2015
The Lilongwe [Malawi] Declaration on Accessing Legal Aid in the Criminal Justice System in Africa, 2004
The Resolution on the Right to a Fair Trial and Legal Assistance in Africa (the Dakar Declaration and Recommendations), 1999
The Right to a Fair Trial and Legal Assistance in Africa, 2003

Kenyan Laws

The Constitution of Kenya, 2010
Advocates Act No. 18 of 1989
Legal Aid Act, 2016
Children Act, 2022
Persons Deprived of Liberty Act, No. 23 of 2014
Persons with Disability Act, No. 14 of 2003
Small Claims Courts Act No. 2 of 2016

Zambian Laws

Legal Aid Act No. 1 of 2021
National Legal Aid Policy, 2018
TEVETA Act No. 13 of 1998
The Constitution of Zambia (Amendment) Act No. 2 of 2016
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Abbreviations and Acronyms

ACC	Assistant County Commissioner
ACHPR	African Charter on Human and People’s Rights.
ADR	Alternative Dispute Resolution
AJS	Alternative Justice Systems
AJSFP	Alternative Justice Systems Framework Policy 2020
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
COVAW	Coalition on Violence against Women
CLAN	Children’s Legal Action Network.
CLE	Council for Legal Education
CLEAR	Christian Legal Education Aid and Research
CJPC	Catholic Justice and Peace Commission
CREAW	Centre for Rights Education and Awareness
CSOs	Civil Society Organizations
DCC	Deputy County Commissioner
DNLAAP	Draft National Legal Aid and Awareness Policy-2015
ERS	Economic Recovery Strategy for Wealth and Employment Creation
FGD	Focus Group Discussion
FIDA-(K)	Federation of Women Lawyers-Kenya
GJLOS	Government Justice Law and Order Sector
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ-K	International Commission of Jurists -Kenya Chapter
IDLO	International Development Law Organization
IFWL	International Federation of Women Lawyers
IDRC	International Development Research Centre
JLAC	Justice and Legal Affairs Committee
KCPA	Kenya Community of Paralegal Association
KHRC	Kenya Human Rights Commission
KITUO	Kituo cha Sheria – Legal Advice Centre
KNCHR	Kenya National Commission on Human Rights
LAB	Legal Aid Board

LASP	Legal Aid Service Provider
LAZ	Law Association of Zambia
LRF	Legal Resources Foundation
LSK	Law Society of Kenya
MOCS	Mainstream Options Consulting Synergies
MOJNCCA	Ministry of Justice, National Cohesion and Constitutional Affairs
NALEAP	National Legal Aid and Awareness Programme
NAP	National Action Plan
NLAAP	National Legal Aid and Awareness Policy
NLAS	National Legal Aid Service
NASCI-AJS	National Steering Committee on Implementation of the Alternative Justice System Policy
ODPP	Office of the Director of Public Prosecutions
PAN	Paralegal Alliance Network
PSK	Paralegal Society of Kenya (Formerly PASUNE)
PRSP	Poverty Reduction Strategy Paper
PLEAD	Programme for Legal Empowerment and Aid Delivery
PLEED	Programme for Legal Empowerment and Enhanced Justice Delivery
SDG	Sustainable Development Goal
TEVETA	Technical Education, Vocational and Entrepreneurship Training Authority
ToR	Terms of Reference
UDHR	Universal Declaration of Human Rights
UN	United Nations

Executive Summary

Kenya and Zambia have enacted the Legal Aid Act to enhance the provision of legal aid by the state to vulnerable groups. The implementation of these Acts varies, offering lessons for practitioners globally. However, the role of paralegals in providing legal aid remains a challenge not only in these two countries but across Africa. Issues around the training, formalisation, recognition, and financing of paralegals are highlighted as critical areas needing attention. This comparative study evaluates these aspects in Kenya and Zambia to document best practices and disseminate them for broader application.

The demand for legal aid and awareness services is overwhelming, stretching the capacities of NGOs to their limits. While these initiatives have seen some success, their efforts are often uncoordinated and insufficient to address the problem at a macro policy level. The lack of standardisation, supervision, regulation, and spatial limitations compromises the quality and frequency of legal aid and awareness provided.

The study aims to enhance learning on legal empowerment and aid in developing policy briefs and outcome documents for use by KITUO, regional partners like the African Centre for Excellence for Access to Justice, IDRC, and the Grassroots Justice Network, as well as policymakers and decision-makers. The goal is to increase learning and sharing of experiences among state and non-state actors using the paralegal approach to legal empowerment in East and Southern Africa.

Key findings include:

- 1. Integration of Paralegals:** In Kenya and Zambia, community-based paralegals are integrated into community-level organising or institutional operations.
- 2. Training Discrepancies:** In Kenya, ideal training duration is six months with 24 modules prescribed by CLE. However, most paralegals receive only one week of training, despite a curriculum requiring 28 days. In Zambia, the Technical Education Vocational and Entrepreneurial Training Authority (TEVETA) approves the curriculum but lacks capacity to ensure quality.
- 3. Formalisation Concerns:** There is apprehension among paralegals that formalisation could limit those who have been practising for long due to an overemphasis on academic qualifications and could diminish community trust.
- 4. Recognition:** Paralegals are recognised by laws and statutes in both countries and by their communities, as evidenced by the volume of cases they handle.
- 5. Financing Challenges:** Paralegals lack a clear and reliable source of funding. Many serve as freelancers, but livelihood needs often impede their ability to remain active. Sustainable legal aid provision through paralegals requires developing financing schemes with various partners, including government implementation of Legal Aid Funds.

Report Structure

- **Chapter 1:** Introduces access to justice and paralegalism as a means to facilitate it.
- **Chapter 2:** Details the research methodology, focusing on Kenya and Zambia case studies.
- **Chapter 3:** Analyses relevant literature, laws, and policy frameworks related to community-based paralegals.
- **Chapter 4:** Presents and examines research findings from Kenya and Zambia.
- **Chapter 5:** Summarises key findings and presents recommendations based on the research.

This report aims to provide a concise overview of the comprehensive study, highlighting the essential aspects of paralegalism and its critical role in enhancing access to justice in Kenya and Zambia.

INTRODUCTION AND BACKGROUND

1.1 Introduction

Access to justice is a fundamental principle of the rule of law and a basic human right essential for the protection and promotion of all other civil, cultural, economic, political, and social rights. Without effective and affordable access to justice, individuals are unable to claim their rights or challenge crimes, abuses, or human rights violations. This inability hampers their capacity to be heard, exercise their rights, challenge discrimination, or hold decision-makers accountable, as endorsed by various international instruments.

Access to justice is understood as the ability of individuals to seek and obtain a remedy through formal or informal justice institutions, in conformity with human rights standards. It encompasses the entire process from grievance to remedy. At its core, UN Sustainable Development Goal (SDG) 16 aims to promote peaceful and inclusive societies, combat violence, reduce crime, and ensure access to justice for all. By addressing the root causes of conflict and insecurity, SDG 16 fosters social cohesion, human rights, and the principles of democracy and good governance. SDG 16 Target 16.3 aspires to a world where the law applies fairly to everyone and everyone has access to legal assistance by 2030. This goal is reiterated in Aspiration 3 of the African Union Agenda 2063, which focuses on building a society that upholds justice, fairness, human rights, and the rule of law.

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Access to justice, particularly for the indigent, poor, vulnerable, and marginalised, reflects the level of civilisation of a nation and ensures the fair administration of justice. It includes the enshrinement of rights in law, awareness and understanding of the law, availability of information on one’s rights, equal protection by law enforcement, access to the justice system, availability of legal infrastructure, affordability of legal services, a conducive judicial environment, expeditious case disposal, and enforcement of judicial decisions.

Legal aid, a key element of access to justice, involves the provision of legal education, information, advice, assistance, representation, and alternative dispute resolution mechanisms. It covers the entire process from grievance to remedy, as articulated in the *Zambian Legal Aid Policy*. The *Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System in Africa* broadens this definition to include advice, assistance, representation, education, and alternative dispute resolution by various stakeholders such as NGOs, community-based organisations, and academic institutions.

The Declaration emphasises the importance of legal aid at all stages of the criminal process and advocates for immediate access to legal assistance upon arrest or detention. This is critical for ensuring equal access to justice for the poor and vulnerable. International standards, such as the *Universal Declaration of Human Rights* and the *International Covenant on Civil and Political Rights (ICCPR)*, recognise access to justice as a basic human right and a means to protect other universally recognised human rights.

In Kenya, article 48 of the Constitution mandates the state to ensure access to justice for all and enacts legislation to fulfil international obligations and respect for human rights. Similarly, Zambia's Legal Aid Policy seeks to enhance access to justice for the poor and vulnerable, aligning with the country's Seventh National Development Plan and National Vision 2030.

Despite the fundamental importance of access to justice, many barriers exist, including restrictions on legal capacity, obstacles to legal assistance, and lack of accessible information. To ensure meaningful access to justice, mechanisms and systems for fair dispute resolution, redress for human rights violations, and accountability are essential. Paralegals play a crucial role in this process, providing legal advice, assistance, education, and advocacy, often under the supervision of legal practitioners.

The Lilongwe Declaration recognises the importance of paralegals and broadens legal aid to include various forms of assistance provided by diverse actors. The efficient delivery of legal aid services enhances access to justice, reduces unnecessary detention, ensures fair trials, and promotes social harmony, as outlined in the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems.



The aim is to enhance learning on legal empowerment, develop policy briefs and outcome documents, and advocate for legal empowerment in the Africa region through the African Centre for Excellence on Access to Justice and the Grassroots Justice Network.

1.2 Background of the Study

Legal aid significantly enhances access to justice. According to the 2020 State of Legal Aid Report, the justice gap undermines human development, worsens conflicts, reinforces inequality and poverty, and often allows impunity to thrive. This burden falls disproportionately on vulnerable groups, including women, children, persons with disabilities, minorities, and those disadvantaged by age or ethnicity.

The lack of access to justice can be understood in three broad ways - people excluded from opportunities provided by the law, individuals living in extreme conditions of injustice and those unable to obtain justice for everyday civil, administrative, or criminal issues.

Legal representation is crucial for a fair trial. In developing countries like Kenya and Zambia, legal aid services are generally provided by paralegals and other intermediaries, unlike in developed countries where they are predominantly provided by advocates. Capacity building, legal recognition, and financing are critical for community-based paralegals to support the fulfilment of the state's constitutional obligation of access to justice for all.

Paralegals have significantly contributed to decongesting prisons by helping prisoners draft legal documents. For instance, paralegals at Shimo La Tewa prison have drafted numerous applications, appeals, and letters to various courts. Kituo Cha Sheria, which began training prisoners in law, has been instrumental in these efforts.

WITH NOT MORE THAN
20,000

advocates serving nearly 50 million Kenyans, and most of these lawyers based in major cities, the majority of Kenyans, especially those in rural areas, find the formal justice system inaccessible and costly

Despite the state's responsibility for legal aid, the Draft National Legal Aid and Awareness Policy 2015 recognises the role of non-state actors. The National Police Service is understaffed, courts are backlogged, and corruption is prevalent, further complicating access to justice.

The justice gap creates an environment where impunity thrives and human development is undermined. Article 22 of the Kenya Constitution 2010 underscores the right to institute court proceedings for the protection of fundamental rights, allowing for broad-based legal representation.

Paralegals are essential in bridging the justice gap, especially for the indigent and marginalised. Their formalisation, recognition, and financing are crucial for enabling access to justice. Paralegals should be promoted and institutionalised to protect the poor and vulnerable, ensuring that justice is administered fairly.

Before colonial occupation, Kenya and Zambia had their own justice systems. Colonialism imposed a dual system of justice, which has evolved into the current legal frameworks. The first systematic legal aid effort in Kenya began in 1973 with a clinic at Shauri Moyo, Nairobi, which evolved into Kituo Cha Sheria. This organisation transformed from a charitable legal aid provider to an agent for social change, training community members and paralegals to assist with legal cases.

Despite an increase in the number of lawyers, the demand for legal aid remains unmet. Kituo Cha Sheria's efforts in training community paralegals have helped fill this gap. The Paralegal Support Network (PASUNE), now the Paralegal Society of Kenya, was established to coordinate and standardise paralegal training and advocate for their formal recognition.

The Kenyan government established the National Legal Aid and Awareness Programme (NALEAP) in 2008, providing legal aid services through pilot projects and collaborating with civil society. The promulgation of the 2010 Constitution further strengthened the legal framework for access to justice, recognising the role of intermediaries and traditional dispute resolution methods.

The paralegal movement in Zambia became visible in the mid-1990s, with formal recognition coming in 2018 and 2021 through the National Legal Aid Policy and Legal Aid Act. Paralegals play a vital role in providing legal aid, but there is a need to streamline their training, certification, accreditation, and remuneration.

There are vulnerable groups who face significant barriers to accessing justice, as highlighted in Article 21(3) of the Kenya Constitution. Legal aid programmes should be accessible and responsive to their needs. The provision of legal aid should encompass both criminal and civil cases, ensuring that all individuals can navigate the complex legal system.

The role of paralegals is crucial in ensuring access to justice for the poor and vulnerable. Promoting and institutionalising paralegalism, with adequate training, formalisation, recognition, and financing, is essential for achieving fair and effective justice systems in Kenya and Zambia.

1.3 Impact of Paralegalism in Kenya

The tradition of training and equipping non-lawyers with basic knowledge of law and legal procedures to educate

and inform community members about their legal rights has been a key alternative for enhancing access to justice. Kenya's paralegal movement is still young but constantly evolving. Several factors influence the success of paralegals, including institutional, organisational, and cultural contexts.

Paralegals help parties resolve disputes amicably, improving community relations and reducing hostility. Community leaders in various regions have noted a decrease in family violence, child abuse, and neglect due to increased legal awareness. For example, in Soweto, trained paralegals have contributed to a sense of security and proper dispute resolution, as people now report issues to paralegals instead of taking matters into their own hands.

The Legal Aid Act in Kenya represents significant progress for paralegals. It granted accredited paralegals the authority to provide legal advice and assistance, established the Legal Aid Fund, which allows for public financing of paralegals, expanded the definition of legal aid to include activities such as legal awareness, alternative dispute resolution, and community advocacy, formally acknowledging the role of community paralegals in enhancing public participation and providing legal information and assistance, tasked the National Legal Aid Service (NLAS) with developing programs for the education, training, and certification of paralegals and included a civil society representative on the NLAS Board to represent public benefit organisations offering legal aid.

Despite these advancements, challenges remain, such as unclear divisions of labour and responsibilities among stakeholders, and the need for effective coordination mechanisms within the justice sector.

1.4 The Research Problem and Justification of the Study

The formalisation of the paralegal service in Kenya and Zambia presents several contentions. Legal empowerment initiatives, including paralegalism, have grown significantly over the past decades, supported by NGOs, policy centres, and development agencies. However, the formalisation process raises concerns about state regulation potentially redefining paralegalism and undermining its grassroots, community-based approach. Excessive regulation could impose stringent requirements, excluding marginalised communities from accessing these vital services.

In East Africa, paralegalism is a key strategy for legal empowerment. Countries like Zambia, Sierra Leone, and Kenya offer valuable case studies for comparative research and learning. This study aims to assess and evaluate the formalisation, recognition, training, and financing of paralegals in Kenya and Zambia, documenting best practices for broader application.

1.5 Study Objectives

This study analysed and evaluated the processes of formalisation, recognition, financing, and training of paralegals in Kenya, identifying challenges and opportunities within the legal framework. It also documents and shares comparative insights on the legal recognition of paralegals between Kenya and Zambia, highlighting best practices to advance legal empowerment initiatives.

1.6 Study Limitations and Mitigations

Several challenges were encountered during the study commissioned by Kituo Cha Sheria, requiring careful mitigation strategies. The absence of an initial meeting with the Zambian team limited access to primary data. The Kenyan consultant joined the project after Zambian data collection was completed, necessitating reliance on secondary data. The team synthesised and triangulated existing data to provide comprehensive insights.

Some respondents were unavailable or hesitant to participate. The team sought referrals from available respondents to reach the target sample size, leveraging networks and building trust to overcome participation barriers.

Despite these limitations, rigorous methodological approaches ensured the study's validity and reliability. These challenges and lessons will inform future research and contribute to continuous improvement in legal empowerment and access to justice.

CHAPTER TWO

RESEARCH METHODOLOGY FOR THE STUDY

2.1 Introduction

This study employs a mixed-method approach, combining qualitative and quantitative methods with a descriptive objective viewpoint. A cross-sectional design was used to capture a holistic view of the situation at the time of the study. A semi-structured approach guided data collection, ensuring flexibility while focusing on key research objectives.

Primary data collection tools included key informant interviews (KIIs), focus group discussions (FGDs), and case study research. Stakeholders such as paralegals, indigents, legal empowerment organisations, and expert key informants were engaged. Focus group discussions were conducted in 8 counties in Kenya and 10 provinces in Zambia to ensure comprehensive coverage.

Focus group discussions were conducted in 8 counties in Kenya and 10 provinces in Zambia to ensure comprehensive coverage.

Additionally, a thorough desk review identified best practices in paralegalism. These practices were evaluated against predefined parameters and reviewed by KITUO teams, stakeholders in Kenya and Zambia, and the research team, ensuring diverse viewpoints and relevant insights.

Table 1 - List of key informants interviewed in Kenya

Region(s)	County(ies)	No	Expert and Legal Empowerment Interview(s)	Number of interview(s)
Nyanza	Kisumu	1	Police officer Nyando	1
		2	*Social Justice Centre	1
		3	*COVAW	1
		4	*NLAS representative	1
		5	Ward Representative	1
		6	County Commissioner	1
		7	Prison officer	1
Eastern	Kitui	8	LSK	1
		9	*ICJ	1
		10	ACC	1
		11	*LRF	1
		12	*Legal Resource Foundation	1
		13	Prison officer	1
		14	Prison Manager	1
		15	OCPD	1
		16	Senior Chief	1

Nairobi	Nairobi	17	Senior Chief	1
		18	Assistant Chief	1
		19	Police Officer	1
		20	*PSK	1
		21	LSK	1
		22	*Legal Resource Foundation Trust	1
		23	Heads of Paralegals	1
		24	*NLAS	2
		25	Ombudsperson representative	1
		26	AJS-Vice Chair	1
		27	Registrar School of Law	1
		28	ACC	1
		29	*LRF	2
		30	KSL	1
		31	KNHCR	1
		32	*FIDA	1
Rift Valley	Nakuru Uasin Gishu	33	Senior Chief	1
		34	LSK	1
		35	Assistant Chief	1
		36	Police commander	1
		37	Prison officer	1
Coastal	Mombasa	38	*Transparency International	1
		39	*ICJ	1
		41	Assistant County Commissioner	1
		42	Senior Chief	1
		43	*LRF	1
		44	Prison Officer	1
		45	Senior principal magistrate	1
		46	*FIDA	1
	Kwale	47	Assistant County Commission	1
	Kilifi	48	Mwambani Kilio	1
			Total	48

*Legal empowerment Organization

Table 2 - List of key informants interviewed in Zambia

Province	District	No	Expert and Legal Empowerment Interview(s)	Number of interview(s)	
Lusaka	Lusaka	1.	Legal Aid Board	1	
		2.	Ministry of Justice	1	
		3.	Law Association of Zambia	1	
		4.	Communication, Coordination & Coordination Initiative (CCCI)	1	
		5.	Danish Institution for Human Rights/ GIZ	1	
		6.	Prisons Care and Counselling Association	1	
			7.	Young Women Christian Association	1
			8.	Advocates for Child Justice	1
			9.	Disability Rights Watch	1
			10.	Zambia Federation for Disability Organizations	1
			11.	Legal Resources Foundation	1
			12.	Women in Law and Development in Africa	1
			13.	Zambia Land Alliance	1
Eastern	Chipata	14.	Eastern Province Women Development Association	1	
		15.	Caritas Chipata	1	
		16.	Young Women Christian Association	1	
	Petauke	17.	Chief Madzimawe	1	
		18.	Worldwide Community Care and Development Association	1	
		19.	Anglican Diocese	1	
		20.	Citizen for Child Human Rights	1	
		21.	Gender Integrated Programme	1	
		22.	Eastern Province Land and Environmental Alliance Network	1	
		23.	Chief Nyamphande	1	
Copper-belt	Kitwe Ndola	24.	Land Alliance	1	
		25.	Young Women Christian Association	1	
		26.	Ndola Catholic Diocese	1	
Central	Kabwe	27.	Prisoners Future Foundation	1	

	Chisamba	28.	Chief Chamuka	1
North-western	Solwezi	29.	Young Women Christian Association	1
		30.	Youth Alive Zambia	1
		31.	One Stop Centre – Ministry of Health	1
Luapula	Mansa	32.	Mansa District Women Development Association	1
		33.	Caritas Mansa	1
		34.	Mansa Land Alliance	1
			Total	34

2.2 Scope of the Study

The study selected 8 counties in Kenya (Kwale, Mombasa, Kilifi, Kitui, Nairobi, Nakuru, Kisumu, and Uasin Gishu) based on Kituo Cha Sheria’s extensive legal empowerment work. In Zambia, 10 provinces (Lusaka, Eastern, Southern, Luapula, Central, Muchinga, Northern, Copperbelt, Western, and Northwestern) were chosen for their active paralegal programmes. The study aimed to investigate paralegal activities and assess the accessibility of legal services and education provided by community justice centres.

2.3 Sampling Strategy

The study used a mixed-method approach with qualitative and quantitative inquiries. Key informant guides, FGDs, and in-depth interviews were used for data collection.

Sample Size

The sample size was determined with input from Kituo Cha Sheria and PAN Coordinators in Zambia.



Data Collection Approach and Techniques

1. Insights from key experts in legal empowerment, including policymakers and legal practitioners.
2. FGDs with paralegals and community members to explore their experiences and challenges.
3. Detailed interviews with community members and paralegals to gather personal accounts.
4. Information from organisations supporting paralegal initiatives.

Desk Review

The desk review contextualised the study and anchored it in existing literature, providing valuable insights into paralegal training, formalisation, recognition, and financing in Kenya and Zambia.

Interviews with legal empowerment organisations and experts to understand training, formalisation, recognition, and financing of paralegals in Kenya.

Interviews were conducted with paralegals and indigent community members in Kenya and Zambia to gain deeper insights into the impact of paralegal services.

FGDs with paralegals and community members in both Kenya and Zambia provided dynamic forums for discussing training, formalisation, recognition, and financing.

Table 3 - Number of paralegals interviews conducted in Zambia

Province	District	# Interviews	# of Paralegals
Central	Kapiri	1	1
	Mukushi	2	2
Lusaka	Lusaka	5	5
Copperbelt	Chingola	1	1
Southern	Gwembe	1	1
	Monze	1	1
	Choma	3	3
	Mazabuka	1	1
Muchinga	Kakonde	1	1
Northern	Kasama	1	1
Luapula	Mansa	3	3
Western	Kaoma	1	1
Eastern	Kasenengwa	4	4
	Chipangali	2	2
	Chipata	2	2
Total		29	29

Table 4 - Number of paralegals and indigents interviews conducted in Kenya

Region	County	KII paralegals	Indigent interviews
Nyanza	Kisumu	8	6
Eastern	Kitui	4	3
Nairobi	Nairobi	7	8
Rift Valley	Nakuru	1	2
	Uasin Gishu	4	2
Coastal	Mombasa	7	16
	Kilifi	1	6
	Kwale	4	3
	Total	36	46

2.4 Data Entry and Analysis

Secondary data were contextualised to align with the research objectives. For primary data, qualitative data from interviews and FGDs were transcribed and systematically categorised into themes. Computer-aided programmes like MS Excel and SPSS 22.0 were used for analysis, generating frequency tables, bar graphs, and pie charts to identify patterns and trends.

2.5 Ethical Considerations

Ethical considerations were prioritised throughout the data collection process to safeguard respondents' rights and confidentiality. Participants were fully informed about the study's purpose and objectives before interviews or recordings began. Informed consent was obtained from each participant, ensuring voluntary participation and understanding of the study's aims.

Discussions were recorded to ensure accurate capture of information, aiding faithful transcription and reliable data analysis. This approach enabled thorough documentation, capturing nuances that might be missed during live interactions.

Confidentiality was paramount. Measures were taken to protect participants' identities and privacy, ensuring sensitive information remained confidential. Respondents were assured that their responses would be anonymised and used solely for research purposes, fostering a safe environment for open dialogue.

Table 5 - Distribution of FGDs conducted in each County in Kenya

Region	County	Sub County	Justice Center	# FGD	Individual Paralegal	Individual indigent	Male	Female
Coastal	Mombasa	Likoni	Wema 1	1	4	4	3	7
		Kisauni	Wema 2	1	4	5	9	1
		Kisauni	Kicodi	1	4	3	6	4
	Kwale		Lamukani	1	4	3	3	5
	Kilifi		Marereni	1	3	4	4	4
Nairobi	Nairobi	Kasarani	Korogocho	1	4	3	5	3
		Kamukunji	Kamukunji	1	5	4	4	5
		Kibra	Kibra	1	3	4	6	3
Nyanza	Kisumu	Nyando	Awasi	1	5	3	3	5
Rift Valley	Uasin	Eldoret	Eldoret	1	4	2	5	1
	Gishu	North						
	Nakuru	Nakuru Town		1	3	4	4	2
East-ern	Kitui	Kitui Central	Kitui Town	1	4	2	2	4
Total				12	47	41	54	44

Figure 1- FGD session with paralegals from Kisumu County



LITERATURE, LAW AND POLICY REVIEW

3.1 Literature Review

Legal aid provided by paralegals is crucial for fulfilling international obligations and upholding Article 48 of the Kenyan Constitution, which ensures access to justice. This concept encompasses the entire justice cycle, not just court processes.

Critics argue that Article 48 lacks a legislative framework, hindering effective implementation, particularly regarding access to legal advice. Paralegals fill this gap by providing essential legal support, ensuring broader access to justice beyond courtrooms.

Legal education in Kenya is primarily theoretical, with minimal emphasis on practical legal aid training. Establishing legal clinics within universities could enhance access to justice, as seen in Zambia, where legal clinics significantly aid in providing legal services.

The right to legal aid in criminal cases is recognized across Africa, though implementation varies. Countries like South Africa and Malawi ensure state-funded legal representation, while Uganda limits this to severe criminal cases.

Non-state actors play a vital role in legal aid but often lack coordination and consistent funding. A proposed solution is coordinating legal aid funds to ensure sustainable provision, a strategy that could benefit Kenya and Zambia.

Despite the Kenyan Legal Aid Act's progressive aspects, it presents bureaucratic hurdles for paralegals. Amendments are needed to streamline accreditation processes and enhance paralegal support.

In Zambia, comprehensive legal aid legislation exists, but its implementation faces challenges. Recommendations include reforming the legal aid scheme to improve service delivery to the poor.

The study underscores the need for coordinated efforts, standardized training, and sustainable funding to enhance the role of paralegals in providing access to justice.

Figure 2 FGD session with paralegals from Uasin Gishu County



Table 6 - Distribution of FGDs conducted in Zambia

Province	District	Community Members (Indigents)		Paralegals	
		# of FGDs	# of Participants	# of FGDs	# of Participants
Eastern	Petuaku	1	5	1	8
	Chipata	1	5	1	12
Lusaka	Lusaka	1	5	1	10
Copperbelt	Ndola	1	5	1	6
	Kitwe	1	4	1	7
Northwestern	Solwezi	1	6	1	9
Total		7	30	7	52

3.1 Literature Review

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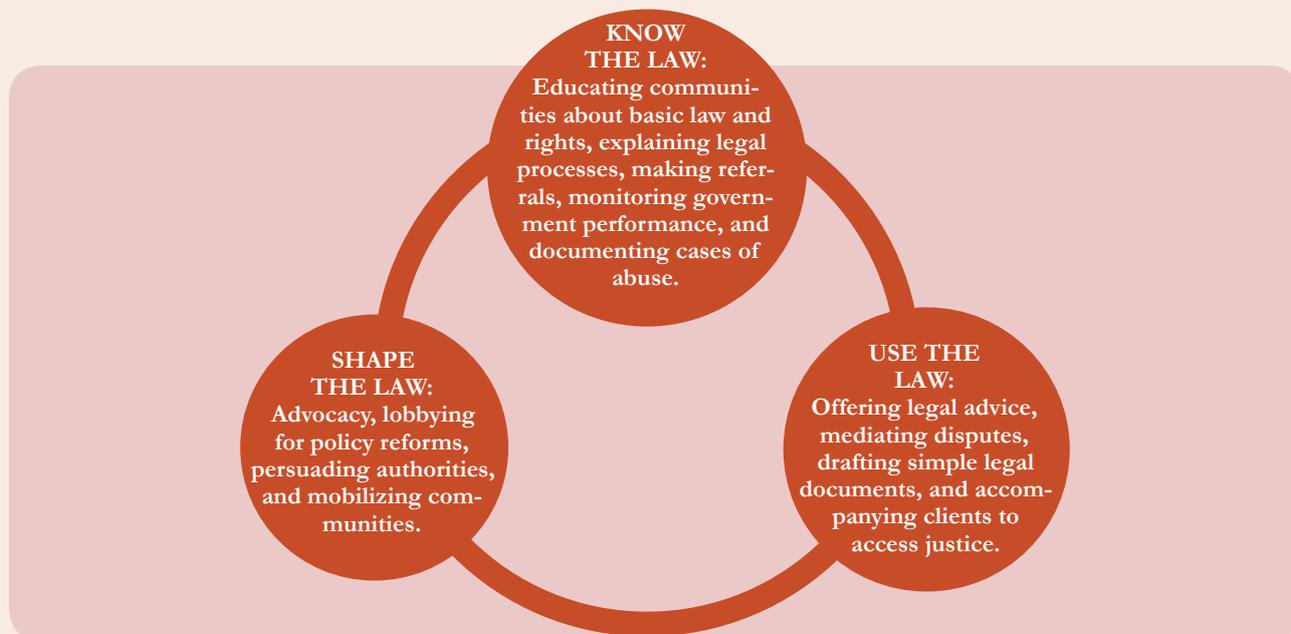
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3.2 Services Offered by Paralegals

Paralegals provide a range of services which seek to achieve the cyclic process of legal empowerment that includes know the law, use the law and shape the law. The services that community paralegals provides are listed hereunder:



Paralegal work can be perilous due to their role as whistle-blowers. Security concerns often lead to high turnover rates among paralegals.

3.3 Embedded Cultural Gender Perspectives as an Impediment to Accessing Justice

Data consistently show that men and boys commit more crimes than women and girls, making them more frequently defendants in criminal cases. In contrast, women are more often victims of cultural injustices and are disproportionately represented in civil cases due to having fewer resources, less power, and less influence compared to men. Women also face additional inequalities based on class, ethnicity, age, and other intersectional factors, making gender inequality a key driver of poverty and a fundamental denial of women's rights.

Paralegals play a crucial role in addressing these injustices, especially regarding women's inheritance rights, polygamy issues, and educational disadvantages for girls. They assist women in asserting their rights in marriage, childcare, inheritance, and property ownership, often challenging established authorities.

Gender-based violence (GBV) presents a significant challenge due to cultural preferences for keeping marriages intact. Paralegals often focus on resolving visible conflicts and reconciling couples, which can be problematic when dealing with abusive relationships. Effective mediation in such cases requires careful consideration of power dynamics and a plan for continued monitoring. Alternatives like separation might be necessary for the long-term safety of women.

Some paralegals specialize in gender-related injustices. For instance, the Frontier Indigenous Network in northern Kenya trains paralegals to restore women's inheritance rights and combat female genital mutilation (FGM). The National Policy on Alternative Justice System in Kenya aims to reverse structures leading to gender oppression and social injustice.

In Zambia, women's and children's rights violations are widespread, with issues such as domestic violence, rape, forced marriage, property grabbing, child abuse, and neglect often going unreported. The police's complicity and reluctance to pursue domestic violence cases in a corrupt environment exacerbate these problems, further hindering women's access to justice. This cultural environment, promoting negative masculinity and male chauvinism, contributes to the scarcity of female paralegals.

Paralegals' efforts are vital in breaking these barriers and advocating for gender justice, though they must navigate complex cultural and systemic challenges.

3.4 Training of Paralegals in Kenya and Zambia

Since the independence of Kenya and Zambia, the training of paralegals has primarily been undertaken by civil society organizations (CSOs) to address specific thematic needs and community concerns. This essay explores the methods and challenges associated with the training of paralegals in these two countries, highlighting the significant roles these paralegals play in the justice system and the steps taken towards standardizing their training.

Paralegal training in Kenya and Zambia is designed to equip individuals with the skills necessary to assist their communities in legal matters. This training typically falls into two categories: generalist and specialist. Generalist training prepares paralegals to address a wide array of community issues, while specialist training focuses on particular areas such as sexual violence, land rights, or failures in public service delivery. The goal is to create a dynamic frontline that can engage both formal and traditional institutions.

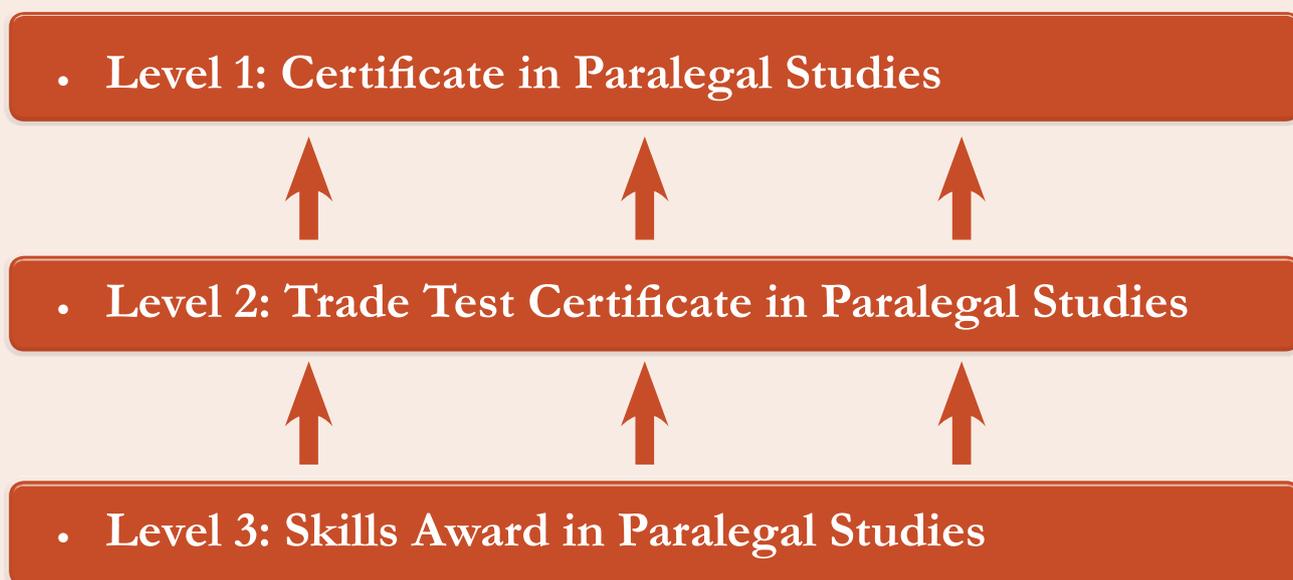
Community-based paralegals are trained in basic law, policy, mediation, organizing, education, and advocacy. They help individuals understand, use, and shape the law, operating under various titles such as "community legal worker," "barefoot lawyer," or "grassroots legal advocate." Their training includes legal instruction, practical skills, and site visits to communities, courts, prisons, police stations, or legal aid clinics. After initial training, paralegals are provided with basic resources and encouraged to support their communities voluntarily.

In Kenya, organizations such as FIDA Kenya and Kituo cha Sheria have been at the forefront of paralegal training. These programs vary in length from one-day sessions to longer-term programs. PASUNE has developed a manual and curriculum to standardize training, while the Legal Resources Foundation Trust (LRFIT) offers one-year training programs.

The Kenya Legal Aid Act 2016 recognizes paralegals who have completed relevant training courses approved by the Council of Legal Education (CLE). However, only two institutions—the Kenya School of Law and Mount Kenya University—currently have approved curricula. This centralized approval has limited the accessibility of legal education to paralegals in remote areas, such as Moyale, West Pokot, Kwale, and Migori.

Zambia began paralegal training in the mid-1990s, spearheaded by CSOs and human rights organizations. The Paralegal Alliance Network (PAN) was established in 2000 to coordinate training and improve the reach of legal aid services. PAN has grown to include over 25 CSOs and has worked consistently to standardize and improve paralegal training. It is estimated that over 1,000 paralegals have been trained by PAN and other organizations between 1998 and 2017.

The Technical Education, Vocation, and Entrepreneurship Training Authority (TEVETA) oversees a three-level training scheme for paralegals in Zambia, providing clear standards and qualifications. These levels include:



This structured approach ensures that paralegals receive comprehensive training and are well-prepared to serve their communities effectively.

One of the primary challenges in paralegal training is the inconsistency in the duration and quality of training programs. While some organizations provide extensive training, others offer only brief sessions, which may not be sufficient to handle complex legal matters. This discrepancy can lead to variations in the quality of services provided by paralegals.

Another significant challenge is the lack of systematic refresher training due to funding and technical constraints faced by CSOs. This gap affects the ongoing capacity building and support for paralegals, potentially diminishing their effectiveness over time.

To address these challenges, it is recommended that the capacity of bodies like NLAS in Kenya to approve curricula and supervise paralegal training be enhanced. In addition, a dynamic curriculum that addresses local contexts while standardizing essential legal literacy components be developed, paralegals receive training on ICT to facilitate access to justice and improve record-keeping and reporting and Governments should allocate budgets for the training and support of paralegals to ensure sustainability and access to justice for all.

The training of paralegals in Kenya and Zambia is crucial for enhancing access to justice and empowering communities. While significant strides have been made in both countries, there is a need for continued efforts to standardize training, address funding challenges, and ensure that paralegals are well-equipped to meet the diverse legal needs of their communities. By implementing these recommendations, Kenya and Zambia can further strengthen their paralegal programs, ensuring long-term effectiveness and sustainability in promoting access to justice.

3.5 Formalization of Paralegals

Formalizing paralegals involves establishing standards for registration, qualifications, conduct, ethics, and disciplinary processes to enhance their competence and accountability.

Formalization in the context of paralegal work involves standardizing procedures, establishing official protocols, and ensuring consistency and reliability in the delivery of legal aid services. This process is critical for enhancing the competence, accountability, and ethical standards of paralegals, thereby improving the overall quality of legal aid.

The Zambian Government, through the Zambia Legal Aid Policy, has committed to establishing a comprehensive quality assurance framework and regulatory body for paralegals, legal assistants, and legal aid assistants. This policy designates the Legal Aid Board with overarching responsibility and authority for various aspects of legal aid provision, including administration, coordination, and regulation. The board's tasks include issuing certificates, establishing and maintaining legal aid services, and developing sustainable long-term financial resource mobilization strategies.

Furthermore, the Legal Aid Board is responsible for monitoring the entire legal aid system in Zambia to ensure its effectiveness and adherence to established standards.

Section 4 of the Zambian Legal Aid Act 2021 formalizes the Legal Aid Board and mandates the creation of a multi-stakeholder Paralegal Standing Committee within the board.

The Paralegal Standing Committee has several key functions, including initiating disciplinary proceedings against legal aid assistants, legal assistants, and paralegals who fail to meet the required standards of conduct and professionalism.

In Kenya, the formalization of paralegals is guided by the Kenya Legal Aid Act 2016. Section 7(1)(g), (h), and (n) of the Act mandates the National Legal Aid Service (NLAS) to develop and issue guidelines and standards for legal aid schemes by non-governmental agencies, in consultation with the Council of Legal Education, for the training and certification of paralegals. It also requires NLAS to establish, coordinate, monitor, and evaluate justice advisory centers.

Section 10(e) and (f) lists the tasks of the Board, which include accrediting legal aid providers and setting standards for the establishment and operation of legal aid schemes. Section 56 prohibits individuals or organizations from providing legal aid services unless accredited under this Act.

Section 57 outlines the accreditation criteria for individuals and institutions, emphasizing the importance of standardized guidelines to ensure quality and consistency in legal aid provision. This section also mandates NLAS to consult various stakeholders, including the Law Society of Kenya and the Attorney-General, in developing these criteria.

One challenge highlighted by an interviewee is that the Paralegal Society of Kenya is not explicitly mentioned as a stakeholder to be consulted in the accreditation process. This omission suggests a need for more inclusive consultation to standardize paralegal training effectively, given the wide variation in the length, frequency, and quality of paralegal training across the country.

The Kenya Draft Policy includes several strategic objectives relevant to the formalization of paralegals. Strategic Objective No. 5 promotes the use of these mechanisms, which are crucial for accessible justice. Strategic Objective No. 6 focuses on establishing a comprehensive implementation, monitoring, regulatory, and support framework. Strategic Intervention No. 9 under the Alternative Justice System Policy aims to develop guidelines and standard operating procedures to formalize paralegalism and ensure compliance with constitutional and human rights principles.

The formalization of paralegals in Kenya is an ongoing process aimed at enhancing the quality and accountability of legal aid services. This involves developing standardized training, accreditation, and operational guidelines, while ensuring broad stakeholder consultation to address the diverse needs and contexts of paralegal work across the country.

3.6 Regulation and Formalization of Paralegals

Regulation involves managing, controlling, supervising, and monitoring. According to Section 58(2) of the Kenya Legal Aid Act 2016, providing false information in an application for accreditation or offering legal aid services without proper accreditation is an offense. Section 61(2) requires the Service to develop a code of conduct for accredited legal aid providers. Section 61(3) details obligations for professional conduct, emphasizing the protection of rights, conflict of interest avoidance, confidentiality, and ethical standards. Violations can result in fines or imprisonment. Establishing a Complaints Commission and Disciplinary Tribunal for paralegals is recommended to enhance professionalism and accountability.

Recognition of paralegals entails state acknowledgment through ratification, accreditation, and approval. Historically, Kenyan law restricted legal advice to admitted lawyers, complicating paralegals' efforts. However, roles for paralegals are increasingly recognized within various state agencies, such as participating in the Parole Board, Case Management, and Anti-Corruption Committees, and Court Users Committees. Community leaders and beneficiaries advocate for more visibility and acceptance of paralegals. Formal frameworks for recognizing paralegals are crucial, including legislative measures and strategic interventions to enhance their roles in the justice system.

The formalization and regulation of paralegals in Kenya aim to standardize their qualifications, conduct, and disciplinary processes, ensuring consistency and reliability in legal aid services. Despite challenges, formal recognition and regulation can significantly enhance the competence and accountability of paralegals, promoting access to justice for underserved communities.

3.7 Financing of Paralegals in Kenya

Paralegals in Kenya often work without financial remuneration, although some receive support from NGOs. The debate over paralegal compensation revolves around maintaining volunteerism versus ensuring sustainability through remuneration. Community paralegals in Kenya are typically not compensated monetarily and are often regarded as volunteers. While some receive essential support like training, logistical assistance, and allowances from their parent NGOs, the issue of paralegal compensation remains a contentious debate. Advocates for volunteerism argue that monetary compensation could distort the altruistic nature of paralegalism, turning it into a commercial enterprise. Others contend that remuneration is necessary to prevent paralegals from abandoning their roles due to financial pressures.



Sections 29 and 75 of the Act establish the Legal Aid Fund to support legal aid services, including paralegal work. Sustainable financing through government allocations, private sector contributions, and development partners is essential for effective legal aid provision.

The independence of community paralegals from government influence is a significant advantage, ensuring they can hold authorities accountable. However, this independence could be compromised if state funding diminishes. According to Section 68 (2) and (3) of the Kenya Legal Aid Act 2016, accredited paralegals are prohibited from demanding payment from persons who qualify for legal aid, with violations resulting in fines or imprisonment. Despite this, the act does not proscribe remuneration by the training or parent organization, allowing for some financial support within a regulated framework.

Many paralegals operate as freelancers, serving clients voluntarily. However, pressing livelihood needs often impede their ability to remain active over time, leading many to become inactive. The National Legal Aid and Awareness Policy aims to ensure adequate resource allocation for legal aid services, including sustainable financial strategies. Sections 29 and 40 of the Legal Aid Acts of Kenya and Zambia, respectively, establish a Legal Aid Fund to cover expenses and remuneration for legal aid providers. Despite these provisions, the practical implementation of the Kenyan fund remains under negotiation.

The draft policy suggests various measures for funding legal aid services, including allocating a substantial portion of the budget from both national and county governments, providing incentives to the private sector, such as tax rebates and waivers, to encourage contributions and establishing a legal aid levy through the Law Society of Kenya.

Sustainability of legal aid financing requires innovative funding sources and creative solutions, including partnerships with development agencies and the private sector. Ensuring financial support for paralegals is crucial for maintaining effective and consistent legal aid services, which ultimately facilitates access to justice as mandated by Article 48 of the Kenya Constitution.

The government must ensure sustainable funding for legal aid and awareness programs, predominantly sourced from the State but also diversified through contributions from the legal profession, private sector, and development partners. The Alternative Justice System (AJS) interventions aim to develop a targeted budget for paralegals and establish a fund where local and development partners can pool resources, supporting the goal of access to justice as outlined in Article 48 of the Constitution.

Civil society has recommended measures to the Kenyan government for sustainable legal aid financing, emphasizing interagency coordination, assessment of community needs, and monitoring progress. Paralegals frequently cited lack of funds as a significant barrier to their effectiveness, indicating that small allowances could cover costs such as transportation and basic office supplies.

Volunteerism should cover logistical expenses, similar to how international bodies handle volunteers, ensuring fair compensation without compromising the essence of volunteerism. Proper funding for paralegals would enhance the quality and consistency of their services.

Paralegals interviewed highlighted the need for financial support to cover basic expenses, such as transportation and office supplies, which are critical for their work. Sustainable financing models, including state support and diversified funding sources, are essential for the long-term viability of paralegal services in Kenya.

3.8 Emerging Contentious Issues in Paralegal Training, Formalization, Recognition, and Financing in Kenya and Zambia

Paralegalism is crucial for access to justice, especially where formal judicial processes are inadequate. Paralegals play a crucial role in alternative dispute resolution, significantly contributing to access to justice, especially where the formal judicial process struggles with case overload. However, several contentious issues have emerged regarding the training, formalization, recognition, and financing of paralegals in Kenya and Zambia, necessitating a thorough examination and discourse among justice sector stakeholders.

3.8.1 Training of Paralegals

Standardizing training is challenging due to thematic variations tailored to specific community needs. Training of paralegals is tailored to meet specific community needs, which presents a challenge in standardizing the training process. Paralegals are often trained by civil society organizations (CSOs) in various thematic areas such as sexual violence, land rights, and public service delivery. The key issues include the fact that Paralegal training varies widely in duration and content. Standardizing this training while addressing specific community needs is complex.

In addition, the need for retraining existing paralegals to meet new standards raises questions about funding and resource allocation. Section 18(5) and (6) of the Legal Education Act in Kenya invalidates certificates unless the training is licensed by the Council, raising further questions about the length and quality of training for paralegals.

Financing the retraining of existing paralegals and determining appropriate training duration and qualifications are critical issues. The Legal Education Act in Kenya requires Council licensing for certification, complicating the formalization process for current paralegals.

3.8.2 Formalization

Formalization involves standardizing, regulating, and ensuring ethical conduct among paralegals. This includes determining whether paralegalism should be self-regulated or state-regulated. Too much regulation might stifle the flexibility and accessibility that paralegals provide and defining clear boundaries for paralegals' roles to avoid overlap with formal legal practitioners while maintaining their effectiveness in community justice.

Questions arise about whether paralegalism should be self-regulated or state-regulated. Over-regulation could stifle progress, while standard operating procedures can enhance professionalism. A paralegal federation could help navigate these challenges, ensuring consistency and reliability in service delivery.

3.8.3 Recognition

Recognition involves state acknowledgment and accreditation. State recognition of paralegals brings several benefits and challenges. In Kenya, paralegals can be accredited by the National Legal Aid Service or by associations accredited as legal aid providers. In Kenya, paralegals can be accredited by NLAS or civil society organizations. Criteria for accreditation and the need for clear boundaries between paralegals and advocates are contentious. Excessive regulation may exclude marginalized communities, and the role of paralegals in court remains a key issue. Zambia's recognition focuses on training and standardization.

Many community paralegals who were informally trained may not meet the new accreditation standards, potentially disqualifying them from continuing their work. There is a need for clear criteria for accreditation, ensuring that paralegals' roles are well-defined and distinct from those of formal legal professionals.

3.8.4 Financing

Sustainable financing is crucial for effective paralegal services. While some argue for volunteerism, others advocate for remuneration to ensure continuity. State funding could compromise paralegal independence, so diverse funding sources, including government, private sector, and development partners, are essential. The draft National Legal Aid and Awareness Policy proposes measures such as tax incentives for private contributions and a Legal Aid Fund to support paralegals.

In Zambia, the Legal Aid Board focuses on legal aid provision and fund administration but lacks coordination and monitoring responsibilities. Sustainable financing models are needed to ensure paralegal services' effectiveness and independence.

Ensuring sustainable legal aid financing and addressing training, formalization, and recognition issues are critical for the effective operation of paralegals in Kenya and Zambia. Stakeholders must collaborate to develop standardized training, sustainable funding models, and regulatory frameworks that balance state oversight with the independence and grassroots nature of paralegal services

3.9 Similarities in Legal Aid Frameworks in Kenya and Zambia

Both Kenya and Zambia have established comprehensive legal aid frameworks designed to ensure access to justice for unrepresented individuals. These frameworks share several similarities, particularly in their legislative mandates, the roles of key legal aid institutions, and the protections they offer to those seeking legal aid services.

3.9.1 Legal Aid Framework in Kenya

In Kenya, the Legal Aid Act mandates various entities, including courts, police, and prison officers, to inform individuals in custody or court of their right to legal representation. This requirement is outlined in Sections 42 and 43 of the Act. Additionally, any obstruction of an individual's application for legal aid by officials is considered an offence under Sections 42(2) and 85(1)(a).

The Act establishes the National Legal Aid Service (NLAS) and its governing board under Section 9, along with a Legal Aid Fund under Section 29. Legal aid in Kenya encompasses a range of services, including legal advice, representation, alternative dispute resolution assistance, document drafting, out-of-court settlements, legal awareness, and advocacy for law reform (Section 2).

For individuals or organizations to provide legal aid services, they must apply for accreditation as per Section 58(1). The NLAS has the authority to terminate legal aid services if necessary, as stipulated in Section 48(1)(a). Furthermore, aided individuals must provide up-to-date financial information to aid decision-making (Section 47), and any compensation received by aided persons through damages may be subject to cost deductions by the Service (Section 70(2)).

Crucially, the Act prohibits accredited paralegals from charging fees to individuals qualifying for legal aid. Violations of this provision can result in significant fines or imprisonment (Sections 68(2) and 68(3)).

Legal Aid Framework in Zambia

Similarly, Zambia's Legal Aid Act requires courts, police, prison officers, and the Director of the Legal Aid Board to inform detainees or unrepresented individuals in court of their right to legal representation (Section 58). Obstructing access to legal aid is a criminal offence under Section 59(3).

The Legal Aid Board, established under Section 8(1) of the Act, oversees the provision of legal aid services, supported by a Legal Aid Fund as maintained from the repealed Act (Section 40(1)). The scope of legal aid in Zambia includes legal education, information, advice, assistance, and representation (Section 6).

Prospective paralegals in Zambia must apply for registration with the Director, and they must operate under the supervision of a certified legal professional (Sections 18 and 20(2)). Individuals seeking legal aid must follow a prescribed application process and may appeal decisions if necessary (Sections 34(1) and 38(1)). The Director has the authority to terminate legal aid services for valid reasons (Section 39(1)), and any awarded costs in proceedings must be paid to the Legal Aid Board (Sections 53(1) and 54(1)).

Zambia's Act also strictly prohibits legal aid practitioners from charging fees to legally aided persons, with violations leading to substantial fines (Sections 59(1) and 59(2)).

Conclusion

Both Kenya and Zambia have developed legal frameworks aimed at providing comprehensive legal aid services to ensure access to justice. These frameworks share a commitment to informing detainees and unrepresented persons of their legal rights, the establishment of legal aid boards and funds, the accreditation

of legal aid providers, and the prohibition of charging fees to legally aided individuals. These similarities underscore a shared vision in both countries to enhance access to justice and protect the rights of the underserved and vulnerable populations.

3.10 Differences in Legal Frameworks

3.10.1 Kenya

Kenya's Legal Aid Act requires the State to provide legal aid services across various case types, including civil, criminal, children's, constitutional, and public interest matters. It also allows appeals to the High Court against decisions of the Service.

3.10.2 Zambia

In Zambia, the Minister, in consultation with the Legal Aid Board and the Chief Justice, can specify civil cases ineligible for legal aid. Appeals against the Legal Aid Board's decisions are made to the Minister, not the High Court. Additionally, individuals may refuse granted legal aid.

3.11 Elements of State Recognition of Paralegals in Kenya and Zambia

3.11.1 Kenya

In Kenya, the formal recognition of paralegals has evolved significantly over the years, starting with the establishment of the National Legal Aid and Awareness Programme (NALEAP) in 2007. This initiative, spearheaded by the Department of Justice in the Office of the Attorney General, aimed to recognize and accredit paralegals as crucial players in enhancing access to justice. NALEAP was instrumental in advocating for the creation of a legal framework that would institutionalize the role of paralegals.

The adoption of the new Constitution in August 2010 marked a pivotal moment, particularly with the inclusion of Article 50(7). This article allows courts to permit intermediaries, including paralegals, to assist complainants or accused persons in communicating with the court, highlighting the importance of paralegals in the justice system.

In 2016, following extensive consultations and advocacy efforts by the Paralegal Society of Kenya (PASUNE), the Kenyan government enacted the Legal Aid Act. This legislation officially recognizes paralegals, provided they are supervised by an accredited legal aid organization or an advocate. The Act enables the National Legal Aid Service (the successor to NALEAP) to accredit paralegals, thus formalizing their role within the legal framework.

The establishment of small claims courts further underscores the state's recognition of paralegals, providing them with additional platforms to offer their services. The Chief Justice emeritus, in the foreword of the Alternative Justice System Framework Policy (AJSFP) 2020 document, emphasized the critical role of paralegals, noting that about 90% of cases are handled outside the formal court system.

3.11. 2 Zambia

In Zambia, the recognition and formalization of paralegals are structured around a three-tier system, classified into Level 3, Level 2, and Level 1 paralegals. Each level corresponds to specific qualifications and areas of specialization, approved by the Technical Education, Vocation, and Entrepreneurship Training Authority (TEVETA). This structured approach ensures clear training standards and qualifications for paralegals across the country.

The formulation of the National Legal Aid Policy further strengthened the recognition of paralegals by establishing comprehensive training standards and mandates. This policy paved the way for the enactment of the National Legal Aid Act 2021, which formally recognizes paralegals under Sections 2, 18, and 19 of the Act. The TEVETA-

approved training schemes include detailed training charts, syllabi, job profiles, and reference manuals for each level of paralegal training, ensuring a standardized approach to their education and practice.

Additionally, Article 18(2)(d) of the Zambian Constitution guarantees the right to legal representation, emphasizing the importance of accessible legal aid and the role of paralegals in achieving this. This constitutional provision underscores the fundamental idea of legal aid in Zambia, reinforcing the state's commitment to ensuring that individuals charged with criminal offences have access to legal representation.

Both Kenya and Zambia have made significant strides in formalizing and recognizing the role of paralegals within their legal systems. In Kenya, this journey has been marked by legislative developments and the strategic establishment of supporting bodies and policies. In Zambia, a structured training and certification system, along with constitutional guarantees, highlight the state's commitment to integrating paralegals into the broader legal framework. These efforts reflect a shared vision in both countries to enhance access to justice through the formal recognition and empowerment of paralegals.

3.12 Sample Case Studies

3.12.1 Financial Sustainability of Paralegalism: Case of Wema Justice Centre

Wema Justice Centre, founded by ex-convicts, provides legal aid and community service. Paralegals address various legal issues, collaborate with the police and courts, and engage in activities such as tree planting and drug rehabilitation. The Centre's work, supported by programs like PLEAD, showcases the social and financial sustainability of paralegal services.

3.12.2 The Role of Community Paralegals in Addressing Gender-Based Violence: The

Case of Chamuka-Led Village One Stop Centre

Chief Chamuka's Village-Led One Stop Justice Centre offers legal aid, health services, and psychosocial support to combat gender-based violence. The Centre collaborates with various organizations, trains community members, and has significantly reduced teenage pregnancies and child marriages. Despite challenges like inadequate funding and transport, the Centre's comprehensive approach ensures effective service delivery.



The research team from Kenya and Zambia visiting the Chamuka village's Gender Based violence One Stop Centre

3.12.3 Kenya's Court Users Committees (CUCs): Stakeholder Involvement in the Administration of Justice

Court Users Committees (CUCs) in Kenya enhance public participation and stakeholder engagement in the justice sector. Paralegals play a crucial role in these committees, improving accountability and the administration of justice. Despite challenges, such as resistance from some stakeholders, the involvement of paralegals has transformed relations within the justice system and promoted transparency.

CHAPTER FOUR

FINDINGS AND ANALYSIS

4.1 Introduction

This chapter presents the findings of the study, focusing on the demographic distribution of paralegals in Kenya and Zambia, including gender, years of service, and age. The study utilized a controlled purposive sampling method to mobilize respondents and apply the A&P (Available and Practicing) yardstick.

4.2 Paralegal Demographics in Kenya

The study found that a majority of paralegals (63.9%) were male, while 36.10% were female. The gender distribution was likely influenced by cultural biases and patriarchal norms, which discourage female participation in legal aid services. Additionally, the age distribution showed that most paralegals (61.10%) were over 40 years old, indicating that older individuals, with fewer financial obligations, are more available to volunteer as paralegals. The years of service data revealed that 36.10% of paralegals had been serving for 5-6 years, and 25% had been in the service for more than 6 years.

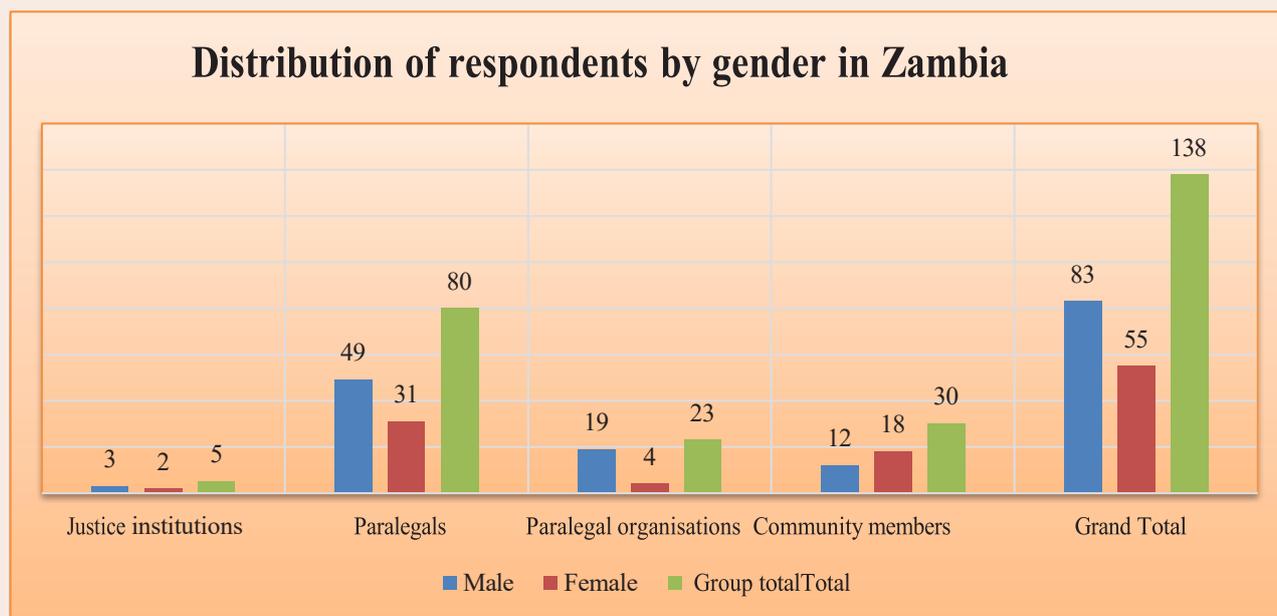
Table 7 - Distribution of Paralegal Demographics

		Frequency(n=36)	Percent
Gender	Female	13	36.10%
	Male	23	63.90%
Years in service	1_2 years	5	13.90%
	3_4 years	9	22.20%
	5_6 years	13	36.10%
	Above 6 years	9	25%
	Age group	18_24 years	2
	25_29 years	6	16.70%
	30_35 years	2	5.60%
	36_40 years	3	11.20%
	Above 40 Years	22	61.10%

4.3 Paralegal Demographics in Zambia

In Zambia, the study involved 80 paralegals (31 female and 49 male), 30 community members who benefited from paralegal services (12 male and 18 female), 23 Legal Empowerment Organizations, 5 Justice Institutions represented by 7 officers (3 female and 4 male), and 3 traditional leaders (2 male and 1 female). A total of 83 males and 55 females were enrolled in the research across various justice institutions, paralegal organizations, and community members.

Figure 3 - Distribution of Respondents by Gender in Zambia



The findings reflect a similar gender disparity as observed in Kenya, with males predominantly serving as paralegals. This distribution underscores the cultural and societal influences on gender roles within the legal aid framework.

4.4 Critically Assessing and Evaluating the Training, Formalization, Recognition, and Financing of Paralegals in Kenya

The study evaluated various aspects of paralegal training in Kenya, including curriculum, duration, training manuals, trainers, and accreditation. It was found that 83.33% of trainee paralegals completed their training, while 16.67% did not, primarily due to challenges in comprehending the training modules and livelihood constraints. Training duration varied, with some programs lasting between 3 to 6 months, but the majority of training sessions were much shorter, often lasting only one week.

For instance, the Paralegal Society of Kenya (PSK) designed a curriculum that requires 28 days of training. However, many community-based paralegals undergo shorter training sessions, often provided by NGOs like Kituo cha Sheria, which may include refresher courses.

Training methods varied significantly. For example, the Kenya School of Law (KSL) and Mount Kenya University (MKU) offer more formalized and accredited programs lasting two years, covering comprehensive modules and involving examinations and practical attachments. In contrast, community-based training is often more flexible but less standardized.

Table 8 - Training Duration of Paralegals

Training Duration	Frequency (n=35)	Percent
A month	1	3%
A week	30	86%
Three days	1	3%
Two weeks	3	9%
Total	35	100%

A majority of community paralegals, consisting of 86% of those interviewed, undertook a training on basic legal skills for a duration of one week. The interviewed community paralegals yearned for continuous training programmes for capacity building and development. Some paralegals expressed satisfaction with their training, particularly when it helped them acquire practical skills to resolve family and community disputes.

4.5 Mode of Training

Most paralegals (95%) reported using a training manual, while institutions like KSL and MKU use a more structured curriculum approved by the Council of Legal Education (CLE), including lectures, assignments, and examinations. This formalized approach contrasts with shorter, more flexible community-based training programs.

Training satisfaction varied among paralegals. Some felt that the training duration was too short to cover necessary topics comprehensively. Others, particularly those who received additional training from various organizations, felt better prepared. Overall, there was a call for more extended and frequent training sessions to improve paralegal competency.

4.6 Formalization and Recognition

The formalization and recognition of paralegals in Kenya are governed by the Legal Aid Act 2016, which requires paralegals to be accredited by the National Legal Aid Service (NLAS) or supervised by an accredited legal aid organization. This formal recognition is crucial for ensuring consistency and quality in paralegal services.

4.7 Financing

The financing of paralegals remains a contentious issue. While the Legal Aid Act prohibits paralegals from charging for their services, many paralegals operate as volunteers with little to no financial support. This lack of financial stability affects the sustainability of paralegal services, highlighting the need for a more structured and sustainable financing model.

The findings suggest that while there are significant efforts to train and formalize paralegal services in Kenya, challenges remain in standardizing training, ensuring adequate duration and content, and providing sustainable financial support. These issues need to be addressed to enhance the effectiveness and sustainability of paralegal services in promoting access to justice.

Table 9 - Distribution of Paralegal livelihoods

	Frequency (number of respondents)	Percent
BOM member	1	3%
Casual worker	2	5%
A farmer	4	11%
A teacher	1	3%
Administrator	1	3%
Businessperson	12	32%
Community worker	3	8%
Electrician	1	3%
Journalist	1	3%
Poultry farming	3	8%
Self employed	2	5%
Small Business	4	11%
Supermarket attendance	1	3%
Tailoring	1	3%
Total	37	100%

4.8 Sustainability of Legal Aid-Financing

To ensure the sustainability of legal aid and paralegal services, several perspectives must be considered, including technical, financial, and social sustainability. Technical sustainability involves proper training and the development of ICT materials for paralegals. Financial sustainability requires dedicated budgets and advocating for state funding. Social sustainability includes establishing justice centers and training prison officers to continue providing legal aid during financial shortfalls.

Historically, legal aid was viewed as a charity, with private lawyers and religious institutions providing assistance to the poor. However, the responsibility has shifted to the state, as mandated by Article 48 of the Kenya Constitution 2010, which requires the state to ensure access to justice for all. The concept of volunteerism is often misunderstood; it should focus on expertise and time, not logistical expenditures.

Key Points:

- **State Responsibility:** The state should budget for paralegals to facilitate access to justice, providing them with stipends for their work. This will motivate them, as many have families to support.
- **Technical Sustainability:** Involves proper training of paralegals and developing good ICT materials.
- **Financial Sustainability:** Requires a dedicated budget for facilitating paralegals and advocating for state funding.
- **Programme Sustainability:** Establishing justice centers and training prison officers to continue legal aid services during financial shortfalls.

4.9 Similarities in Legal Frameworks Kenya and Zambia

Both Kenya and Zambia have progressive legal frameworks for paralegals, as outlined in their respective Legal Aid Acts (2016 for Kenya and 2021 for Zambia). Both countries require paralegals to be accredited, with Kenya's Section 68 (1) and Zambia's Section 18 of their Legal Aid Acts outlining the accreditation process.

4.10 Differences in Legal Frameworks in Kenya and Zambia

Kenya's Legal Aid Act 2016 specifies categories of cases eligible for legal aid under Section 35(2). In contrast, Zambia's Legal Aid Act 2021 allows the Minister, in consultation with the Chief Justice, to specify eligible cases, adding a discretionary element that Kenya's framework lacks. This difference highlights a need for Zambia to review its legal framework to reduce discretionary powers.

4.11 Legal Framework Elements of Recognition in Kenya and Zambia

In Zambia, the formulation of the National Legal Aid Policy and the enactment of the National Legal Aid Act 2021 established clear training standards, qualifications, and mandates for paralegals. In Kenya, stakeholder advocacy led to the enactment of the Legal Aid Act 2016, recognizing paralegals supervised by accredited legal aid organizations or advocates.

4.12 Institutional Frameworks in Kenya and Zambia

Zambia has a structured system with three levels of paralegals approved by the Technical Education, Vocation, and Entrepreneurship Training Authority (TEVETA). Level 1 of training involves a one year programme consisting of formal classes and a further 6 months in the field for practical experience. On the other hand, Level 2 of training is for a duration of 6 months which includes teaching and attachment for practical experience. Finally, Level 3 of training programme involves four weeks of learning. This system emphasizes specialization and clear mandates. In Kenya, paralegals lack a clear mandate and are generally less specialized, which contrasts with Zambia's more structured approach.

CONCLUSIONS AND RECOMMENDATIONS

5.1 Training

Training is a critical element in the effective practice of paralegalism. The study highlights that while there are divergent opinions on the duration and mode of training, the importance of continuous education is universally recognized. Paralegals typically undergo brief training sessions organized by NGOs or CSOs, lasting about a week. In contrast, institutions like the Kenya School of Law (KSL) and Mount Kenya University (MKU) offer more extensive two-year courses. Most paralegals (95%) reported being trained using a standardized manual, with a majority focusing on land laws and succession. Continuous, thematic training tailored to local needs is essential for maintaining the effectiveness and relevance of paralegals in promoting access to justice.

5.2 Formalization

The formalization of paralegalism involves setting standards for registration, qualification, and conduct. Experts suggest that the government should identify and accredit qualified paralegals, setting clear boundaries on their roles. The study concludes that formalization should ensure that only qualified paralegals are accredited and their scope of work is clearly defined to enhance accountability and competence.

5.3 Recognition

Recognition by the state is crucial for the legitimacy and effectiveness of paralegals. Examples of recognition include the involvement of paralegals in the Parole Board of the Kenya Prisons Service and the Court Users Committees. Community recognition also plays a significant role, as evidenced by the active participation of paralegals in resolving numerous cases. Recognition entails not only state endorsement but also community acceptance and the acknowledgment of paralegals as essential contributors to the justice system.

5.4 Financing

The study observes that many paralegals operate without financial support, relying on personal resources or minimal allowances from CSOs. Most paralegals are volunteers, which impacts their availability and sustainability. The study suggests exploring social enterprise models and securing funding from national and county governments, as well as public-private partnerships, to ensure the long-term viability of paralegal services.

5.5 Recommendations

Training

- **NLAS:** Strengthen NLAS's capacity to approve curricula and supervise paralegal training. Training should recognize practical experience and adapt to local contexts, ensuring a standardized yet flexible curriculum. Introduce multiple levels of paralegal certification based on education and experience, similar to the Zambian model.
- **TEVETA:** Increase the number of active paralegals in Zambia and recognize the role of CSOs in providing legal aid.
- **Civil Society:** Foster strategic collaborations with various stakeholders to mainstream paralegalism. Train community paralegals on e-filing systems to enhance their efficiency.
- **Judiciary:** Establish ICT support centers in courts to reduce costs and save time.
- **Prison Department:** Recruit and train more paralegals in prisons to support prisoners' rights.
- **CLE:** Decentralize and revitalize the Council of Legal Education to approve more training institutions.

Formalization

- **NLAS:** Finalize the national policy and develop a monitoring strategy to ensure continuous assessment and implementation of the Legal Aid Policy. Integrate legal needs into national surveys and enact an Access to Justice Act.
- **Judiciary:** Develop guidelines for implementing traditional justice mechanisms as platforms for paralegalism.
- **PSK & PAN:** Develop a database of community paralegals and encourage more women to join the profession.

Recognition

- **NLAS:** Increase visibility through community outreach and include representatives from the Paralegal Society of Kenya on the NLAS Board.
- **Civil Society:** Enhance paralegal recognition through benchmarking, exchange programs, and collaborations with advocates.
- **Media:** Use mass media to raise awareness about paralegalism.
- **Parliament:** Amend laws to recognize paralegals as intermediaries and ensure mandatory legal aid for defendants facing substantial injustice.

Financing

- **State/Government:** Provide stipends for paralegals and secure budget allocations for legal aid. Affiliation with bodies like the Ombudsman's office can facilitate funding while maintaining independence.
- **NLAS:** Operationalize the Legal Aid Fund and consult with paralegals on funding models.
- **Civil Society:** Ensure proper documentation and frequent, context-based training for paralegals. Promote social visibility and community-driven initiatives to support sustainable paralegal services.

In conclusion, the study underscores the importance of structured training, formalization, recognition, and sustainable financing to enhance the effectiveness and reach of paralegals in Kenya and Zambia. By addressing these areas, both countries can strengthen their justice systems and improve access to legal services for all citizens.



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