
EVALUATING THE IMPACT OF LEGAL EMPOWERMENT PROGRAMMES ON ACCESS TO JUSTICE FOR THE POOR AND MARGINALIZED IN KENYA

Evaluating the impact of Legal Empowerment Programmes on Access to Justice for the Poor and Marginalised in Kenya

Abridged Report

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partnership with the African Centre of Excellence for Access to Justice
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PREFACE

Kituo cha Sheria (Legal Advice Centre) (hereinafter “KITUO”) is the oldest non-governmental organization in Kenya and Eastern Africa specifically tasked with promoting access to justice for poor and marginalized communities. Since its inception over 50 years ago, KITUO has impacted on the lives of the indigent through its legal empowerment programmes. As the organization reaches a key milestone, it was necessary to reflect on the journey, the achievements, and the challenges by measuring the impact of its legal empowerment approaches.

It is no doubt that legal empowerment as an approach centre on building capacities of communities and individuals to use and shape the law. Legal empowerment is people-centred and anchored on community power and its effectiveness in bringing about lasting change within the justice sector. As KITUO, our approach on access to justice began from the premise of legal aid. In other words, programmes whereby lawyers provided direct legal services to address justice challenges. The approach was centred on the lawyer and hence very unsustainable, limiting and disempowering for communities. Also, the number of lawyers and their geographical location was never going to be adequate to meet the demand for legal assistance. On this premise, KITUO in the early 1970s adopted the innovative model of paralegalism in Kenya. The community-based paralegals were drawn from the communities, passionate towards justice and trained on basic legal skills to monitor and respond to justice challenges. With time, the community paralegal network of KITUO grew and expanded across the most marginalized counties in Kenya. In the 2000s, the network of paralegals was organized, self-regulated and coordinated through community and prisons justice centres that were community-led. The community justice centre model led to the evolution of the social justice centre model. Also, many people accessed justice services through the paralegal network of KITUO.

Despite these very robust initiatives to enhance access to justice, KITUO began to note that the demand for justice services was not subsiding. The number of walk-in clients remained high and the barriers to justice kept evolving, and due to their structural nature were becoming insurmountable. It was hence imperative to evaluate impact of the approaches and determine whether indeed there are systemic barriers to accessing justice and how they can be effectively addressed. The objective of the study was to document impact and strategies moving forward that can improve legal empowerment programmes in Kenya. The study relied mostly on the experience of KITUO, being the oldest organization working on legal empowerment in the country. However, the experiences of other practitioners within Kenya were also documented. The study was carried out in select counties in Kenya. Some of the research sites were particularly marginalized areas with few or no legal empowerment programmes.

It is our sincere hope that the findings of this study will be useful in crafting sustainable and effective legal empowerment approaches that will tackle systemic barriers for a more inclusive and just society in Kenya and beyond.

John Mwariri

Ag. EXECUTIVE DIRECTOR

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ACRONYMS AND ABBREVIATIONS

ACERWC:	African Committee of Experts on the Rights and Welfare of the Child
ACRWC:	African Charter on the Rights and Welfare of the Child
ACHPR:	African Commission on Human and People's Rights
ADR:	Alternative Dispute Resolution
AGCP:	Advocacy, Governance and Community Partnerships Programme
ASAL:	Arid and Semi-Arid Land
BBI:	Building Bridges Initiative
CBO:	Community Based Organisation
CBD:	Central Business District
CJPC:	Catholic Justice and Peace Commission
CJS:	Criminal Justice System
COVAW:	Coalition on Violence against Women
CRC:	The Convention on the Rights of the Child
CSOs:	Civil Society Organisations
CSR:	Corporate Social Responsibility
CUCs:	Court User Committees
DCIO:	District Criminal Investigation Officer
FGDs:	Focused Group Discussions
FIDA:	International Federation of Women Lawyers
FIDA Kenya:	Federation of Women Lawyers Kenya
FMP:	Forced Migration Programme
GJLOS:	Governance, Justice, Law, and Order Sector
ICCPR:	International Covenant on Civil and Political Rights
ICJ Kenya:	The Kenyan Section of the International Commission of Jurists
IDRC:	International Development and Research Centre
IMLU:	Independent Medico-Legal Unit
JSC:	Judicial Service Commission
KIIs:	Key Informants Interviews
KNCHR:	Kenya National Commission on Human Rights
KSL:	Kenya School of Law
LAEP:	Legal Aid and Education Programme
LRF:	Legal Resources Foundation
LSK:	Law of Society of Kenya
M&E:	Monitoring and Evaluation
MSC:	Most Significant Change stories
MUHURI:	Muslims for Human Rights
NALEAP:	National Legal Aid and Awareness Programme
NCAJ:	National Council on the Administration of Justice
NGOs:	Non - Governmental Organisations
NLAS:	National Legal Aid Service
OGP:	Open Government Partnership
PASUNE:	Paralegal Support Network
PIL:	Public Interest Litigation
PLI:	Public Law Institute
PWDs:	Persons with Disabilities
RCKM:	Research, Communication and Knowledge Management Programme
SDGs:	Sustainable Development Goals
SGBV:	Sexual and Gender-Based Violence

TI-Kenya:	Transparency International Kenya
ToR:	Terms of Reference
UDHR:	The Universal Declaration of Human Rights
UN:	United Nations
UNDP:	United Nations Development Programme
UNODC:	United Nations Office on Drugs and Crime
USAID:	United States Agency for International Development

Purpose

Kituo Cha Sheria – Legal Advice Centre, better known as KITUO is tasked with promoting access to justice for the poor and marginalised communities and is the oldest non-governmental organisation in Kenya and Eastern Africa having being founded over 50 years ago. With the support of the International Development and Research Centre (IDRC), KITUO undertook this research project on the impact of legal empowerment programmes on access to justice for the poor and marginalised in Kenya. The research evaluated the impact of legal aid programming and paralegals and will be used to design future programming, innovation, and strategy on legal empowerment and how to work with regional partners such as the African Centre for Excellence and MAMATI for advocacy purposes.

Methodology

The study was evidence-based research to inform future programming on legal empowerment. The empirical research sought to identify gaps and recommend strategies that can bring transformative and systemic change. The project therefore attempted to evaluate what strategies have or have not worked, lessons learnt, new strategies for enhanced impact that are underpinned by evidence-based research. In this regard the research objectives were as follows:

- To critically assess and evaluate the impact of legal empowerment programmes in transforming lived realities of beneficiaries and bringing systemic change in Kenya;
- To increase learning and sharing of experiences of state and non-state actors within the legal empowerment sector in Kenya to achieve impactful change, and;
- To make recommendations and proposals based on empirical research that will improve the efficacy of legal empowerment programmes in the country that will result in transformative change.

The methodology deployed was three-fold in nature and adopted to analyse the impacts of legal aid and empowerment, and access to justice among the poor and marginalised. This was done through literature review, Focus Group Discussions (FGD) and Key Informant Interviews (KIIs). A total of 157 responses were obtained through a combination of purposive, convenience and snowball sampling. Of this, 94 were male while 63 were female. FGDs were conducted with 67 paralegals and 64 beneficiaries of paralegal services. In addition, 23 KIIs were carried out.



Targets of this fieldwork included among others: KITUO staff, beneficiaries, community paralegals, law enforcement officers, advocates, civil society, constitutional commissions, independent offices, partners, and donors. The KIIs and FGDs documented Most Significant Change stories (MSC) and documented recommendations and proposals based on empirical research to improve the efficacy of legal empowerment programmes in the country and result in transformative change. A Balanced Scorecard assessment tool was also used in conducting participatory appraisal of the performance of the KITUO's legal empowerment programming across critical perspectives of project performance. These included stakeholder management, programme outputs and learning and growth. The KIIs/FGDs targeted the following counties: Garissa, Kisumu, Kitui, Mombasa, Nairobi, Nakuru and Turkana.

KITUO's Programmes

KITUO was established in 1973 to empower the poor and marginalised. Prior to independence, the legal profession in Kenya was predominantly controlled by colonial regulations that excluded Africans and created a dual structure. The Law Society of Kenya lawyers did not interact with ordinary Kenyans, who were effectively reached with through Barazas.¹ After independence, indigenous lawyers began joining the Law Society of Kenya.

The memories of the founders serve as the primary source of information on the organization's formation due to the loss of records in a politically motivated fire at previous KITUO offices. The early days of KITUO were characterized by volunteerism and community service from lawyers who would later become prominent figures in the legal profession such as former Chief Justice Willy Mutunga, Lady Justice Mary Angawa, The Late Dr. David Gachuki, Justice J. Vitalis O. Ouma, The Late Steven Adere and Mukhtar Jaffer. These lawyers originally employed by large white law firms, aimed to contribute to society as they were financially stable and did not rely on legal aid for income.

Initially, the lawyers provided services in various locations, including community centres every evening.

They recruited students from the Kenya School of Law and the University of Nairobi Law School to accompany them and assist in offering legal aid. The organization sometimes provided transportation or stipends to support the students in their work. Pro bono cases were also processed in the lawyers' offices, reflecting a practice that is less common today due to various factors.

KITUO runs four key programmes namely: Legal Aid and Education Programme (LAEP), Advocacy, Governance and Community Partnerships Programme (AGCP), Forced Migration Programme (FMP), Research, Communication and Knowledge Management Programme (RCKM) and Finance and Administration.

Programme	Brief Description
Legal Aid and Education Programme (LAEP)	The programmes goal is to ensure that indigent and marginalized persons in Kenya having access to justice through legal aid and empowerment.
Advocacy, Governance and Community Partnerships Programme (AGCP)	The programme seeks to empower the poor and the marginalized communities on their human rights and to create avenues for these individuals to effectively access and enjoy these fundamental entitlements.
Forced Migration Programme (FMP)	The FMP is devoted to addressing legal and policy needs of refugees, asylum seekers and stateless persons residing in urban areas in Kenya with a view to improving their welfare and guaranteeing access to and enjoyment of the institution of asylum.

¹ The Baraza is a semi-formal public gathering held in communities at the behest of local administrators. The aims of the Baraza are to pass critical information, deal with rising information in a locality and to collect the views of the local community on certain issues

Research Communication and Knowledge Management Programme (RCKM)	Enhance the capacity of KITUO in conducting research communication and disseminating the findings in the thematic areas during the plan period for improved performance, knowledge creation, leveraged and profiling.
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Context

It is important to situate the work of KITUO not just currently but through a historical perspective to understand the importance of its work, how they have been shaped by contextual realities and how to move the organisation forward along its thematic areas.

The Constitution adopted at independence was liberal but was not accompanied by the repealing of colonial laws. Indeed, it was the independence Constitution that was amended to suit colonial laws and ordinances that were renamed as Acts of Parliament and were inherently discriminatory based on class, race, and gender. This combined with a lack of literacy and knowledge on the law, and few and expensive lawyers available put the indigenous Kenyan at a disadvantage in accessing justice.

At the international level, the situation is similar. A 2019 study revealed that 1.5 billion people are unable to access justice. Recent studies have shown that many African countries are on a trajectory to enhance access to justice with more focus on legal empowerment interventions, such as legal literacy, enhancing access to formal adjudication systems and paralegalism. The Government of Kenya, under the 2010 Constitution, is obligated to facilitate access to justice to all its citizens as a means of sustainable development. Infringement of access to justice violates basic human rights, particularly those of the indigent.

Legal Empowerment Programmes

Legal empowerment programmes aim to promote legal awareness, education, and capacity-building, as well as provide legal aid and support to those in need. Legal empowerment programmes can take many forms, including community legal clinics, paralegal training, public legal education campaigns, and advocacy for legal and policy reforms. These programmes can be led by NGOs, Community-Based Organisations (CBOs), or government agencies. The ultimate goal of legal empowerment programmes is to enable individuals and communities to exercise their legal rights, access legal services, and participate in the decision-making processes that affect their lives.

Due to the prevalence of social-economic and political factors that affect access to justice, legal empowerment programmes not only have to target those that are most vulnerable but be cognizant of marginalisation and inequality. Within the Kenyan context, the government has put in place several initiatives to improve access to justice. However, their impact has been limited particularly on the ground where there have been cases of intimidation by the formal justice network.²

The Kenyan legal system consists of formal and informal systems with the former often considered expensive and time consuming. The informal system includes religious courts, community-based dispute resolution procedures and customary courts which by contrast are viewed as being cheaper and more effective while relying on mediation and mutual consent to settle conflicts at the community level.³ While this system is certainly more accessible, indigent persons are often not able to access either system.

Legal empowerment programmes seek to aid the indigent people bridge this gap and have enjoyed some success in Kenya. In addition to Article 48 of the Constitution of Kenya 2010, which mandates the state to ensure access to justice for all Kenyans, the National Legal Aid Service (NLAS) exists to steward legal aid facilitation in Kenya.

2. Kalla, K. & Cohen, J. (2007) "Ensuring Justice for Vulnerable Communities in Kenya: A Review of HIV and AIDS-related Legal Services" Law and Health Initiative: OSI's Public Health Programmes. Open Society Initiative for East Africa. Available at <<https://kelinkkenya.org/wp-content/uploads/2010/10/Ensuring-justice-for-the-Vulnerable.pdf>> (last accessed in April, 2024)

3. UN Women, UNICEF & UNDP. "A study of informal Justice Systems: Access to justice and human rights." Available at <<https://www.undp.org/sites/g/files/zskgke326/files/publications/Informal-Justice-Systems-Summary.pdf>> (last accessed April, 2024)

Kenya has a history of human rights violations particularly against the vulnerable populations including women, children, and persons with disability (PWD's) who are often subject to discrimination, exploitation, arbitrary arrests and abuse, and denial of access to basic services. Access to justice plays a role in resolving disputes and safeguarding property and works against the negative perception and lack of trust in the legal system – in part due to their inability to access it.

The justice system in Kenya is based on the British system Common Law with a lower magistrate court handling most of the cases including criminal and civil, and the High Court handling more complex cases. The Court of Appeal hears appeals from the High Court and the Supreme Court constitutes the highest appellate court. The Justice system faces several challenges including delays in the resolution of cases, corruption, and limited access to justice, particularly for the poor and marginalised. This has led to reforms including the establishment of legal empowerment programmes and alternative dispute resolution mechanisms. The legacy of colonialism continues to shape the justice system and the process is often slow and bureaucratic with significant case backlog.

The lack of access to justice has a disproportionate impact on the poor and marginalised in Kenya including endemic violation of human rights, entrenchment of poverty, impunity, marginalisation, and propagation of conflict. These effects are perpetuated by long delays in the resolution of cases and limited access to justice (due to a lack of knowledge, poverty, and limited legal aid services), insufficient resources in the justice system, corruption, limited public trust, insecurity and harassment, insufficient resources in the justice system, and cultural beliefs.

The Kenya Legal Empowerment Network (KELEN) estimates that 1,285,000 Kenyans have been targeted by legal empowerment programs between 2003-2023.⁴ Studies have shown that legal empowerment in formal and informal settings are more sustainable when they are locally owned and coupled with top-down reforms of domestic laws to ensure gender equality.⁵ These can serve to address gender disparities due to custom. In Kenya, there are several types of legal empowerment programmes detailed in the table below:

Types of Programmes	Description
Community Legal Clinics	These are community-based organisations that offer legal advice and assistance to individuals who cannot afford the services of a lawyer. These clinics are often staffed by volunteer lawyers, law students, or paralegals.
Paralegal Training	Paralegals are trained to provide legal advice, assistance, and representation to individuals who cannot afford a lawyer. Paralegal training programmes in Kenya provide training on basic legal principles, legal research and writing, and advocacy skills.
Public Legal Education	Public legal education programmes aim to educate individuals and communities about their legal rights and responsibilities. These programmes provide information on legal processes, court procedures, and available legal services.
Legal Aid	Legal aid programmes provide free or low-cost legal services to individuals who cannot afford a lawyer. These programs may include legal representation, mediation, and other forms of legal assistance.

4 Shatikha S. Chivusia “The Value of Paralegals in Kenya’s Justice Chain” ESR REVIEW #01 Vol. 22 2021.

5 IDLO (2013) Accessing Justice: Models, Strategies and Best Practices on Women’s Empowerment. Available at https://www.idlo.int/sites/default/files/Womens_Access_to_Justice_Full_Report.pdf (last accessed of April 2024).

Advocacy for Legal and Policy Reforms	Legal empowerment programmes in Kenya often advocate for legal and policy reforms that can increase access to justice and promote human rights. These programs may involve lobbying, media campaigns, and other forms of advocacy to raise awareness about legal issues and promote legal and policy change.
Training on Public Interest Litigation (PIL)	Public Interest Litigation is a legal strategy used by organizations to advocate for the rights and interests of marginalized communities. Through PIL, organizations (in this regard, community justice centres) file lawsuits or petitions on behalf of disadvantaged groups to address systemic issues and bring about legal and policy changes.
Alternative Dispute Resolution (ADR)	ADR programmes provide alternative methods for resolving legal disputes, such as mediation or arbitration. These programmes can be more accessible and cost-effective than traditional court processes.

Legal Frameworks and Policies that Support Legal Empowerment Programmes in Kenya

Legal empowerment programmes in Kenya are supported by a range of legal frameworks and policies. These include:

- i. The Constitution of Kenya, 2010
- ii. The Legal Aid Act, 2016
- iii. The National Legal Aid Policy, 2016
- iv. The Community Land Act, 2016
- v. The Access to Information Act, 2016
- vi. The Children Act, 2022
- vii. The Legal Education Act, 2012
- viii. The County Government Act

Legal Aid and the Push for Democracy

Despite previous aversion from KITUO to involvement in political matters, the events of the 1982 coup and subsequent widespread crackdowns on democratic freedoms led to alignments with various human rights organisations. Paralegalism at this time was community based and empowered communities in restricted spaces with a focus on human rights.⁶ At this time, the judiciary was not viewed as impartial and paralegal interventions used traditional dispute resolution mechanisms. This created a socially and politically conscious class of lawyers who would play a role in the push for multiparty democracy and continue to form important parts of Kenyan civil society. KITUO and other organisations came together in the 90s focused on access to justice and encompassed some of the most prominent individuals and civil society in the country.⁷ KITUO, nonetheless, remained focussed on legal aid through free legal aid, civic education, and strategic litigation. Other organisations involved in the grassroots paralegal networks followed suit with similar programs and KITUO was active in the informal settlements. KITUO used legal aid and advocacy to champion for justice such as in the case of Toi market which involved the eviction of informal traders by absentee landlords working with the community, local representatives, and the media.⁸

6 Mbogoh A (2021) "Pouring New Wines in Old Wineskins: State Capture, Contestations and Conflicting Understanding of the Paralegalism in Kenya with the Advent of the Legal Aid Act 2016" *Egerton Law Journal* Vol. 1 pp. 161 – 179.

7 Waruhiu W.J. & Otieno O.J. "Access to Justice - The Paralegal Approach" Ghai Y & Ghai J. (eds) *The Legal Profession and New Constitutional Order in Kenya*, Strathmore University Press (2014), pp. 201 – 220. Also available on https://www.kas.de/c/document_library/get_file?uuid=56ba9291-7c05-98d5-96b1-8161785ff854&groupId=252038 (last accessed April, 2024)

8 See generally Muturi Joseph (interview) "Muungano Wa Wanavijiji" <https://www.muungano.net/historytranscripts/joseph->

Access to Justice, the Legal Aid Act and Challenges

The 2010 Constitution under Article 48 guarantees access to justice, and Articles 49 and 50 on the Rights of Arrested Persons and Fair Hearing enforce this. Cases such as *David Njoroge Macharia -vs- Republic Criminal Appeal No 15 of 2020* demonstrates some of the issues around legal representation. On the ground, KITUO has been part of the Paralegal Support Network (PASUNE), now the Paralegal Society of Kenya (PSK), and has worked to develop training materials for paralegals and were heavily engaged in advocacy around the Legal Aid Bill, the National Legal Aid and Awareness Programme (NALEAP) which were part of the general push for legal reform.⁹ The Legal Aid Bill became an Act in 2016 and established the National Legal Aid Service (NLAS) and makes provisions for who qualifies for legal aid.

Challenges faced include the introduction of formalisation to the previously informal paralegal space including the role of the state in the paralegal space. The NLAS is positive but concerns noted include:

- Inadequate human and financial resources and high reliance on donor funding. There are also no clear provisions for the service in the national budget;
- NLAS in 2021 was operating with what was considered a skeleton staff to cover the entire country with a lack of coordinating mechanisms and qualified advocates even in the capital city Nairobi; and
- NLAS lacks the capacity to undertake monitoring, evaluation, supervision, and coordination.¹⁰

Studies have shown that key factors influencing the effectiveness of paralegals and legal aid services include: relationships with authorities, formal recognition, support structures, training and logistical support and cultural factors.¹¹ The fieldwork undertaken in this study showed that centring legal aid on the community as KITUO has done has produced excellent results.

Findings and Analysis

Overall, the impact of KITUO's work was largely positive particularly at the community level. Paralegals are an initial point of reference in the community and this understanding of local context is an advantage. In Turkana, for example, the paralegals in the county often go out of their way to assist victims of child marriages and other forms of gender discrimination to access justice, have assisted in disputes around land and grazing rights and were found to have helped raise awareness about legal rights. They offer counselling services, seek child custody and protection services, and take an active role in forestalling early marriages and escalation of child abuse matters to the formal court processes, and train the local administration on legal matters and provide legal services at a significantly lower cost than the formal system. It was found that KITUO community justice system had a positive impact through the promotion of rule of law and legal empowerment. Justice centres work with Chiefs and law enforcement officers and cases are often referred by police for resolution.

In Garissa, in particular, paralegals work with refugees and host communities on legal awareness, provide legal referrals in SGBV matters and even offer support in the documentation of refugees. This work has helped to cultivate a culture of awareness of legal rights and the use of court to seek redress. In *Kituo Cha Sheria & 8 others v Attorney General [2013] eKLR*, KITUO successfully petitioned the courts in quashing an order for the closure of Dadaab Refugee Camp.¹²

muturi (last accessed April, 2024)

9 Mbogoh A (2021) "Pouring New Wines in Old Wineskins: State Capture, Contestations and Conflicting Understanding of the Paralegalism in Kenya with the Advent of the Legal Aid Act 2016" *Egerton Law Journal* Vol. 1 pp. 161 – 179.

10 Ibid.

11 Moy H.A. Kenya's Community-Based Paralegals: A Tradition of Grassroots Legal Activism. In: Maru V, Gauri V, eds. *Community Paralegals and the Pursuit of Justice*. Cambridge University Press; 2018:165-209.

12 See generally *Kituo Cha Sheria & 8 others v Attorney General [2013]* Available at <https://kituochasheria.or.ke/wp-content/uploads/2022/09/Dadaab-Closure-Judgment-1.pdf> (last accessed in April, 2024)

KIIs and FGDs conducted revealed a positive outlook from beneficiaries with stories including family land disputes, encroachment of land, mediation of family disputes, and public interest litigation around community land and climate change among others. The impacts found of legal empowerment programmes on access to justice include:

1. Raising awareness of legal rights and procedures among the poor and marginalised communities.
2. Policy advocacy and legal reform.
3. Improved access to legal aid services for Kenya's poor and marginalised.
4. Increasing adherence to the rule of law.
5. Legal empowerment programmes have also pushed for legislation to improve the poor and marginalized groups' access to justice.
6. Strengthened community-based dispute resolution mechanisms.

Key lessons learned from the evaluation were that context in which legal aid operates is important, involvement of students and volunteers is key, a broader skill set than legal aid is required such as advocacy and use of the media, and finally that the methodology and content of legal aid is important. Looking internally at KITUO, several challenges were identified.

Challenges	Details
Resource mobilisation constraints for KITUO	Resource mobilisation strategy: It is our view that there is no strategic approach to resource mobilisation. KITUO's approach to resource mobilisation is largely driven by opportunities - most funds are raised through reaction or response to opportunistic calls. Legal empowerment programs often face challenges in achieving sustainability beyond the initial funding period.
	Organisational capacity, staffing, and resourcing: The evaluation notes that KITUO lacks optimal capacity and staffing in numbers to pay attention to resource mobilisation in addition to implementing programmes. As a result, staff are designated fundraising roles such as proposal development as secondary roles. This led to low win rates for proposals. For instance, in 2022, 15 proposals were submitted, but only 3 were won.
	Of importance, the evaluation also noted that insufficient infrastructure, particularly in marginalized communities, serves to impede the implementation of legal empowerment programs.
	Business development infrastructure: The evaluation notes that KITUO has no business development infrastructure that would identify opportunities, facilitate a Go No Go decision, constitute a bid team, and convert the opportunity into a quality proposal for sign off and submission.
Limited Funding and Resource Constraints	<ul style="list-style-type: none"> ○ Paralegals struggle with transport to access remote villages and often rely on their own resources to intervene; ○ Limited or no funding for legal aid yet there is a legal framework for legal aid.
Staffing Constraints	Due to minimal funding, KITUO does not have enough staff at the program level to support programming.
Client and Data Handling Concerns	<p>There must be always consistent training on upholding confidentiality and anonymization of the information.</p> <p>KITUO also needs to undertake scrutiny of its advocates' network to mitigate against incidents of malpractice and minimize collusion of the advocates and turning against their clients.</p>

Recommendations

Programme Level Recommendations

- i. **Trainings:** Community elders require more training on basic law and fair trial processes to effectively handle disputes. Paralegals require refresher trainings to update them on changes to laws, new bills before the legislature and other types of law reform. Beneficiaries could also help in escalating referral services to the paralegals.
- ii. **Streamline Curriculum for Paralegals Training:** So that there is uniformity in drafting court documents; standardization in the application of ADR and equip them with skills to enable them carry out their duties with uniformity.
- iii. **Community Sensitisation Programmes:** KITUO ought to carry out a robust community sensitisation and training on mediation and laws. This can also be done through availing simplified legal documents to enhance awareness. Radio stations to sensitise the community on the law. At the level of counties, strengthen the role of Court Users' Committees (CUCs) as a chain link to solve conflicts and explore the way the public utilizes the small claims court. There should be dialogue between the youth and the police to mitigate against incidents of abuse of power by the police. Most importantly, there needs to be diversion of offenders willing to reform from the conventional justice system.
- iv. **Documentation and Digitisation of Records:** Community justice centre records need to be digitised in a cost-efficient manner.
- v. **Partnerships, Collaboration and Linkages:** KITUO should link paralegals/community justice centres to CUCs for better collaboration and synergy with other stakeholders and partners such as lawyers and law enforcement officers to improve access to justice. The centres should also have resident *pro bono* lawyers that are consistently available to support with the emerging cases.
- vi. **Community Justice Centres in Prisons:** There is a need to open more justice centres in prisons to offer legal aid to cases of inmates charged with petty offences and decongest prisons.
- vii. **Psychosocial Support and Security:** Paralegals should be afforded protection and emergency care like other human rights defenders where there are threats to their lives. They should also be supported psychosocially because of the traumatic cases they handle.
- viii. **Exchange Programmes:** Paralegals from different counties to visit and collaborate with each other regularly to improve synergy and share experiences and best practices.
- ix. **Advocacy on Legal Aid Act and the Children's Act:** KITUO and like-minded organisations carried out advocacy initiatives to ensure the operationalisation of the Legal Aid Act, 2016 and they are also an important link in effecting diversion of children from the Criminal Justice System as per the Children's Act of 2022.
- x. **Continuous and Consistent Outreach Service by the Community Justice Centres:** A robust and continuous outreach by the justice centres in the communities will ensure consistent visibility and accessibility of paralegal services by the communities.
- xi. **Institutional Strengthening of Community Justice Centres:** Train the justice centres and paralegals on basic project management, resource mobilisation, Monitoring and Evaluation

(M&E), finance and administration.

- xii. Robust Community Self-Representation Trainings:** This is essential to equip the paralegals with skills that will aid them to file public interest litigations, should need be; and could help with the ability of sieving cases, diverting them from the formal justice systems.

4.2.2 Institutional Level Recommendations

- i. Partnerships:** KITUO should mitigate the staffing challenges by developing partnerships with law schools in various local universities. KITUO need to revive the networks it had with the Universities to identify *Probono* lawyers to support its work.
- ii. Revamped Governance Structure:** Need for clarity of roles between the Board of Trustees and Board of Directors to ensure no duplicity of roles. Revise the board charter and use it to sensitise the board on governance and policies. There is also a need to develop election rules that guide the board membership elections.
- iii. Restructure the Secretariat:** Currently KITUO has an Executive Director assisted by Programme Managers. It is the opinion of the evaluators that these are very overwhelming roles that it is necessary to recruit a deputy Executive Director who can free off some roles from the Executive Director to augment the efficiency of the office.
- iv. Strengthen Reporting from the Justice Centres:** The legal empowerment program needs elaborate reporting to enable KITUO assess the performance of their paralegals and obtain real-time information on their clients' cases. The Monitoring and Evaluation Department should consider having a tracker to enable flow of information from the justice centres.
- v. Relationship Development:** Building strong relationships with potential funders, donors, and partners is crucial.
- vi. Resource Mobilisation:** To ensure a robust resource mobilisation/ business development infrastructure for KITUO, the evaluation recommends the following measures:
 - **Donor Intelligence Mapping and Analysis of Trends.**
 - **Social Entrepreneurship** is becoming innovative, revenue generating ventures that NGOs engage in to access unrestricted funding for their operations.
 - **Corporate and Private Sectors** are emerging as an opportunity for resource mobilization through philanthropy and Corporate Social Responsibility (CSR).
 - **Business Development Process:** KITUO need to develop a Business Development system that ensures a neat and clear proposal development workflow right from opportunity identification to post submission discussion/assessment.
 - **Contract a Business Development expert:** Consider recruiting an expert or lead proposal writer to support the staff and to develop water-tight work plans.
 - **Donor Roundtables:** Organise periodic donor roundtables, campaigns, exhibitions, and events to commemorate days such as Human Rights Day.¹³

¹³ United Nations "Human Rights Day 10 December" <https://www.un.org/en/observances/human-rights-day> (last accessed April 2024)

Conclusion

KITUO at 50 years has made considerable contributions to the legal empowerment on access to justice for the poor and marginalised in Kenya. KITUO's grassroots presence and work has cultivated and nurtured a community justice system anchored on communities who are in their own rights justice defenders and can respond to justice issues. Footprints of KITUO alongside other agencies in the sector could be traced in the progress made thus far.



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