

ASSESSMENT OF LEGAL AID IN ETHIOPIA

Center for Human Rights
Addis Ababa University

ASSESSMENT OF LEGAL AID IN ETHIOPIA:

A Research Report & Proceeding of the
National Workshop of Legal Aid Providers



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Editor

Kokebe Wolde



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Preface

The Constitution of the Federal Democratic Republic of Ethiopia recognizes the right of every one to have access to justice. This is in line with various international human rights instruments ratified by Ethiopia that recognize this right as one of the fundamental rights to which every human being is entitled to by virtue of being human. These legal instruments also establish rules and principles that aim at making this right practicable, setting forth the grounds when it becomes operative, and specifying the conditions that ensure that it is fairly and equitably enjoyed. The singular importance of this right cannot, indeed, be understated as the right to access to justice is both a fundamental right in itself as well as a key means to defend and protect other rights.

Translating the high ideals of Ethiopian and international human rights law in this regard still leaves much to be desired as the full realization of the right to access to justice is impeded by structural, attitudinal and capacity constraints. Although gradual and incremental progress is being registered in removing them, there are several factors that hinder the realization of the right to access to justice. Ensuring that every citizen has an effective, expedient and affordable mechanism to exercise the right to access to justice is a challenge even in developed countries and legal systems. As a developing country with a yet developing legal system, making the right to access to justice a reality for everyone in Ethiopia cannot be expected to be immune from serious constraints in the availability of the necessary human and material resources. Related to this, and no less challenging, however, are the prevailing high illiteracy rate in general and the low level of awareness about legal rights and procedures in particular, that prevents many from having recourse to the justice system in the first place, or from optimally navigating through its mazes where they do take up this recourse. The relatively diminutive size of the legal profession and its concentration, in a geographic sense, in major urban areas, especially in Addis Ababa, and in terms of practice, in more lucrative fields catering for a clientele that has the resources to hire professional services, seriously curtails the realization of the right to access to justice for those who cannot hire their own

lawyers – something that is true for the vast majority of our population. The traditional markers of exclusion and marginalization, especially gender and disability, also operate here. It is indeed a sad fact that despite progresses made in ensuring the equal rights of women in the legal and policy arenas, women still continue to be disproportionately adversely affected in their participation in and benefitting from the justice system and the services of the legal profession

These are just some of the factors, perhaps major ones, but by no means exclusive ones, that hinder the effective realization of the right of access to justice. In the absence of rights advice and legal information provision, and in so long as legal services are inaccessible, those who do not have the financial and economic wherewithal and those that belong to especially and traditionally excluded or marginalized social groups in our society will continue to be unable to use the law and its mechanisms to enforce their rights and to redress the wrongs they suffer. Our Constitutional commitment, as well as the obligations that we assume under international human rights law, thus make it imperative that there be a vibrant system for free legal aid and legal information provision that involve the concerted effort of all stakeholders to seek ways and means so that those who cannot afford the paid service of the lawyer can have a meaningful and functioning opportunity to have a resort to avail their right of access to justice. This is, indeed, a responsibility that has to be borne not only by state agencies at all the federal, regional and local levels, but also by civil society organizations, including professional and mass associations, academic institutions such as universities, legal professionals including lawyers and law students, as well as all those who are interested in seeing to it that all Ethiopians enjoy their rights and that the Ethiopian legal system operates fairly and equitably,

As of present there are flickering attempts by some governmental and non-governmental institutions at providing legal aid services in the country. Although the impact of the services provided by these institutions is not yet systematically studied, casual observation reveals that the activities of these legal aid service providers lacks the necessary resource and capacity, and is little publicized. While the initiation of the services is commendable in itself, it is still very limited both in terms of the

geography and demography covered, and in terms of the services that are being rendered. There is also a feeling that the service may benefit from a more enhanced coordination among the service providers. Quite evidently, there is a big assignment ahead to make the legal aid system robust and more relevant to the justice system. This is by no means to belittle the efforts and contributions of the various legal aid providers to the justice system so far made. It is just to emphasize that collaborative work by the actors and stakeholders in legal aid provision is crucial to uplift the state of legal aid provision in Ethiopia.

With this view in mind the Center for Human Rights of Addis Ababa University hosted a National Workshop of Legal Aid Providers in Ethiopia from May 9- 10, 2013. The Workshop was intended to create a forum for the different actors that are engaged in legal aid provision to discuss the state of legal aid in Ethiopia, share their experiences, and map the way forward to improve the state of legal aid. At the Workshop a research report on assessment of legal aid in Ethiopia commissioned by the center for Human Rights (AAU) was also presented. The research report provided an overview of the state of legal aid in Ethiopia and served as a basis on which the Workshop participants made deliberations on the opportunities, challenges and the way forward of improving access to legal aid in Ethiopia.

This publication is a follow up of the Workshop. It includes the research report on Assessment of Legal Aid in Ethiopia and a summary of the main points raised during participants' discussion at the Workshop. A Directory of Legal Aid Providers containing basic information about legal aid providers in Ethiopia culled from the research report on Assessment of Legal Aid in Ethiopia is also appended to it. We hope that this publication will be informative and serve as starter for further endeavors to improve access to justice.

Elshady Kifle

Chair, Center for Human Rights
Addis Ababa University

List of Acronyms

AA	Addis Ababa City
AAE	Action Aid Ethiopia
AALF-AAU	Alumni Association of Law Faculty of Addis Ababa University
AAU	Addis Ababa University
AAU-CHR	Addis Ababa University, Center for Human Rights
ACHPR	African Charter on Human and Peoples' Rights
ACPF	the African Child Policy Forum
ACRWC	African Charter on the Rights and Welfare of the Child
ANPPCAN	Association for Nation-wide Action and Protection against Child Abuse and Neglect
APAP	Action Professional Association for the People
BoWCYA	Bureau of Women, Children and Youth Affairs
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CBOs	Community Based Organizations
CCERD	Committee on the Convention against Racial Discrimination
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	Convention on the Elimination of Racial Discrimination
CJPO-FSC	The Child Justice Project Office of the Federal Supreme Court
CJAP	Criminal Justice Administration Policy
CLPC	Children's Legal Protection Center
CPUs	Child Protection Units
CRC/UNCRC	United Nations Convention on the Rights of the Child
CSO	Civil Society Organization
CwDs	Children with Disabilities
CWPUs	Child and Women Protection Units
EBA/ELA	Ethiopian Bar Association/Ethiopian Lawyers Association
ECLF	Ethiopian Christian Lawyers' Association (Advocates Ethiopia)
EHRC	Ethiopian Human Rights Commission
EHRCO	Ethiopian Human Rights Council
EIO	Ethiopian Institution of the Ombudsman
EWLA	Ethiopia Women Lawyers Association
FDRE	Federal Democratic Republic of Ethiopia
FFIC	Federal First Instance Court
FLACs	Free Legal Aid Centers

FSC-CJPO	Federal Supreme Court-Child Justice Project Office
ICCPR	International Covenant on Civil and Political Rights
IEC	Information, Education and Communication
LEP	Legal empowerment of the poor
MoJ	Ministry of Justice
MoWCYA	Ministry of Women, Children and Youth Affairs
NGO	Non-Government Organization
PDO	Public Defense Office
PLWHA	People Living with HIV/AIDS
SNNP	Southern Nations, Nationalities and Peoples' Regional State
UNODC	United Nations Office on Drugs and Crime
UNDP	United Nations Development Program
UNICEF	United Nations Children's Fund
USAID	United States Agency for International Development
VAWC	Violence against Women and Children
WCYAB	Women Children Youth Affairs Bureau

Assessment of Legal Aid in Ethiopia: A Research Report

By

Anchinesh Shiferaw and Ghetnet Mitiku

Editors

Fasika Hailu and Kokebe Wolde

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Executive Summary

This research was conducted with the objective of assessing the practice, gaps and challenges in the provision of legal aid service in Ethiopia, as well as the level of networking and coordination among the various legal aid providers. More specifically, it aimed to analyse the relevant international and national legal and policy frameworks concerning legal aid provision; review existing research and documentation on the provision of legal aid services; create a data base of existing legal aid service providers; examine the service provided by various actors; assess the level of cooperation and coordination among legal aid providers; and, identify challenges and good practices in the provision of legal aid service.

The scope of the research covered legal aid service rendered by NGOs, higher learning institutions, professional associations and government organs in civil cases. Both quantitative and qualitative research methods including literature review, primary data collection through field visits and stakeholders' consultations were employed to undertake the assessment.

The assessment, in addition to compiling a database of legal aid service providers, has identified important findings concerning the accessibility, delivery and use as well as the quality of legal aid services. Accessibility of legal aid services is analyzed in terms of legal awareness, geographic proximity, program coverage and financial cost of accessing the service. The findings of the assessment indicate that in terms of legal awareness most legal aid service providers have programmes designed to improve awareness among their target communities as well as key actors and stakeholders. Distribution of IEC materials, radio broadcasting, and outreach programs are more commonly employed with varying degrees of success for the purposes of creating awareness and introducing available services. The geographical

coverage of legal aid services varies from region to region. For the most part, the services are generally urban focused and closely related with the justice institutions located in urban areas. With regard to financial accessibility, all legal aid services are provided free of charge except for incidental/opportunity costs which are not covered by service providers in most cases. Various methods are employed among legal aid providers to identify beneficiaries eligible for legal aid services. It is submitted that there is a need to set uniform eligibility criteria that can be utilized by all legal aid providers at the national level.

The analysis on delivery and use of services focused on the identity of actors delivering legal aid services, the range of services provided, and the methods of delivery. The findings indicate that the nature of the institution providing the services is an important factor in terms of determining the identity of the personnel giving the legal aid service. Universities generally use staff and students while professional associations and government organs utilize advocates licensed to practice before federal and regional courts. Charities and societies, on the other hand, tend to engage lawyers and paralegals. The most recurrent cases entertained by the legal aid service providers are civil cases, especially family, property and labor cases, maintenance allowance, and succession issues being the most frequent cases. The range of available services covers oral advice or legal counseling, preparation of pleadings and other documents, and legal representation by advocates before a court of law with oral advice being the most recurrent. Finally, the beneficiaries of the services are the poor with women and children targeted by most service providers. Other groups of beneficiaries include the elderly, PLWHA and inmates of detention facilities.

The assessment analyzed the quality of legal aid services in addressing the justice needs of the beneficiaries. This is gauged using three criteria: establishing professional standards for personnel providing the service; existence and adoption of model rules; and provision of relevant training for personnel providing the service. In addition to the code of conduct for advocates provided by law at the federal and regional levels, a few legal aid providers have developed guidelines and standards governing the provision of legal aid service by them. However, the assessment found that such professional standards are lacking among most legal aid service providers. The same is true with regard to case management and follow up systems which are found to be less than adequate in the case of most legal aid providers. Organization of training programmes for the personnel that actually provide the service are generally limited to orientation sessions and limited short term training opportunities. The assessment did not find any systematic training programmes for services providers, but for one of the legal aid providers covered by the assessment.

The assessment has come up with detailed recommendations for action by various actors with particular emphasis on the concrete actions that should be taken by the legal aid service providers themselves with the view to improving the accessibility, delivery and quality of legal aid service in Ethiopia.

Part one: Introduction

1.1 Background

Legal aid service is grounded on the principle that inability to pay for legal service should not inhibit access to justice and equality before the law. It is intricately related with the rule of law, fair trial, right to defend oneself, equality before the law and, in general, right of access to justice.¹

The right to legal aid is formally recognised in different legal systems and under international human rights instruments.² Under the Ethiopian legal system, the right of accused persons to be represented by legal counsel appointed at the expense of the State in cases where the accused does not have sufficient means to hire a lawyer and miscarriage of justice would result should they not have representation is recognised under the FDRE Constitution.³ In several instances, such right is interpreted as requiring the government to ensure and facilitate that free legal aid service is provided by other legal aid providers too, not only by state appointed and paid legal counsels.⁴ Furthermore, the right of access to justice is guaranteed under the FDRE Constitution.⁵ To enjoy this right, one does need not only be able to bring cases before the court of law, but also defend his/her case by himself/herself or with the help of a lawyer in order to get a just and adequate outcome of the case.

¹ Saeed, S., 'Legal Aid Bill: Analytical Study', Khartoum Sudan, 2010.

² See Article 14 (3 (d)) of International Covenant on Civil and Political Rights [Hereinafter ICCPR], 1966; Article 40 (2) of Child Right Convention [Hereinafter CRC], Dakar Declaration on the Right to Fair Trial in Africa, 1999, and Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice Systems in Africa, 2004[Hereinafter Lilongwe Declaration].

³ Constitution of the Federal Democratic Republic of Ethiopia, 1995, Proclamation no. 1/1995, *Fed. Neg. Gaz.* year 1, no. 1, Article 20(5) [Hereinafter FDRE Constitution].

⁴ See Lilongwe Declaration *Supra* note 2.

⁵ FDRE Constitution, *supra* note 3, Article 37.

However, there are many instances where one cannot do so because of lack of awareness about existing legal remedies and financial setbacks to hire a lawyer. The indigent and the vulnerable are primary victims in the category of persons who cannot enjoy this right. To remedy these obstacles on the enjoyment of the right to access to justice, free legal aid service is rendered by governmental and non-governmental institutions.

In Ethiopia, apparently, various actors, both governmental and non-governmental, are engaged in the provision of legal aid service to the indigent and members of vulnerable groups. However, the approaches and methods the various actors follow in the provision of the service, the kind of services they provide, the profile of the providers, and how the service is delivered, and the general trend in legal aid provision is little known. The governing legal and policy framework is not studied before. This research is therefore intended to examine the legal and policy framework pertaining to the provision of legal aid service and assess the practice of legal aid service provision in Ethiopia.

1.2. Objectives

General Objective

The main objective of this assessment is to identify the trend in legal aid provision by different governmental and non-governmental organizations including a description of the main legal aid practices, gaps and challenges thereof, and identification and description of the coordination and cooperation among the various legal aid providers.

Specific Objectives

Specific objectives of the research include:

- Analysing the relevant international and national legal and policy frameworks concerning legal aid provision;
- Forming a database of the existing legal aid providers in Ethiopia;
- Examining the accessibility and quality of the service provided by various actors;
- Assessing the level of cooperation and coordination among legal aid providers;
- Identifying gaps and good practices to be shared among legal aid providers; and,
- Providing recommendations to improve the state of legal aid service provision in Ethiopia.

1.2 Scope of the Study

This study does not intend to provide a full-detail analysis of the practice of each legal aid provider. It tries to get an overview of the service provided by legal aid providers which are currently operating in Ethiopia. For this purpose the researchers chose to deal with the legal aid service rendered by NGOs, higher learning institutions, professional associations and by the government in civil cases. The legal aid service rendered by Public Defence Office⁶ at the Federal and regional level is excluded from the scope of this study for the reason that it requires a deeper study which is not intended under this study.

⁶ The Public Defense Office at the federal level is established by Federal Courts Proclamation, 1996, Prol. No. 25/1996, *Fed. Neg. Gaz.*, Year 2, No. 13 under the Federal Supreme Court with a view to provide legal representation for defendants at the trial stage. Similar offices at the regional levels are established by the respective regional legislator under the regional supreme courts.

1.3 Research Method

This research employed a research approach combining qualitative and quantitative methods using information from both primary and secondary sources. This research principally employed social science research methodology to collect empirical data. The data collection method that was utilised for this research includes key and general informants' interviews. In total, more than 50 interviews have been conducted covering both legal aid providers and stakeholders.⁷ The key informants that were interviewed include coordinators of legal aid centers, relevant officials from the MoJ, MoWCYA, the judiciary and the EHRC at the federal level and prison administrators, court officials, officials of bureaus of justice, and women, children and youth affairs bureaus, as well as police commissions at the regional level.

As regards providers of legal aid service, all legal aid providers identified by the researchers and which are located in Addis Ababa and in selected regional towns have been interviewed.⁸ Further, selected public higher learning institutions which are rendering free legal aid service have also been interviewed.⁹ The selection of higher learning institutions for the purpose of data collection was made based on their experience and with the aim of having representative data of geographical regions and emerging regions.

⁷ See annexes 4 and 5 for the list of informants.

⁸ These are EWLA, ECLA, ELA and FSC-CJPO.

⁹ Addis Ababa University Center for Human Rights' legal aid centers (Adama and Hawassa branches), Hawassa University Legal Aid Center, Mekelle University Legal Aid Center, Adama University Legal Aid and Research Center, Bahir Dar University Legal Aid Center, Haromaya University College of Law Free Legal Service Center, Jimma University School of Law Legal Aid Center, Gonder University Legal Aid Center and Jigjiga University Legal Aid Center.

Interview guides both for legal aid providers and stakeholders have been prepared covering questions related with the central issues of this research.¹⁰ The data collected through interview of key legal aid providers and stakeholders has been examined and analysed to extract information regarding the accessibility of legal aid service, the mode of delivery, quality of the service and cooperation and coordination with other legal aid providers and stakeholders.

A thorough review of literature, research reports, and other documents related to access to justice in general and legal aid service in particular has been made. The primary and secondary sources such as national and international legal/policy instruments, activity reports of legal aid providers, annual report of EHRC and MoJ, various guidelines used by legal aid providers and other publications pertaining to legal aid have been analysed. Moreover, empirical and normative research outputs and assessment reports on legal aid services in Ethiopia carried out by academics, research institutions and practitioners, have been reviewed.

1.4 Limitations

The researchers did not conduct focus group discussion with beneficiaries of free legal aid service which was envisaged originally owing to the difficulty in finding previous beneficiaries within the short period of time available for delivering the assessment report. In addition, the desired data from legal aid providers was not made available in its entirety owing to failure of some institutions to respond to inquiries in a timely manner.

¹⁰ See annexes 1, 2 and 3.

1.5 Organisation of the assessment

This research report is organised with an eye to a coherent presentation of findings. The first part of the research highlights the objectives of the research, the scope of the research and its methodology. The second part lays down the conceptual framework by exploring the meaning and relevance of legal aid, international and national legal and policy framework, strategies/approaches of legal aid provisions and principles and standards of legal aid.

Part Three is devoted to discussing the findings of the research in terms of accessibility of legal aid service, delivery and use of the service, quality of the service, and networking and coordination among legal aid providers. This part also contains the profile of legal aid providers in Ethiopia. Recommendations that help correct identified gaps and improve legal aid service provision comes following part four which presents summary of best practices and gaps in the provisions of legal aid service.

Part Two: Conceptual Framework

2.1 Background

2.1.1 Meaning of Legal Aid

Literally, ‘legal aid’ implies the provision of services of ‘legal’ nature free of charge or at a discount (i.e. need-based payment).¹¹ The term legal aid has been defined in various ways depending on the purpose and thematic focus of the endeavor. The key elements across definitions are: the services provided; the providers of the services; and, the proceedings within which the services are provided.

Definitions of legal aid emphasize the role of the State as the provider of identified services,¹² sometimes excluding similar services from the purview of the definition where they are provided by other actors.¹³ Such definitions may refer to services actually provided by state institutions or those funded by the State without reference to the actual service providers. This is sometimes referred to as ‘public legal services’ where funded by the State, or ‘State legal services’ where provided by state institutions. Other definitions of legal aid take into account the provision of legal services by a broad range of non-state actors including NGOs, CBOs, professional associations and academic institutions.¹⁴

¹¹ See Y. Endeshaw, *Children’s Access to Legal Aid in Ethiopia*, UNICEF-Ethiopia, Addis Ababa, October 2011.

¹² UNODC, *Access to Legal Aid in Criminal Justice Systems in Africa: Handbook*, 2011, p. 1 and 11.

¹³ For instance, the whole spectrum of legal aid services in Canada fall within the purview of the government, i.e. federal and provinces.

¹⁴ ARC International, *Gender-Based Violence Legal Aid: A Participatory Toolkit*, GBV in Conflict-Affected Settings, 2005, p. 8.

Legal aid provision may also be defined in terms of whether the services are made available in civil or criminal proceedings or in both cases. Criminal legal aid is provided to persons accused of a crime while civil legal aid is assistance provided to persons involved in non-criminal disputes such as family matters and debt issues. Broader definitions further extend the scope of legal aid to administrative processes as well as alternative dispute resolution within or outside the formal legal system, i.e. customary dispute settlement systems.

In terms of the services provided, legal aid may be understood as limited to ‘legally aided representation’ or may include the whole system of legal education, information and services. Some definitions also cover other forms of legal assistance as well as ‘mechanisms for alternative dispute resolution’.¹⁵ The nature of the services provided also have direct implications on whether the reference is limited to professional legal services or includes primary (non-professional) legal services, named paralegal services.

Thus, the narrowest definitions of legal aid refer to the provision of legal representation by a professional lawyer paid for by the State for persons accused of a crime before a court of law. Broader definitions recognize the role of other actors and stakeholders in the provision of a broader range of services relevant to judicial and other proceedings.¹⁶ Terms such as ‘legal services’ and ‘legal aid services’ have been

¹⁵ Lilongwe Declaration, *supra* note 2, para. 1.; Penal Reform International, *Access to Justice in Sub-Saharan Africa: The Role of Traditional and Informal Justice Systems*, 2000, p. 10; Also see: Melina Buckley, *Moving Forward on Legal Aid: Research on Needs and Innovative Approaches*, Canadian Bar Association, 2010, p. 4.

¹⁶ Lilongwe Declaration, *supra* note 2, para. 1; Also see: M. Buckley, *supra* note 15, p. 4 and 7; for a broad definition provided in the context of the emergence of legal empowerment from legal aid practice also see: V. Maru, ‘Allies Unknown: Social Accountability and Legal Empowerment’, *Health and Human Rights in Practice*, Volume 12, Number 1, 2010, p. 8.

used in place of legal aid to signify the broad range of service providers, processes targeted, and the services provided.¹⁷

2.1.2 Relevance of Legal Aid

The rationale for the provision of legal aid services could be seen from various complementary and overlapping perspectives.¹⁸ Existing evidence shows that legal aid services targeting to benefit ‘disadvantaged populations’ play an essential role in enhancing the rule of law, good governance, human rights, empowerment of the poor, and poverty alleviation.¹⁹ The relevance of legal aid from social policy, empowerment and human rights perspectives is especially pertinent here.

The social policy and empowerment perspectives stem from a conception of poverty and its correlation with social exclusion.²⁰ Poverty, which used to be understood as lack of income, is being increasingly recognized in terms of ‘lack of opportunity, a lack of control, and a lack of pathways to full participation in

¹⁷ According to the UNDP’s Practitioners’ Guide to A Human Rights Based Approach to Access to Justice (2005), legal aid includes legal counsel and other services (e.g. financial facilities through reduction in court fees, translation services for deaf-mute litigants, psycho-social support to victims of trauma) that people need to navigate the legal process. See: UNDP, *Programming for Justice: Access for All: A Practitioners Guide to A Human Rights Based Approach to Access to Justice*, 2005, UNDP Asia-Pacific Rights and Justice Initiative, Bangkok, pp. 151-153.

¹⁸ M. Cappelletti and J. Gordley, ‘Legal aid: Modern Themes and Variations’, *Stanford Law Review*, vol. 24, No. 2, 1972, p. 347.

¹⁹ S. Golub, ‘Forging the Future: Engaging Law Students and Young Lawyers in Public Service, Human Rights, and Poverty Alleviation’, *An Open Society Justice Initiative Issues Paper*, 2004, p. 1.

²⁰ Legal Aid Queensland, *Strategic Policy Framework and Policy Program*, 2006-2008, p. 4.

society’.²¹ Understood as such, it is closely related to the process of social exclusion²² occurring when people or places suffer from a series of problems such as unemployment, discrimination, poor skills, low incomes, poor housing, high crime, ill health and family breakdown.²³ Governments and other development actors have increasingly become aware of the two-way link between social exclusion and the ‘infrastructure of justice’ (i.e. legal service institutions). On the one hand, the social and economic costs of lack of access to justice play an important role in reinforcing exclusion. However, the law could also be a potent instrument for inclusion. Legal aid is thus recognized as ‘*a vital, legally mandated social service*’ essential in maintaining ‘*a functioning justice system and promote equality and justice in our society*’.²⁴

The human rights perspective on the relevance of legal aid had a dual basis: access to legal services as a right; and, availability of legal services as a pre-requisite for the enforcement of human rights. The first draws upon the recognition of access to justice, fair trial and equality before the law in the human rights legal framework and underlines the provision of legal aid as a core component in the substance of these rights. In addition, the relevance of legal aid within the human rights

²¹ D. Martin, *A Seamless Approach to Service Delivery in Legal Aid: Fulfilling a Promise or Maintaining a Myth?* Legal Aid Research Series, Osgoode Hall Law School, York University, 2001, p. 1.

²² For a more recent treatment of social exclusion vis-à-vis legal aid, please see: Cabinet Minister for Social Exclusion, *Reaching out: An Action Plan on Social Exclusion* (London: Government of U.K., 2007), p. 49.

²³ A. Currie, ‘Legal Problems of Everyday Life’, in R. Sanderfur, (ed.), *Access to Justice, The Sociology of Crime, Law and Deviance*, Emerald Group Publishing, 2009, p. 46 available at: <www.justiceinitiative.org/db/resource2?res_id=103868>.

²⁴ A. Brewin and K. Govender, *Rights-Based Legal Aid: Rebuilding BC’s Broken System*, Canadian Center for Policy Alternatives, 2010, p. 4.

framework is seen in the ‘justiceability’ of all human rights and access to remedies in cases of violation. The recognition of a right would be meaningless without access to the means of enforcing claims arising from the right.

2.1.3 Emergence and Development of Legal Aid

The emergence of legal aid in Western societies has been attributed to the interplay of a range of factors falling within three broad categories: “*growing significance of modern social rights; new social dynamics*”²⁵; and, *the emergence of modern legal professions*”.²⁶ As early as the 1490s, there were schemes in England operating ‘*in forma pauperis*’ under which lawyers were assigned free of charge for the poor in common law courts.²⁷ However, the gaps in the system in terms of the burden on the poor in accessing the services led to the emergence of a number of charitable legal aid schemes in England, the US and Germany in the first half of the 19th Century.²⁸ This was followed by a shift towards state provision of legal aid in England.

The post-World War II era saw a rapid expansion of legal aid services across the Western World and within its sphere of influence.²⁹ Within a period of three decades national legal aid systems were reformed in the USA, Canada, Western Europe³⁰, and Australia and Judicare or mixed model schemes were established to provide a comprehensive range of legal aid services. The establishment of a national

²⁵ Such as democratization, industrialization and urbanization, electoral reform and mass education.

²⁶ D. Fleming, ‘Legal Aid and Human Rights’, Paper Presented to the International Legal Aid Group Conference, Antwerp, 6-8 June 2007, p. 2.

²⁷ B. Dillon, *A Review of Recent History of the Coolock Community Law Center*, Research Report 3, Combat Poverty Agency, 1989, p. 5.

²⁸ *Ibid.*

²⁹ Fleming, *supra* note 26, p. 3.

³⁰ Denmark, Finland, France, the Netherlands, Norway, Sweden, the UK.

Judicare legal aid scheme³¹ in the UK in 1949 was one of the key events sparking the process.³²

However, the last two decades of the 20th Century also saw a reverse trend away from legal aid with falling or stagnant funding, declining scope, and more restrictive eligibility criteria across national systems.³³ In the Western countries, this trend has been associated with socio-economic developments and attendant changes in the legal profession. Yet, the emergence of a new ‘access-to-justice approach’ as a ‘third wave’ of reform affecting law and the poor was a key factor.³⁴ This approach has a broader scope covering “the full panoply of institutions and devices, personnel and procedures, used to process, and even prevent, disputes in modern societies” rather than the legal aid focus on access to legal services.³⁵

The access to justice approach came with two important advantages. First, by shifting focus from the delivery of legal services to addressing structural issues, it has solved critical challenges inherent in access to law, i.e. legal aid systems. In addition to addressing the efficiency and effectiveness concerns, the access to justice approach also had the advantage of greater impact and sustainability of results. Enhanced recognition of the role of actors and stakeholders across sectors, including

³¹ Meaning: delivery by way of private practitioners funded on a case by case basis, often through some form of validated certificate. See R. Smith, ‘Legal Aid: Models of Organization’, Paper Presented at a Conference of the European Forum on Access to Justice Held in Budapest on 5-7 December 2002, p. 8; available at: <www.legalaidreform.org>.

³² For similar developments in Canada, see: John D. Honsberger, ‘The Ontario Legal Aid Plan’, *McGill Law Journal*, Vol. 15, No. 3, 1967, p. 436.

³³ Fleming, *supra* note 26, p. 17.

³⁴ Buckley, *supra* note 15, p. 4. The development of legal aid in the 1960s Canada was especially driven by social justice and access to justice considerations.

³⁵ M. Cappelletti and B. Garth (eds.), *Access to Justice: A World Survey*, Vol. 1, Sijthoff and Noordhoff, 1978, p.124, quoted in: Roger Smith, *supra* note 31, p. 3.

non-state actors, is also important especially in resource constrained developing countries' contexts.

Since 2000, the access to justice approach has been progressively replaced by Legal Empowerment of the Poor (LEP). Generally understood as “*the process through which the poor become protected and are enabled to use the law to advance their rights and their interests, vis-à-vis the state and in the market*”,³⁶ LEP has been defined by different development agencies in the following terms:³⁷

- Asian Development Bank (ADB): “[Legal empowerment of the poor] involves the use of law to increase disadvantaged populations' control over their lives through a combination of education and action.”
- Carnegie Endowment: “*Legal empowerment of the poor is a rights-based strategy for improving governance and alleviating poverty ... [and involves] ... the use of legal services and related development activities to increase disadvantaged populations' control over their lives.*”
- World Bank (WB): “*Legal empowerment promotes safety, security, and access to justice and helps poor people solve problems and overcome administrative barriers.*”
- High Level Commission for Legal Empowerment of the Poor (HLCLEP): “*Legal empowerment of the poor expands the rule of law to the benefit of all citizens, rich or poor, men or women, rural or urban, and whether they belong to ethnic majorities, indigenous people, or other minorities.*”

³⁶ Commission on Legal Empowerment of the Poor, *Making the Law Work for Everyone: Report of the Commission on Legal Empowerment of the Poor*, Vol. I, 2008, p. 5-6 [Hereinafter Report of the Commission on Legal Empowerment of the Poor]

³⁷ USAID, *Legal Empowerment of the Poor: From Concepts to Assessment*, March 2007, Box 1: Definitions of Legal Empowerment of the Poor, p. 2.

- USAID: “*Legal empowerment of the poor refers to actions and processes, including but not limited to legal reforms, by which the poor are legally enabled to act more effectively to improve their economic situation and livelihoods, allowing them to alleviate or escape poverty.*”

Generally, legal empowerment has been defined as a rights-based strategy to promote safety, security, and access to justice through the use of legal services and related development activities to increase disadvantaged populations’ control over their lives.³⁸

LEP has been described by USAID as involving four interrelated tasks in terms of interventions:³⁹ reforming the law and giving the disadvantaged a voice; providing knowledge as a means of empowerment; ensuring that the disadvantaged are able to overcome barriers; and providing access to enforcement. The fourth task incorporates actions designed to ensure that the disadvantaged can protect their rights in and access to opportunities and assets through affordable, fair mechanisms for enforcement of rights and contracts and dispute resolution. The provision of legal services falls within this category of actions, along with other rights enforcement measures.

Within the framework of Legal Empowerment of the Poor, developed by the UNDP Commission on LEP, ‘access to justice and rule of law’ is one of the four pillars along with property rights, labor rights and business rights. Legal empowerment measures falling under this dimension are designed to:⁴⁰

³⁸ S. Golub, ‘What is Legal Empowerment? An Introduction’, in S. Golub (ed.), *Legal Empowerment Working Papers*, International Development Law Organization, 2010, p. 2.

³⁹ USAID, *Legal Empowerment of the Poor*, *supra* note 37, p. 11.

⁴⁰ Report of the Commission on Legal Empowerment of the Poor, *supra* note 36, p. 5-6.

- *Ensure that everyone has the fundamental right to legal identity, and is registered at birth;*
- *Repeal or modify laws and regulations that are biased against the rights, interests, and livelihoods of poor people;*
- *Facilitate the creation of state and civil society organizations and coalitions, including paralegals who work in the interest of the excluded;*
- *Establish a legitimate state monopoly on the means of coercion, through, for example, effective and impartial policing;*
- *Make the formal judicial system, land administration systems, and relevant public institutions more accessible by recognizing and integrating customary and informal legal procedures with which the poor are already familiar;*
- *Encourage courts to give due consideration to the interests of the poor;*
- *Support mechanisms for alternative dispute resolution;*
- *Foster and institutionalize access to legal services so that the poor will know about laws and be able to take advantage of them;*
- *Support concrete measures for the legal empowerment of women, minorities, refugees and internally displaced persons, and indigenous peoples.*

Access to legal services is thus narrowly focused on ‘the poor’ and relegated to one of nine specific objectives under one of three pillars of the comprehensive LEP approach.

The linkage between legal aid and human rights has its basis in the adoption of the Universal Declaration of Human Rights (UDHR) by the UN General

Assembly in 1948, proclaiming the right to equality before the law and its protection, without discrimination (Article 7). This standard setting provision was elaborated through the International Covenant on Civil and Political Rights (ICCPR) in 1966 (Article 26). However, the relationship with human rights was not given due attention until the middle of the first decade of the 21st Century.⁴¹ Important factors for the recognition include the International Legal Aid Group Conference on legal aid and human rights in Europe in 2005, and the Legal Services Research Centre's International Research Conference in 2006.⁴²

2.2 International and Regional Human Rights Framework for Legal Aid

The international and regional human rights instruments on civil and political rights do not specifically mention legal aid as a right. As such, the human rights basis for access to legal aid is to be drawn from the right to access to justice, fair trial and equality before the law.

Access to justice and fair trial are rights recognized under the major international and regional human rights instruments including: the Charter of the United Nations, the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (CESCR), the International Covenant on Civil and Political Rights (ICCPR), the United Nations Convention on the Rights of the Child (UNCRC) and the African Charter on the Rights and Welfare of the Child (ACRWC). The core instruments on the issue, the

⁴¹ Fleming, *supra* note 26, p. 1.

⁴² Papers presented by Roger Smith (legal aid and human rights in Europe) and John Johnsen (human rights in the development of legal aid in Europe, with special attention to the work of the European Council Commission on the Efficiency of Justice (ECCEJ)). These Papers are considered critical in engendering such recognition.

UDHR and the ICCPR, state that everyone is equal before the law and has the right to effective remedy against violations of fundamental rights.⁴³

2.2.1 Access to Justice

The UDHR states that: “*everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law*”.⁴⁴ The ICCPR provides for the same right in more detail by requiring each State Party to the Covenant:⁴⁵

- a. To ensure that any person whose rights or freedoms [...] are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;*
- b. To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;*
- c. To ensure that the competent authorities shall enforce such remedies when granted.*

The ICESCR does not contain a similar provision explicitly obliging State Parties to ‘develop the possibilities of judicial remedy’. Nevertheless, a State Party seeking to justify its failure to provide any domestic legal remedies for violation of economic, social and cultural rights would need to show either that such remedies are

⁴³ Articles 7 and 8 of the UDHR and Article 14 of the ICCPR (also see: Article 7 of ACHPR, Article 5 (a) of CERD, Article 15 of CEDAW, Article 12 & 13 of CRPD, Article 6 of the Convention on Human Rights and Article 8 & 24 of the American Convention on Human Rights).

⁴⁴ Article 8, UDHR.

⁴⁵ Article 2/3, ICCPR.

not ‘appropriate means’ within the terms of Article 2/1 of the ICESCR or that, in view of the other means used, they are unnecessary.

2.2.2 Fair Trial

The International Covenant on Civil and Political Rights (ICCPR), states that everyone is entitled to a fair and public hearing within a reasonable time by an independent, impartial and lawfully established tribunal in the hearing of civil actions and criminal charges (Article 14/1). Under the ICCPR an unrepresented accused is entitled to have legal assistance assigned, in any case where the interests of justice so require, without payment if an accused has insufficient means to pay for legal representation.⁴⁶ The Human Rights Committee, in its General Comment 32, states that “*Counsel provided by the competent authorities on the basis of this provision must be effective in the representation of the accused*”.⁴⁷

The African (Banjul) Charter on Human and Peoples Rights (African Charter) entitles every individual to have her or his case heard, and to be tried within a reasonable time by an impartial court or tribunal.⁴⁸ The 1995 Protocol to the African Charter, on the other hand, specifically requires all ratifying states to ensure effective access by women to legal aid, and to support local, national, regional and continent-wide directed at providing legal aid for women (Article 8).

The African Commission on Human and Peoples’ Rights has also adopted and endorsed a series of principles governing legal aid and penal reform. These include: the Kampala Declaration on Prison Conditions in Africa and Plan of Action (1997);

⁴⁶ Article 14/3/d, ICCPR

⁴⁷ United Nations Human Rights Committee, *General Comment No. 13: Administration of Justice*, Thirty-first session, 1984.

⁴⁸ African Charter on Human and Peoples’ Rights, Adopted in 1981, Article 7/1/c.

the Kadoma Declaration on Community Service Orders in Africa and Plan of Action (1997); the Dakar Declaration and Recommendations (1999); the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (2001); the Ouagadougou Declaration on Accelerating Prison and Penal Reform in Africa and Plan of Action (2002); and, the Lilongwe Declaration and Plan of Action (2004).

2.2.3 Equality before the Law

The provisions of international and regional human rights instruments on access to justice and fair trial are reinforced by the recognition of a universal right to equality before the law and its protection. The UDHR stipulates that every person is entitled to the rights recognized within the Declaration “without distinction of any kind” and guarantees all persons equality before the law as well as equal protection of the law.⁴⁹ Similarly, the ICCPR imposes a duty on states to respect and ensure the recognized rights to all persons without distinction and stipulates the legal prohibition of and effective protection against discrimination on any ground.⁵⁰ Equality before the law and equal protection of the law has also been stipulated in the African Charter.⁵¹ The Human Rights Committee has underlined the status of non-discrimination, as well as equality before the law and equal protection of the law without any discrimination, as ‘basic and general principles’ of the protection of human rights.⁵²

⁴⁹ Articles 2 and 7, UDHR.

⁵⁰ Articles 2/1 and 26, ICCPR.

⁵¹ Articles 2/1 and 2/2, ACHPR.

⁵² United Nations Human Rights Committee, *General Comment No. 18: Non-discrimination*, Thirty-seventh session, 1989.

2.2.4 Implications of the Human Rights Framework

Human rights define the relationships between the subjects of the rights (rights-holders) with valid claims and the object of the rights (duty-bearers) with correlative duties or responsibilities. In this sense, human rights are set of claims that can be made by right-holders against the duty-bearers.

2.2.4.1 The Substance of the Rights

Access to justice is a fundamental right that generally guarantees every person's access to an independent and impartial process and the opportunity to receive a fair and just trial when that individual's liberty or property is at stake.⁵³ However, access to justice does not always involve judicial recourse but the availability of accessible, affordable, timely and effective means of redress or remedies.⁵⁴ One major impediment to the exercise of the right to access to justice is unavailability, or cost of obtaining legal representation or other forms of legal assistance. Even individuals not formally excluded from the legal system, and generally aware of their legal rights may be unable to rely on the legal system because they do not have access to legal services. The same is true for 'equality before the law and equal protection of the law'. *De jure* equality would not translate into *de facto* equality unless measures are taken to address barriers to meaningful utilization of the right. The provision of legal aid services is to be considered in terms of addressing these barriers to the unimpeded exercise of access to justice and equal protection of the law.

⁵³ R., Edwin, B. Kyra and T. Vessela, *Pursuing the Public Interest: A Handbook for Legal Professionals*, Colombia Law School: New York, 2001, p. 214. Available at <<http://www.pili.org/2005r/content/view/48/53/>>.

⁵⁴ The Committee on Economic, Social and Cultural Rights, *The Domestic Application of the Covenant*, General Comment Number 9 (Ninth Session) UN doc. E/C. 12/1998/24, para 2.

The right to fair trial encompasses the ‘right to a court’ as well as a broad range of due process protections, including the presumption of innocence, speedy trial, the right to counsel and access to an interpreter. Here, access to legal aid is clearly stipulated as a right. Yet, there are important questions that need to be answered in understanding the substance of the right. These relate to the nature of proceedings covered, the scope of legal assistance required, and when it must be made available.

The right to fair trial is often understood as a right exercisable in respect of criminal proceedings. The determination of the criminal nature of the proceedings is to be done with reference to the substance of the proceedings and applicable procedures as well as the potential consequences to the person involved. Typically, criminal proceedings relate to the investigation, prosecution and adjudication of violations of substantive laws defining ‘offences’. However, laws dealing primarily with other areas of regulation such as taxation also contain provisions of similar nature. In such cases, the protections are applicable throughout the criminal justice process from arrest to conviction as well as the execution of adverse judgment (deprivation of liberty). The CRC more specifically refers to the right ‘to have legal or other appropriate assistance in the preparation and presentation of his or her defense’ implying that the right is applicable throughout the criminal justice process including investigation, prosecution, adjudication and the follow-up of dispositions.

It should, however, be noted that most of the standards of fair trial are equally applicable to proceedings before civil, administrative and other tribunals. The most relevant international human rights standards, i.e. article 14 of the ICCPR, have been interpreted by the Human Rights Committee as inclusive of any proceeding. The Committee noted: “*In general, the reports of States parties fail to recognize that*

article 14 applies not only to procedures for the determination of criminal charges against individuals but also to procedures to determine their rights and obligations in a suit at law."⁵⁵ This designation theoretically covers all proceedings decisive of rights and obligations in relation to a genuine dispute over a right, its scope or manner of exercise. In international human rights practice, fair trial protection have been applied to a wide range of proceedings including termination of employment, divorce, custody and access to children, expropriation of property and social security.⁵⁶

Though the actual nature of the 'counsel' is not clearly stated, it extends to the range of legal services required in criminal proceedings including professional advice and representation (though not always necessary). The actual services are to be determined with reference to the 'justice' requirements in the human rights standards according to the circumstances of each case. States may also set more concrete standards to define/elaborate the requirement, e.g. severity of punishments, profile of the accused, and complexity of the case. The nature of the assistance under the CRC extends to '*legal and other appropriate*' supports.⁵⁷

Where 'legal assistance' is available in civil and administrative proceedings, the range of available services as well as the stage of proceedings they become available are to be determined having regard to factors affecting the exercise of access to justice, fair trial and equal protection of the law. In other words, the same general standards applicable to criminal proceedings such as the complexity of the case, profile of the parties and the rights/interests affected will apply. Special protection measures to be made available to children involved in non-criminal

⁵⁵ General Comment 13, *supra* note 47.

⁵⁶ Fleming, *supra* note 26, p. 9.

⁵⁷ Convention on the Rights of the Child, 1989, Article 37/d.

proceedings may include legal assistance due to the nature of the case (e.g. custody), the profile of the child (e.g. orphans and vulnerable children), or the relationship with the other party (e.g. emancipation from a guardian). Again, the nature and availability of the services is to be determined having regard to the particular facts and circumstances of the case.

2.2.4.2 Rights-Holders

Rights-holders are individuals and groups for whom rights have been recognized, i.e. the subjects of human rights.

Access to justice and equal protection of the law are broadly recognized for all persons in all proceedings for the determination of rights and obligations as well as remedies for violations. Thus, the rights holders are to be understood in broad terms. However, those with entitlements pertaining to access to legal aid may be less-broadly defined in terms of vulnerability (to violations or barriers to access remedies), nature and severity of violations, or other criteria.

The access to counsel stipulations within the right to fair trial are designed for the protection of persons accused of infringement of the penal law. However, it may be relevant to civil proceedings due to the applicability of fair trial protections, in the sense of fair determination of rights and obligations, to civil and administrative proceedings involving specific rights.

2.2.4.3 Duty Bearers

Duty-bearers are state and non-state actors who are required to work to *respect, protect and fulfill* the legal entitlements set out in the relevant international and regional human rights treaties. Within the human rights framework, duty-bearers are collectively responsible for the realization of human rights and are accountable if the right is not realized.

The State⁵⁸, by virtue of signing and adopting international and regional human rights instruments, is the ‘legal’ duty bearer, though institutions and individuals also become ‘legal’ duty bearers through international/regional instruments⁵⁹, but mostly by virtue of constitutional and legislative impositions. There are also those designated ‘moral’ duty-bearers incorporating non-state actors, including individuals, private sector businesses and not-for-profit institutions, who undertake to realize human rights on grounds other than clear duty arising from the international or national legal framework. The key distinction between legal and moral duty bearers has to do with their relationship with the rights-holders. The rights-holders may claim realization of their rights by legal duty-bearers as a matter of formal accountability. On the other hand, they may not make such claims on moral duty bearers whose moral (hence voluntary or charitable) basis makes it a relationship characterized by privilege.

2.2.4.4 State Obligations

The State is the main actor responsible for the realization of human rights for reasons arising from the international as well as national human rights frameworks. At the international level, the State assumes the obligation to take measures for the realization of human rights upon signing international human rights agreements. In general, the recognition of each specific right entails generic obligations to respect,

⁵⁸ The international community, i.e. foreign states, and intergovernmental organizations also undertake ‘legal’ duties through the provisions of international and regional human rights instruments on international cooperation for the realization of human rights.

⁵⁹ This is most notable in the Convention on Rights of Child and the African Charter on Rights and Welfare of Child, which impose duties on a hierarchy of duty-bearers including parents, the community, non-government organizations and the society at large.

protect and fulfill⁶⁰ without undue discrimination on the part of the State having become a party to the agreement. Each instrument also contains provisions describing the nature of general and specific measures to be taken by the State towards the implementation of the rights.

Article 2/2, International Covenant on Civil and Political Rights:

Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

Article 1, African Charter on Human and Peoples' Rights: *The Member States of the Organization of African Unity parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Chapter and shall undertake to adopt legislative or other measures to give effect to them.*

Article 4, Convention on the Rights of the Child: *States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention.*

The obligations of States under the core international and regional human rights agreements generally relate to: constitutional recognition of the substance of the rights; adopting appropriate legislation and policies to give effect to the rights;

⁶⁰ The State should not directly violate the rights of its citizens (obligation to respect), it should protect its citizens from violations committed by others (obligation to protect), and it should facilitate and promote the full exercise of rights by its citizens (obligation to fulfill).

establishing institutional framework for implementation of the rights as well as coordination and monitoring; and, taking appropriate program measures to realize the rights.

The state obligation to take program measures for the realization of access to justice, fair trial and equal protection of the law does not necessarily require governments to establish legal aid schemes. For the most part, the specific protections may be effectively implemented through other measures such as legal awareness and education programs. The obligation may also be delegated to other actors through legislation. A major approach in this respect is involving the bar⁶¹ to increase the availability of legal assistance provided by lawyers to the poor or other disempowered groups. To this end, governments impose a statutory obligation on practicing lawyers or bar associations and provide for professional codes of conduct for *pro bono* provision of legal services. Other approaches include the integration of the services in professional legal education, qualification processes and apprenticeship programs. Governments may also support professional legal associations, law firms and other non-state actors involved in the provision of legal aid to the poor. However, states are ultimately responsible for ensuring access to legal aid and are effectively the providers of last resort. This is particularly true in the context of criminal proceedings where the right to counsel is a requirement, i.e. where justice so demands, and where the accused is a child.

⁶¹ The 'bar' is the generic name assigned to formal associations of practicing lawyers, i.e., legal professionals involved in the provision of legal representation and advisory services in the private sector.

2.2.4.5 Identity and Role of Non-State Actors

In the literal sense, the term ‘non-state actors’ refers to all institutions other than the State and its organs. The term Non State Actors (NSA) is also widely used in development cooperation, particularly under the Cotonou Agreement between the European Union (EU) and the Africa, Caribbean and Pacific (ACP) countries. In the formal language of the Cotonou Agreement, the term is used to refer to a wide range of non-governmental development actors whose participation in ACP-EU cooperation is now formally recognized. According to Article 6 of the Cotonou Agreement, non-state actors include: civil society in all its diversity, according to national characteristics; economic and social partners, including trade union organizations; and, the private sector.

In practice, it means that participation is open to all kind of actors, such as community-based organizations, women's groups, human rights associations, non-governmental organizations (NGOs), religious organizations, farmers' cooperatives, trade unions, universities and research institutes, the media, the private sector, etc... Also, included in this definition are informal groups such as grassroots organizations, informal private sector associations, etc... The private sector, however, is considered only in so far as it is involved in non-profit activities (e.g. private sector associations, chambers of commerce, etc...)

The nature and role of non-state actors is far from clear in the international and regional human rights framework. The possible role of actors other than the State towards the realization of human rights is to be considered based on the obligations of the State and to an extent the scope of activities human rights defenders are expected to engage in. These may include:⁶² promotion of awareness; (support to the)

⁶² UNDP, *Working Guidelines for Human Rights-Based Reviews of UNDP Programmes*, 2003, p. 25.

implementation of standards, and monitoring implementation. These human rights activities may be implemented in various programming contexts and take different designations.

The United Nations adopted the Declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms on December 9, 1998, commonly known as the Declaration on Human Rights Defenders. The rights protected under the Declaration include the right to provide legal assistance or other advice and assistance in defense of human rights.⁶³

2.3 Models of Legal Aid Service Provision

The diversity of models employed to provide legal aid services within national legal systems is extensive. Generally, legal aid service provision may be undertaken directly by the government or through non-state actors. A recent study on the criminal justice systems in Africa⁶⁴ found that legal aid models across the continent involve service provision by the government, lawyers associations, law schools and NGOs.

2.3.1 State Provided Legal Aid

The provision of legal aid by state institutions is in most jurisdictions focused on criminal proceedings. Usually, indigent persons accused of serious crimes and unrepresented children are the beneficiaries of legal assistance during the trial stage of the proceedings at public expense. The specific strategies and institutional

⁶³ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, Adopted by UN General Assembly, Res. No. A/RES/53/144, March 1999, Article 9(3(C).

⁶⁴ UNODC, *supra* note 12, pp. 27-33.

arrangements vary across jurisdictions; but, prevalent ones include the public defender, court appointed counsel, and publicly financed private representation.⁶⁵

2.3.1.1 Public defenders

Public defenders are government employees engaged on a permanent basis to provide legal assistance to eligible persons under legislative criteria for mandatory professional representation. A public defenders' office is established for this purpose either as an independent government institution accountable to the legislature, within the judiciary or under the relevant sector institution such as the Ministry of Justice.⁶⁶ In some jurisdictions, the practice is referred to as provision through staff legal aid lawyers or legal aid offices, often in conjunction with publicly financed representation using lawyers operating in the community.⁶⁷

2.3.1.2 Court appointments

This strategy, also called 'State briefs' in common law jurisdictions,⁶⁸ involves the assignment of legal counsel by the Court.⁶⁹ This approach is based on the recognition of the status of legal practitioners as officers of the law and is often supported by a legally imposed duty to provide legal aid. In such cases, the services are provided without financial consideration or only for payment of nominal fees from the public purse.

⁶⁵ Smith, *supra* note 31, p. 3.

⁶⁶ *Id.*, p. 7.

⁶⁷ *Id.*, p. 9; Buckley, *supra* note 15, p. 6.

⁶⁸ UNODC, *supra* note 12, p. 28.

⁶⁹ In some jurisdictions such as Canada and the UK, we have 'duty council' referring to legal professionals stationed at courts to provide on the spot legal advice. See: M. Buckley, 'Moving Forward on Legal Aid: Research on Needs and Innovative Approaches', Canadian Bar Association, June 2010, p. 8.

2.3.1.3 Publicly financed representation

The state may also engage the services of individual legal practitioners through contractual arrangements.⁷⁰ While similar to court appointment of counsel and often considered a variation thereof, this arrangement is more of a commercial arrangement than an exercise of public duties considered an inherent part of the legal profession.

2.3.2 Provision of Legal Aid by the Legal Profession

The legal profession has historically been the main provider of legal aid services to the poor. The basis for the practice is associated with the inherent public purpose of the profession and the conception of justice as the core value underlying the law. Issues of social justice, human rights and charity are also used in elaborating the rationale for service provision. Often times, these aspects of legal practice are embedded in the professional codes of conduct governing professional legal practice.⁷¹ In terms of scope, this approach provides a broad and flexible arrangement.⁷² The range of relevant legal services could be available in relation to criminal, civil, administrative and other proceedings; to anyone involved; and, at any stage of the proceedings.⁷³

⁷⁰ American Bar Association, Resolution 112A.

<www.abanet.org/legalservices/scslaid/downloads/06A112A.pdf>; Smith, *supra* note 31, p. 8; Buckley, *supra* note 15, p. 60.

⁷¹ UNODC, *supra* note 12, pp. 28-29; also see: M. Buckley, *supra* note 15, p. 98.

⁷² UNODC, *supra* note 12, p. 12.

⁷³ Buckley, *supra* note 15, p.111.

2.3.2.1 Pro bono schemes by lawyers and bar associations

This approach involves the voluntary provision of professional legal assistance and representation free of charge or for reduced fees to persons unable to afford the cost of services. ‘Pro bono’ has been defined as: “*the provision of legal services to poor, marginalized and indigent individuals, groups or community without a fee or expectation of compensation, in order to enhance access to justice for such people who cannot afford to pay for legal services*”.⁷⁴ Though the provision of services by individual practitioners is feasible, *pro bono* schemes are typically initiated, implemented and coordinated by their professional associations. The mandates of the associations also extend to regulation of *pro bono* schemes in most cases. However, states do impose legal obligations on lawyers to undertake *pro bono* services when called upon by the Court. Such obligations may be enforced through professional licensing rules as well as mandatory codes of conduct including the imposition of penalties on non-compliance. In such cases, the voluntary nature of *pro bono* services is somewhat diminished creating some conceptual overlaps with government provided legal aid services (especially court appointed counsel).

2.3.2.2 Universities and law clinics

An emerging approach to the provision of legal aid services by the legal profession involves the engagement of staff and students in institutions for professional legal education, i.e. law schools.⁷⁵ This strategy is functionally linked with pedagogical developments in legal education towards practice orientation and away from emphasis on jurisprudence referred to as ‘clinical legal education’. As a method of teaching clinical legal education is a student-centered, participatory

⁷⁴ South African Legal Services Charter, Draft, August 2006, Article 2.

⁷⁵ Martin, *supra* note 21, p. 1.

approach emphasizing skills development within a social justice context. Students learn through examination of cases, provision of services to clients, internships/externships with institutions, and engagement in legal literacy/civic education programs in schools and communities.⁷⁶ An integral aspect of clinical legal education is the establishment of ‘legal aid clinics’ for the provision of legal services to the poor and excluded social groups unable to access the legal system. The services are provided by students as well as academic staff as part of the curriculum and an extra-curricular activity. The availability and scope of services potentially available within this arrangement is not limited in terms of the nature of proceedings or type of assistance.

The engagement of legal education institutions in the provision of legal aid as well as the specific strategies employed offer significant advantages. First, clinical legal education helps strengthen the linkages between legal education and practice with positive implications to the availability of high quality professional services in general. The balanced focus on the law and its practice enhances the profile of graduates in line with the demands of the society at large as well as the justice system. The opportunity to instill a sense of social justice and professional responsibility among students at an early stage is an added advantage. In the present time setting the mobilization of students through the legal aid clinics helps address the immediate needs of communities. Finally, the clinics provide an ideal setting for legal awareness and paralegal service provision customized to the communities in which they operate.

While the range of ‘legal service’ provided is extensive, legal requirements and professional quality standards put a limit on the utilization of legal aid clinics.

⁷⁶ Open Society Justice Initiative, *Community-based Paralegals: A Practitioner’s Guide*, 2010, p. 25.

This is especially true in relation to representation of clients in formal proceedings. One strategy to address this challenge is the development of ‘student practice rules’ stipulating conditions under which supervised senior students may represent a client before a Court or tribunal. The financial aspect of legal clinics also poses a challenge, especially in the African context.⁷⁷ In many cases, the costs of running the programmes is too expensive to be covered by the educational institutions themselves and funding from external sources is essential. This creates a tendency towards uncertainty and puts the sustainability of the programs in question.⁷⁸

2.3.3 Legal Aid Provided by NGOs

The role of non-governmental organizations in the provision of legal aid services is widely recognized and practiced. The profile of institutions and interventions falling within this category are very diverse. The range of services is similarly diverse. Yet, the emphasis among NGOs as a distinct category of actors in access to legal aid appears to be on public interest litigation, paralegal programs and informal justice systems.⁷⁹

2.3.3.1 Legal Aid Centers

Some non-government organizations run legal aid centers directly providing services often focusing on specific thematic issues or identified vulnerable group(s). Others also work to strengthen existing services through research, advocacy,

⁷⁷ Penal Reform in Africa, *Index of Good Practices in Providing Legal Aid Services in the Criminal Justice System*, Version 2, February 2006, pp. 7-8.

⁷⁸ D. McQuoid-Mason, ‘The Supply Side: The Role of Private Lawyers and Salaried Lawyers in the Provision of Legal Aid – Some Lessons from South Africa’, Paper Presented to the Lilongwe Conference on Legal Aid, November 2004.

⁷⁹ UNODC, *supra* note 12, pp. 13-14; also see: Economic and Social Council Resolution 2007/24.

technical support and financial assistance. The approach preserves some of the advantages of legal aid clinics and capitalizes upon the unique relative advantages of NGOs in terms of flexibility, expertise, specialization and organizational learning.⁸⁰

On the other hand, the organizational and intervention profiles of NGOs give rise to a number of challenges.⁸¹ These include:

- The risk of making access to justice a privilege to be accorded rather than a right to be claimed
- Lack of clarity in the international and domestic legal frameworks on the role of NGOs in the promotion of human rights and enhancing access to legal aid
- Relevance of interventions guided by considerations other than the felt needs of communities and the programming context
- Limited scope and coverage of interventions, capacity limitations and urban orientation of NGO interventions
- Accountability issues arising in the relationships between NGOs and their stakeholders (governments, donors, beneficiaries, staff, etc ...)
- Lack of uniformity in programming approaches, service delivery standards and institutional arrangements for the provision of legal aid services
- Sustainability issues due to financial dependence on external funding

⁸⁰ For detailed comparative analysis, see: Walter Leitner International Human Rights Clinic (Fordham Law School), *A Handbook for the Justice and Peace Commission: Best Practices of Community Legal Advice Programmes*, Programme Assessment and Recommendations, 2008.

⁸¹ Martin, *supra* note 21, p. 3.

The provision of legal aid services by NGOs needs to be placed in an appropriate legal, policy, sectoral and organizational environment that addresses these concerns.

2.3.3.2 Public interest litigation

The provision of professional legal services within the legal aid programs of NGOs gravitates towards public interest litigation rather than access to legal aid. In the strictly legal sense, public interest litigation is “a legal action initiated in a court of law for the enforcement of public interest or general interest in which the public or class of the community have a pecuniary interest or some interest by which their legal rights or liabilities are affected.”⁸² A broader understanding extends the scope beyond the enforcement of existing legal rights. As suggested by the Durban Symposium⁸³ the strategies employed in this context could include law reform, legal education, literacy training and legal services through multi-disciplinary professional engagement. Though diverse in form and stated objectives, the core purpose is social change through laws and legal processes.

2.3.3.3 Paralegal Programs

The legal aid interventions of NGOs working at the community level typically involve paralegal programs.⁸⁴ These programs involve capacity building support to ‘community based primary legal service providers’ through awareness raising,

⁸² B.L. Wadehra, *Public Interest Litigation: A Handbook*, 2nd ed., 2009, Universal Law Publishing: Delhi, p.29.

⁸³ Held from June 29-July 8, 1997 under the auspices of Public Interest Law Initiative, Columbia University, sponsored by the Ford Foundation and the Open Society Institute at the University of Natal Durban, South Africa (Available at: <<http://www.pili.org/publications/durban/preface.html>>).

⁸⁴ V. Maru, *Between Law and Society: Paralegals and the Provision of Primary Justice Services in Sierra Leone*, Open Society Institute, 2006.

sensitization and capacity building strategies. Typically, the actual provision of services is exceptionally undertaken mainly as a pilot project.

Paralegal programs, especially those using community-based paralegals, offer some important advantages in enhancing access to justice in communities. These include:⁸⁵

- Members of communities trained and deployed as paralegals, which is a defining feature of community-based paralegals, are in a position to provide services more relevant to the needs of their communities and deliver services in a more appropriate manner;
- Significantly lower cost of training and deployment as well as recurrent expenses and the possibility of recruiting, training and deploying paralegals enhances availability of legal aid services;
- Paralegals are generally more accessible to social groups normally facing barriers in accessing and utilizing the formal legal system
- Possibility of addressing the justice needs of an entire community as well as the legal needs of individuals;
- Speedy resolution of issues and disputes (compared with professionals) due to informal (less formal) rules and procedures;
- Unlike legal professionals whose primary function is to promote the interests of their client within the stipulations of the law, paralegals have the freedom to serve ideals of justice, equity and fairness; and,

⁸⁵ Open Society Justice Initiative, *supra* note 76, p. 12.

- Paralegal programs are potentially more sustainable in terms of enabling transfer of knowledge and skills to the community, ownership through participation, resource requirements and other considerations.

There are, however, some comparative disadvantages arising from the very features making paralegal programs preferable. The major shortcomings relate to:⁸⁶

- Low level of expertise precluding the provision of specialized legal services;
- Legal barriers to the provision of legal services such as representation in formal proceedings;
- Disparate quality standards for the training of paralegals and provision of services;
- Risk of reinforcing social practices detrimental to marginalized social sections;
- Risk of well-intentioned but misinformed actions compromising the legal interests of clients and communities.

These shortcomings should be addressed through complementary approaches, coordination among providers, follow up and supervision by qualified personnel and continuous monitoring and evaluation. The development of uniform and binding guidelines and standards for the design and implementation of paralegal programs is also essential.

2.3.3.4 Informal justice mechanisms

Strengthening informal justice mechanisms is another area of engagement common among NGOs. Capitalizing on their advantages in terms of flexibility and

⁸⁶ *Ibid.*

diversity, a large number of NGOs target traditional and customary dispute resolution structures and processes as a means of enhancing speedy access to effective remedies.⁸⁷

Advantages inherent in this approach include availability, accessibility, relevance, efficiency, effectiveness, and sustainability.⁸⁸ Strengthening and revitalizing traditional justice systems is by itself an important result in terms of realizing cultural rights as well as promoting legal pluralism.

However, the approach suffers from shortcomings similar to those identified for paralegal programs including low levels of expertise, limited legal recognition, absence of uniform quality standards as well as risks associated with prevailing social norms and adverse effects on the legal interests of beneficiaries.⁸⁹ The need for changes in ingrained institutional culture is a critical challenge that has to be addressed piecemeal and over a long period since the engagement of these institutions almost always involves changes in traditional roles. In addition, informal justice mechanisms can potentially raise concerns relating to norms and practices violating human rights. Conflicts with the formal justice system are also a challenge even where traditional systems are legally recognized.

⁸⁷ T. Geraghty and D. Geraghty, 'Child Friendly Legal Aid in Africa' in *Child Friendly Legal Aid in Africa*, UNICEF and UNDP, UNDOC, 2011, Executive Summary, p. 23.

⁸⁸ UNODC, *supra* note 12, pp. 37-38.

⁸⁹ V. Maru, *The Challenges of African Legal Dualism: an Experiment in Sierra Leone, Human Rights and Justice Sector Reform in Africa*, Open Society Institute, pp. 18-22.

2.4 Legal Basis for Legal Aid in Ethiopia

2.4.1 Recognition of International Standards

Ethiopia is a signatory to the UDHR and has ratified the ICCPR as well as other instruments providing for access to justice and fair trial including the ICESCR, the UNCRC, the ACHPR the ACRWC.

Article 9(4) of the FDRE Constitution provides that “all international agreements ratified by Ethiopia are an integral part of the law of the land.” Moreover, Article 13(2) of the FDRE Constitution provides that the fundamental rights and freedoms recognized under Chapter 3 of the Constitution shall be interpreted in a manner conforming to International Covenants on Human Rights and international instruments adopted by Ethiopia. Ethiopia has ratified numerous international and regional treaties.

Access to justice is recognized as a right in the FDRE Constitution (Article 37). This Article reads: “*Everyone has the right to bring a justiciable matter to, and to obtain a decision or judgment by, a court of law or any other competent body with judicial power*”. The Constitution also recognizes the following basic principles of justice:

- Non-retroactivity of criminal laws (Article 22/1): “*No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence at the time when it was committed*”.
- Prohibition of double jeopardy (Article 23): “*No person shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the criminal law and procedure*”.

- Equality before the law (Article 25): “*All persons are equal before the law and are entitled without any discrimination to the equal protection of the law*”.

Moreover, one of the rights the FDRE Constitution provided for persons accused of crimes is “*the right to be represented by legal counsel of their choice*” and “*to be provided with legal representation at state expense*” where the inability of the accused person to afford legal representation would result in miscarriage of justice.⁹⁰

Other relevant provisions of the Constitution include:

- Right to have an interpreter (Article 20/7): “[Accused persons] *have the right to request for the assistance of an interpreter at state expense where the court proceedings are conducted in a language they do not understand*”;
- Right to speedy trial (Article 20/1): “*Accused persons have the right to a public trial by an ordinary court of law within a reasonable time after having been charged*”;
- Presumption of innocence (Article 20/3): “*During proceedings accused persons have the right to be presumed innocent until proved guilty according to law and not to be compelled to testify against themselves*”; and,
- Review by a higher court (Article 20/6): “*All persons have the right of appeal to the competent court against an order or a judgment of the court which first heard the case*”.

Though the right to access to justice and fair trial encompass the whole system for the administration of justice, many of the key human rights issues arise in

⁹⁰ FDRE Constitution, *supra* note 3, Article 20(5).

relation to the criminal justice process. Thus, the fair trial provisions of the FDRE Constitution have to be seen in the context of the rights recognized for arrested and accused persons as well as the rights of persons held in custody and convicted prisoners.⁹¹ The rights of arrested persons include speedy trial, *habeas corpus*, the right to bail and protection from self-incrimination.⁹² Rights recognized for persons held in custody, accused persons and convicted persons include right to public trial, presumption of innocence, right to be represented by legal counsel including representation at state expense, right to treatments respecting their human dignity, and rights relating to communication.⁹³

2.4.2 National Laws and Policies

2.4.2.1 The Criminal Justice Policy

This policy which is put in place beginning from 2011 is major policy framework of the country in the justice sector that gives broad recognition to legal representation for arrested and accused persons in Ethiopia. The very preamble of the Criminal Justice Policy stipulates that the provisions of the FDRE Constitution, binding international human rights instruments and other globally accepted criminal justice principles and practices are taken as sources in drafting the Policy.⁹⁴ One of the rights recognized by these national and international normative frameworks is the right of access to justice which cannot be effectively utilized without access to legal aid service. The policy gives emphases to capacity building of all actors of the criminal justice system including the Public Defense Office/ PDO/. Although the

⁹¹ *Id.*, Articles 19 – 21.

⁹² *Id.*, Article 19.

⁹³ *Id.*, Articles 20 – 21.

⁹⁴ Criminal Justice Policy of the FDRE, issued by the Council of Ministers of the Federal Democratic Republic of Ethiopia, 2011 (Herein after Criminal Justice Policy), Preamble.

PDO, established by proclamation No. 25/1996 is administratively under the Federal Supreme Court, the Policy deals about this institution in detail as it has pivotal role in criminal justice process.⁹⁵

Under the section dealing with fundamental principles, it provides that services given under the criminal justice system should, among others, be effective, just, accessible and speedy.⁹⁶ As discussed in the previous sections of this assessment, judicial proceedings would not be just, effective and accessible without the availability of legal aid service. That is why the Criminal Justice Policy of Ethiopia deals specifically with the right to counsel and the need to enhance the capacity and ethics of public defenders.⁹⁷ The policy lays the responsibility of ensuring that individuals accused of committing a crime are represented by a counsel to defend themselves in the investigating body, the public prosecutor and the judiciary.

The Policy stipulates that there would be revision of existing laws on the issue of the right to counsel in criminal proceedings and identifies four major rights and duties that should be incorporated in the new law.⁹⁸ These are:-

- The right of any arrested person to be assisted by a legal counsel of his choice to defend the charges brought against him/her;
- The right to be represented by legal counsel of their choice and to be provided with legal representation at state expense where the inability of the accused persons to afford legal representation would result in miscarriage of justice;

⁹⁵ *Id.*, Preamble, Para. 4.

⁹⁶ *Id.*, Sec. 1.4.

⁹⁷ *Id.*, Sec. 4.7.

⁹⁸ *Id.*, Sec. 4.7.1.

- The obligation of law enforcement officials to inform the suspect or the accused in the language he/she understands his/her right to be represented by legal counsel and to facilitate access to such counsel; and
- The right of a victim of serious crime or human rights violation, to get, when he does not afford it, free and effective legal representation at state expense for the purpose of claiming compensation.

The Criminal Justice Policy provides for the need to strengthening the capacity of public defenders in its different sections.⁹⁹ With this in view, the Policy calls upon various stakeholders such as law schools to take appropriate measures to enhance the capacity of the public defenders and thereby contribute to the development of effective criminal justice system. The Policy also has identified the need for revision of the existing criminal procedure law to realize the right to legal representation.

Therefore, the Policy can be taken as a major stride in realizing the right to legal aid. Although, for understandable reason, it gives more emphasis to legal aid in criminal proceedings and therefore not comprehensive, the Policy is at the top of the country's justice policy framework in articulating access to legal aid and the right to counsel. The only case where legal aid in civil cases is recognized by the Policy is the right to legal representation of persons who claim compensation for damages sustained due to serious crime or human rights violation.

2.4.2.2 The Criminal Code

The principles of criminal justice recognized in the provisions of the FDRE Constitution have been provided for in more detail within the FDRE Criminal Code

⁹⁹ *Id.*, Sec. 4.7.2 and Preamble.

(2004). The following are the specific provisions of the Code dealing with these principles:

- Non-retrospective Effect of Criminal Law (Articles 5 and 2/2): “*The Court may not treat as a crime and punish any act or omission which is not prohibited by law. The Court may not impose penalties or measures other than those prescribed by law*”.
- Article 2/5: “*Nobody shall be tried or punished again for the same crime for which he has been already convicted, punished or subjected to other measures or acquitted by a final decision in accordance with the law*”.
- Equality before the Law (Article 4): “*Criminal law applies to all alike without discrimination as regards persons, social conditions, race, nation, nationality, social origin, colour, sex, language, religion, political or other opinion, property, birth or other status*”.

2.4.2.3 The Criminal Procedure Code

Though it is already under review, the Criminal Procedure Code provides for the rights of the accused as per the provisions of the FDRE Constitution. The Code recognizes mandatory legal representation for persons accused of serious crimes and directs the Court to appoint legal counsel where a ‘young person’ accused of a criminal offence has no adult representation/support or where the offence carries a punishment exceeding imprisonment for ten years or more or death penalty.¹⁰⁰ Such representation may be provided through a public defender, i.e. a person employed by the government for the purpose of legal aid, or a court appointed attorney.

¹⁰⁰ Criminal Procedure Code of the Empire of Ethiopia, 1961, Proclamation No. 185/1961, *Negarit Gazeta*, Articles 174 and 172/4/.

The Criminal Procedure Code provides for an interpreter whenever necessary for the purposes of any proceedings.¹⁰¹ As a rule, the court is expected to assign a ‘qualified court interpreter’ but may select another competent interpreter where none is available.

2.4.2.4 National Human Rights Action Plan

The first National Human Rights Action Plan/NHRAP/ to be implemented between 2013 -2015 is prepared with a view to develop a comprehensive and structured mechanism to advance the respect, protection and fulfillment of human and democratic rights guaranteed under the FDRE Constitution. In dealing with the right of access to justice the Action Plan identified the lack of coordination among different governmental and non-governmental organizations providing legal aid as a problem/challenge.¹⁰² The NHRAP also identified absence of legal assistance before the filing of a case in court as a problem with regard to rights of arrested persons, persons held in custody and those who are convicted.¹⁰³

As a solution to these problems and challenges the Action Plan provided for the development and implementation of a legal aid strategy with the objective of coordinating and integrating the legal aid services provided by different governmental and non-governmental organizations.¹⁰⁴ The responsibility of developing and implementing the strategy is given to the MoJ and EHRC.¹⁰⁵

¹⁰¹ *Id.*, Article 126/2.

¹⁰² FDRE National Human Rights Action Plan, 2013 -2015, Section 2.5.4, p. 51.

¹⁰³ *Id.*, Section 2.3.4.

¹⁰⁴ *Id.*, Section 2.5.5.

¹⁰⁵ *Ibid.*

2.4.3 Institutional Mandates

A number of government institutions at the federal level have mandates relevant to the provision of legal aid services in Ethiopia with corresponding mandates allocated to their regional counterparts. It is evident that the institutional framework of the country reveals that there is overlap of mandate and duplication of efforts among the various institutions. Chief among these institutions are the MoJ, Federal Supreme Court, MoWCYA and the EHRC. The MoJ is mandated to:¹⁰⁶

- *represent citizens, in particular women and children, who are unable to institute and pursue their civil suits before the federal courts;*
- *license and supervise advocates practicing before federal courts*
- *ensure that whistleblowers and witnesses of criminal offences are accorded protection in accordance with the law*
- *create legal awareness through the use of various methods with a view to raising public consciousness in relation to the protection of human rights; cooperate with the appropriate bodies in relation to legal education and training.*

The MoJ is entrusted with the power of registration of federal advocates, issuance, renewal and revocation of licenses¹⁰⁷ with the involvement of EBA.¹⁰⁸ The law provides for three types of federal advocates licenses that confer qualifications upon advocates to appear before the different tiers of federal courts, namely, federal

¹⁰⁶ Definition of Powers and Duties of the Executive Organs of the Federal Democratic Republic of Ethiopia Proclamation, 2010, Procl. No. 691/2010, *Fed. Neg. Gaz.*, Year 17, no. 1, Articles 16/11, 16/12, 16/13 and 16/15.

¹⁰⁷ See *Id.*, Article 16/12 and Federal Courts Advocates Licensing and Registration Proclamation, 1999, Procl. No. 199/2000, *Fed. Neg. Gaz.*, Year 6, no. 2 Article 19.

¹⁰⁸ Proclamations No. 199/2000, *supra* note 70, Articles 20, 23, and 27.

first instance court advocacy license, federal courts advocacy license, and federal court special advocacy license.¹⁰⁹ Of the three types of licenses the special advocacy license, which has the least rigorous qualification criteria, is issued to lawyers who seek to defend the general interests and rights of the society without receiving any payment from their clients.¹¹⁰ For instance, applicants for this license are exempted from such requirements as furnishing of evidence of professional indemnity insurance and sitting for the qualifying examination. Furthermore, advocates licensed to practice law in the federal courts are required by law to render a minimum of fifty hours legal service a year free of charge or upon minimal payment (*pro bono publico*). The beneficiaries of such services are: persons who cannot afford to pay; charitable, civic, and community organizations; persons for whom a court requests legal services; and, committees and institutions that work for improving the law, the legal profession and the legal system.¹¹¹

The Federal Supreme Court and its regional counterparts through their respective Public Defenders Offices render free legal service to accused persons to give effect to Article 20/5/ of the FDRE Constitution. This article provides that accused persons have the right to be represented by legal counsel of their choice, and, if they do not have sufficient means to pay for it and miscarriage of justice would result, to be provided with legal representation at state expense. This is the reason

¹⁰⁹ *Id.*, Article 7.

¹¹⁰ *Id.*, Article 10/1.

¹¹¹ Federal Court Advocates' Code of Conduct Regulations, 1999, Reg. No. 57/1999, *Fed. Neg. Gaz.*, Year 6, no. 1, Article 49.

why the president of the Federal Supreme Court is given the power and duty to organize the office of the public defense.¹¹²

The MoWCYA is the core executive body that is given the mandate on women and child rights issues. The powers and duties of the Ministry include, among others,: creating awareness on women, children and youth rights; collect, compile and disseminate information on the situation of women, children and the youth; ensure political, economic and social participation of women and the youth; follow up and evaluate the integration of women and youth issues in federal government policies, laws and programs; coordinate the activities of child rights actors and stakeholders; and, follow up the implementation of treaties relating to the rights of women and children. Moreover, MoWCYA is the lead agency for implementing the policy framework on women's and children's issues.¹¹³ Since women and children are among the most vulnerable groups in need of legal aid services, these mandates could be critical in terms of making existing services accessible to them.

Proclamation 210/2000 was enacted to provide for the establishment of the Ethiopian Human Rights Commission/EHRC/. Article 5 of Proclamation 210/2000 provides that the mission of the Commission is “*to educate the public be aware of human rights, see to it that human rights are protected, respected and fully enforced as well as to have the necessary measure taken where they are found to have been violated.*” EHRC is mandated, among other things, to:¹¹⁴

¹¹² Federal Court Proclamation, 1996, Procl. No. 25/1996, *Fed. Neg. Gaz.*, Year 2, no. 13, Article 16/2/j.

¹¹³ Ethiopian National Plan of Action on Children (2003-2010), the National Action Plan on Sexual Abuse and Exploitation of Children (2006-2010), and the National Plan of Action on Gender Equality (2005-2010).

¹¹⁴ Ethiopian Human Rights Commission Establishing Proclamation, 2000, Procl. No. 210/2000, *Fed. Neg. Gaz.*, Year 6, no. 40, Article 6.

- ensure that human rights provisions of the Constitution are respected by all organs of the state, political organizations, citizens and other associations;
- ensure that legislation, regulations and directives as well as government decisions and orders do not contravene the human right provisions of the constitution;
- Provide public education using mass media and other means with the aim of enhancing the public's tradition of respect for and demand for enforcement of rights;
- receive complaints and carry out investigations in respect of human rights violations;
- make recommendations for revision of existing laws, enactment of new laws and formulation of policies;
- translate into local vernaculars, international human rights instruments adopted by Ethiopia and disperse the same; and,

Individuals have a right to lodge complaints before the Commission alleging violation of their rights.¹¹⁵ After having received a complaint submitted to it, anonymously or otherwise, the Commission investigates the complaints.¹¹⁶ The Commission during its investigation of complaints can order the accused to appear before it and defend their case.¹¹⁷ The EHRC had a specialized Women and Children's Affairs Department accountable to the Women and Children's Affairs Commissioner. The department is responsible for mainstreaming child rights issues in the activities of the Commission as well as conducting focused child rights activities.

¹¹⁵ *Id.*, Article 22.

¹¹⁶ *Id.*, Article 22 (3) and (4).

¹¹⁷ *Id.*, Article 25(1).

Part Three: Findings

3.1 Introduction

The first section of this part provides an overview of the profile of legal aid providers in Ethiopia.¹¹⁸ The information presented here is a summary of a more comprehensive database of legal aid providers indicating their name, location, contact information, beneficiaries and duration of operation (See the directory of legal aid providers at the end of this publication for a full list of service providers). The information regarding the legal aid providers shown in the directory can be an important input for policy makers in designing appropriate regulatory framework. It can also be utilized by existing and impending legal aid providers to make decisions in selecting operational areas and target groups while designing their programs to reduce duplication of efforts. The second section of this part deals with accessibility of legal aid service. Accessibility of legal aid service is analyzed in light of legal awareness, geographic proximity, program and financial coverage of the legal aid service. The modes of delivery, the category of beneficiaries as well as quality of services provided are dealt with in subsequent sections of this part. By making an overall assessment of how legal aid service is being provided, this part identifies gaps and best practices in the provision of legal aid service which will be used to enhance the quality of legal aid provision.

¹¹⁸ The findings discussed under this part of the research reflect the data collected from legal aid providers and stakeholders who are listed under annex 4 and 5. The data relating to legal aid providers which were not selected for the interview are obtained from their activity reports which go back to September 2012.

3.2 Profile of Legal Aid Service Providers

In Ethiopia, currently, a few civil society organizations and professional associations registered at the Federal level¹¹⁹ and eighteen public universities¹²⁰ provide legal aid service. The government also engages in the provision of legal aid services both directly and indirectly. The role of the MoJ and regional justice bureaus to enforce the *pro bono* obligation of licensed advocates is an essential component of the legal aid scheme in Ethiopia. At the federal level, advocates are required to provide *pro bono* services to indigent members of the community as a condition for the renewal of their licenses. Moreover, the MoJ provides direct free legal service to women and children through legal officers assigned at all the ten sub-city prosecution branch offices of the MoJ located in Addis Ababa as well as in Dire Dawa. Similar approaches have also been taken up by some regional justice bureaus; a case in point is the Amhara Region Justice Bureau. The MoJ and its regional State counterparts also assign advocates to provide legal aid to women, children and other vulnerable groups as one way of giving effect to the mandatory *pro bono* obligation of licensed lawyers.

The other government office that is highly involved in the provision of legal aid to women and children is the MoWYCA and its regional state counterparts. In some regions, such as the SNNPRS, the women, children and youth affairs offices

¹¹⁹ For Example EWLA, ELA, ECLA.

¹²⁰ These are: Addis Ababa University, Jimma University, Jijiga University, Gonder University, Dire Dawa University, Haramaya University, Bahir Dar University, Debre Markos University, Wolayta Soddo University, Hawasa University, Wollega University, Ambo University, Mizen-Tepi University, Dilla University, Mekelle University, Wallo University, Adama University and Arbaminch University.

are directly involved in referral and monitoring of the enforcement of *pro bono* obligation of licensed lawyers.

The civil society organizations listed in Section C of the Directory are rendering legal aid services by opening offices in Addis Ababa and its peripheries except EWLA which has six regional offices.¹²¹ EWLA is established in 1995 for the protection of the rights of women and overall advancement and empowerment of women. Its main objective is to see Ethiopian women enjoying their rights guaranteed under international and national laws. Rendering free legal aid service to women is one strategy through which EWLA seeks to achieve its objective. The other two CSOs, ELA and ECLF, established in 2002 and 2008, respectively, have legal aid centers in Addis Ababa. ELA has a branch office in the premises of the Federal High Court, Lideta Branch, while ECLF, another CSO, has a legal aid center in front of the Lideta Federal High Court and an additional office in Finifine Surrounding Special Zone. They target the indigent members of the community. These three organizations, EWLA, ELA and ECLF, render free legal aid service using their members who are lawyers and paralegals. The service rendered by these CSOs goes beyond legal advice and preparation of legal documents and includes in-court representation of clients when it is found necessary.

Until very recently, the only legal professionals association in Ethiopia was the Ethiopian Bar Association (EBA). This national association has since been joined by regional associations of lawyers, including advisors, prosecutors and judges, as well as the Alumni Association of Law Faculty of Addis Ababa University (AALF-AAU). Some of the regional associations, namely Biruh (Dire Dawa), Tesfa (Hawassa), and Selam (Harrar), have reportedly been engaged in the provision of

¹²¹ Its regional offices are located in Hawassa, Adama, Bahir Dar, Dire Dawa, Assosa and Gambella.

legal aid services in their respective towns. However, the current assessment could only establish the ongoing services being provided by Selam Professional Association for the People operating in the city of Harar. A relatively more extensive legal aid service is provided by the Ethiopian Bar Association and AALF-AAU in the premises of the Federal High Court Lideta Branch and Federal First Instance Court Arada Branch,¹²² and EBA's third legal aid center¹²³ in Addis Ababa. These centers, staffed by law school students and practicing lawyers, provide legal aid services to those who cannot afford paid legal services.

Legal aid service is also provided by the Children's Legal Protection Center /CLPC/ established under the auspices of the Child Justice Project Office of the Federal Supreme Court (FSC/CJPO) through a government-CSO partnership. Although, the center is a multi-donor funded initiative, the major partner providing technical and financial assistance to the center is ACPF. It started rendering legal aid service in 2012 and targets children and their caregivers who either represent children or faced their own problems which affect the best interest of children. The unique feature of the service provided by this project is that it introduced a referral system where children with psychosocial problems are referred to institutions which give counseling, educational support, nutritional assistance, community based correction, reintegration with family and medical service or provide children with shelter when necessary. Unlike other legal aid providers, CLPC involves social workers in addition to lawyers and paralegals for mediation and counseling. The center mobilizes *pro-bono* service of lawyers and paralegals from CSOs, i.e. EWLA and ECLF and from Addis Ababa University Law School through the Memorandum

¹²² The EBA and AALF-AAU have established two legal aid centers in the premises of the Federal First Instance Court Lideta and Arada branches (Addis Ababa) in collaboration with APAP.

¹²³ AAE initiated and supported the establishment of the EBA Center in Addis Ababa.

of Understanding it concluded with the CSOs and the Addis Ababa University Center for Human Rights for this purpose. CLPC is also highly engaged in the provision of court representation, particularly for children in conflict with the law. It assigns *pro bono* lawyers to each Federal Court bench that handles the cases of these children.

Most of the higher learning institution's that provide legal aid service started their operation in 2010 after securing funding from EHRC.¹²⁴ Some others are established later in the year 2011 and 2012.¹²⁵ However, legal aid centers of Mekele University and Bahir Dar University are pioneers, established in 2004 and 2005, respectively.

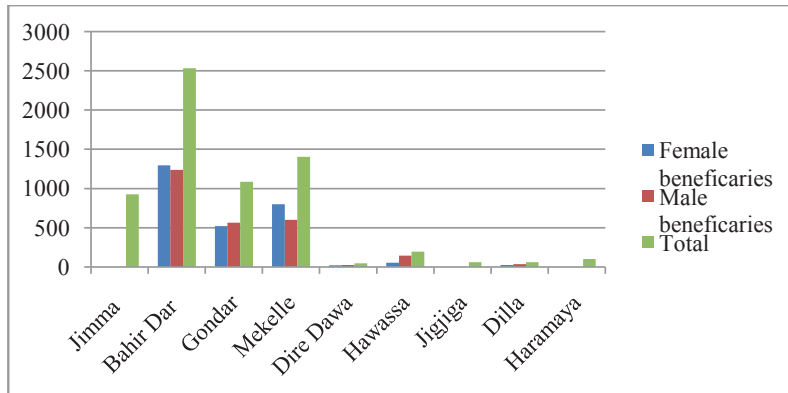
Most of the higher learning institutions render legal aid service by engaging law students who are provided a brief orientation regarding how to provide the service. The staffs of the universities (those teaching law) also participate in the provision of legal aid as supervisors to the law students or representing beneficiaries before courts in some selected cases.¹²⁶ Few of the universities such as Addis Ababa University Center for Human Rights (Adama, Ambo and Hawassa branches), and Gondar University render legal representation service by using *pro bono* lawyers. Adama University, Ambo University and Haramaya University obtained advocates license in their own respective name to render court representation to clients. In general, all of them target the indigent and vulnerable groups of the community with the main objective being helping vulnerable groups such as women, children, persons with disability, the elderly, and peoples living with HIV/AIDS gain access to free

¹²⁴ Hawassa, Mekele, Jimma, Haromaya, Jigjiga, Dire-Dawa, Dilla, Mizan-Tepi, Bahir-Dar, Debre-Markos, Wollo, Wollega, Wollaita, Adama and Ambo Universities (see EHRC, Annual Performance Report, June 2010- July 2011, 15).

¹²⁵ Arbaminch University legal aid Center established in 2012.

¹²⁶ This is the experience of Jimma University and Bahir Dar University.

legal services. That is why most of them have branch offices in court and prison premises or in either of the two.



*The number of beneficiaries in 2010 in 9 public universities in Ethiopia*¹²⁷

3.3 Accessibility of Legal Aid Services

Accessibility of a given service is very crucial to determine the category of beneficiaries, quality of service (as a function of the justice needs of beneficiaries), and the outcome as well as output of the service.¹²⁸ Since legal aid service targets the indigent and the vulnerable, accessibility of the service to this target group is very crucial. Four parameters are considered in this research to measure accessibility of legal aid service in Ethiopia. These are:-

1. Legal awareness/access to information
2. Physical access
3. Program access
4. Financial access

¹²⁷ The information is taken from EHRC, Annual Performance Report, June 2010- July 2011, p. 17.

¹²⁸ Geraghty and Geraghty, *supra* note 87, p. 9.

These parameters will be used to measure to what extent the services provided by the legal aid providers are accessible and achieved the objective of serving the indigent and vulnerable members of the society.

3.3.1 Legal Awareness

Legal awareness is important because it is difficult “*to access the justice system without being aware of one’s legally protected rights and knowledgeable about the mechanisms available to claim those rights.*”¹²⁹ Legal aid centers can operate effectively and efficiently in a society where there is better awareness on legally protected rights. Thus, legal awareness plays a significant role in the operation of legal aid centers. For these reason, creating legal awareness is considered as one component of the services of legal aid providers.

Most legal aid centers use different mechanisms to disseminate information on legal rights. For instance, oral briefings on legal rights are given in waiting rooms of Sidama Zone High Court by paralegals of Hawassa University Legal Aid Center. The Center for Human Rights at Addis Ababa University publishes and distributes briefing sheets on legal issues in user friendly languages.¹³⁰ It also broadcasts on issues related to law and justice to the general public using Radio Fana FM station. In the radio program, which is broadcasted every week for one hour, different legal

¹²⁹ *Ibid.*

¹³⁰ To date, it has issued briefing sheets on issues concerning domestic violence, maintenance allowance, personal and common property of spouses, access to justice, unlawful dismissal of workers, best interest of the child, the rights of the accused etc. These briefing sheets are considered as evidence based advocacy tools since the issues that are published on the briefing sheets are selected from the issues brought before AAU-CHR centers for legal assistance. Furthermore, the briefing sheets use real cases brought before the Centers to elaborate on legal rights.

issues and cases are presented and the public participates by providing its views and forwarding questions on the legal issues being discussed on a live network.¹³¹ The program has broad coverage that enables it to transmit legal information to the large portion of Ethiopians specially those living in the rural areas who otherwise have little or no alternative means of getting information about their legal rights. It is believed that the means used for legal awareness by the Center for Human Rights has been efficient in creating legal awareness and enhancing accessibility.¹³²

Most legal aid centers of public universities in Ethiopia do not have programs to improve rights awareness in the community. Nevertheless, some are formulating strategies to this effect. For instance, Bahir Dar University has a plan to launch a radio program to this end. Besides, there are exemplary initiatives being undertaken by some universities. For instance, Haromaya University delivers awareness creation programs through lawyers in each of the free legal service centers who educate the community on various legal issues for 30 minutes every day. Besides, according to the Legal Aid Center Coordinator,

The University [through the Social Justice Center] has its own Training and Community Awareness program that works in collaboration with the Free Legal Service Centers. The Training and Community Awareness Program uses two methods to reach out to the community. The first is the community awareness

¹³¹ So far it has transmitted radio programs on topics such as employment law (including the rights of domestic workers), rights of people with disabilities, discrimination against women, family law (including the rights of women to marital property), domestic violence, adoption and child rights, access to justice and legal aid.

¹³² 89 radio programs have been transmitted, 70,000 copies of 11 briefing sheets and 1050 copies of booklets have been distributed to stakeholders both governmental agencies and NGOs- See 'Evaluation of the Pilot Project on "Legal Literacy, Rights Advice and Information for Poor People in Three Regions of Ethiopia', Feb. 2012, p, 13 and 23.

program delivered using the Haramaya University Community Radio (HUFM). It is a two hour radio program entitled Law and the Community delivered both in Afaan Oromo and Amharic languages each language running for an hour. The FM radio covers large part of East Hararghe Zone, some woredas of West Hararghe Zone and the entire of Harari Regional State. The second is the face-to-face community awareness program that provides trainings on some legal issues to the judges, prosecutors and police officers using the staff of the College of Law.

Some universities have organized workshops in order to create legal awareness.¹³³ In this regard, Jimma University organized a workshop on access to justice in which representatives from Wereda Courts, Justice Bureau, Women and Children Affairs Bureau participated. It also has a weekly radio program in Amharic and Oromifa on Jimma community radio. Likewise, Jigjiga and Hawassa universities have used community radio programs to create legal awareness. Mekelle University has been educating the public about legal rights using its students in fifty three woredas and sub-woredas of the zonal administrations in which it has branch offices.¹³⁴

Outreach activities are also carried out by different legal aid providers to empower and create working relation with the community. The outreach program administered by North Gondar Zone Justice Office has been effective in creating community legal awareness at the grassroots level. The Zonal and Wereda Justice Offices' civil and criminal cases division in collaboration with Gondar University give public legal awareness education to the community.¹³⁵

¹³³ This is the experience of Jimma University and Hawassa University.

¹³⁴ Interview held with Eyob Awash, Mekelle University Legal Aid Center Director.

¹³⁵ Interview held with Bisrat Abera, Prosecutor, North Gondar Zone Justice Office.

The Justice Bureau of Amhara Regional State and MoJ are also engaged in awareness creation campaigns using media outlets and brochures. The former under its responsible organ for training and research undertakes awareness creation activities and trainings. The MoJ, particularly the department of women and children's affairs, promotes its legal aid service by using the annual International Women's Day/March 8/ and the Sixteen Days of Activism to End Violence against Women and Children commemoration programs. On these events brochures will be distributed to participants coming together from different relevant institutions. In addition, the service is also promoted to different sub-city women, children and youth affairs offices, so that they will refer women and children in need of legal aid to the MoJ.

EWLA has organized different workshops on different occasions to create legal awareness regarding women's rights. It also has a weekly radio program on Sheger radio (FM 102.1) for half an hour addressing different women's rights issues. FSC-CJPO gives trainings to stakeholders that directly and closely work on children such as police officers, judges, support staffs of courts, *pro bono* lawyers, nurses, gynecologists and social workers on children rights issues, effective communication with children and child development, among others to increase their effectiveness on their jobs and strengthen their collaboration with CLPC. With a view to create public awareness on children's rights, CLPC also occasionally sponsor the weekly Ethiopian Television show, *Chilote*, which features drama on legal issues.

3.3.2 Physical Access

Easy physical access is one of the measures of the accessibility of legal aid service. Physical access here is examined in terms of geographical coverage of legal aid service in Ethiopia and location of legal aid providers' offices in terms of their

accessibility to the vulnerable and indigent members of the society. The first one will analyze the distribution of legal aid service across the country while the second one will focus on whether the offices/buildings where legal aid providers are located are accessible for transportation, for persons with disability and vulnerable groups of the society.

The geographical coverage of legal aid services varies from region to region. There is concentration of CSO legal aid providers in Addis Ababa. Except EWLA which has six branches in different parts of the country, ECLF, ELA and the CLPC of the FSC extensively work in pilot projects located in Addis Ababa and its peripheries.¹³⁶ When the legal aid provided by MoJ in Addis Ababa is also taken into account, it makes the concentration of service providers in Addis Ababa strong.

As regards legal aid centers of higher learning institutions, some have extensive outreach programs which cover large geographical area. Haromaya University is the leading one in this regard having 15 branch offices.¹³⁷ Regarding government run legal aid service, the legal aid service provided by Amhara Regional State Bureau of Justice is the largest as it covers all Woredas of the region.

The fact that most legal aid centers operate having their office in major cities and towns made their services urban focused. Even when they have outreach programs to rural areas, the general trend shows that legal aid service in rural areas is

¹³⁶ According to Fasika Hailu, coordinator of FSC-CLPC, FSC-CJPO has a plan to expand its service to regional states by 2014 and integrate its program in court structures in the next five years.

¹³⁷ See the Directory of Legal Aid providers for further information on geographical coverage of legal aid centers of higher education institutions.

provided by paralegals and law students rather than by licensed lawyers.¹³⁸ This might be a result of the concentration of legal professionals in major cities and towns leaving much of the rural area out of access to professional legal service.

The concentration of CSO legal aid centers in urban areas and in places close to Addis Ababa resulted in exclusion of some places from benefiting from legal aid scheme. According to the information gathered by the researchers, legal aid is poorly provided in Gambella and Benshangul/Gumuz where only EWLA has a branch office while the Afar Regional State is a totally neglected region except for the provision of legal aid by the regional justice bureau as well as the women, children and youth affairs bureau. To cover vast geographical area of the country and to reach to clients in rural areas, mobile legal aid camps should be established in different parts of the country.¹³⁹ It is also important to note that the trend to open legal aid centers in the compound of government institutions such as courts, prisons, MoWCYA, justice bureaus, etc. should continue so that the service can reach to the community at grassroots level by following these government institutional structures which reach down to the smallest government administrative units.

Among CSO and public universities that provide legal aid service, none of them, except AAU-CHR, EWLA, FSC-CJPO, and Jigjiga University, made formal

¹³⁸ For instance EWLA uses Committees whose members provide paralegal training to cover large geographical area while most of the higher education institutions use law students to provide legal aid service.

¹³⁹ Paralegals in Tanzania and Uganda use mobile legal aid camps, which serve the purpose of reaching clients where they are and cut paralegal costs. See Danish Institute for Human Rights, 'Access to Justice and Legal Aid in East Africa: A Comparison of the Legal Aid Schemes Used in the Region and the Level of Cooperation and Coordination Between the Various Actors', A report by the Danish Institute for Human Rights, based on a cooperation with the East Africa Law Society, 2011, p. 93.

and documented needs assessment before opening their branch offices. Most of the other legal aid providers made informal discussions with the community and stakeholders before opening branch offices. For instance, Jimma University and Haromaya University conducted discussions with stakeholders and the community members to find out whether there is a need for legal aid service though the results of the discussion are not documented. According to the information obtained from Amhara Regional State Bureau of Justice, it started to give free legal aid service to civil cases after the need for such a service was identified in the business process re-engineering (BPR) study it conducted. Therefore, it can be concluded from the experience of most of the legal aid providers that a formal needs assessment studies were not made before they start providing legal aid service. It is recommended that legal aid providers conduct legal aid need assessment before opening offices so as to identify areas where there is legal aid service gap and avoid duplication of efforts.

With regard to the specific location of service provision, most centers are located in court and prison premises and in government offices such as BoWCYA.¹⁴⁰ This made the centers accessible to the beneficiaries since most of the time it is these institutions that are approached by indigent and vulnerable people to enforce their rights. This also helped the beneficiaries to avoid the additional transport cost that the beneficiaries of free legal aid would incur if the legal aid providers were providing their services in a different location. However, some offices of the legal aid centers

¹⁴⁰ These locations are selected by most legal aid providers considering the number of cases that are brought before these organs and their proximity to the main office of the legal aid providers themselves. For instance, FSC-CJPO took into consideration: decentralization of the service, accessibility, need of clients; availability of office space in courts; and, willingness of officials in the selected locations to support the objective of the project.

are located in buildings which are far away from beneficiaries¹⁴¹ resulting in small number of beneficiaries.

The finding of this research shows that there is overlap of service provision in some areas. For instance, both AAU-CHR and Adama University provide legal aid service in the same prison. Even if an arrangement is made for both to work on alternative days, their presence in a similar location is not advisable considering the limited availability of legal aid service all over the country. The FSC-CJPO and the Ethiopian Bar Association also have their legal aid centers in the same building at the Federal High Court Lideta Branch. Although CJPO's center focuses on children and their care providers while EBA provides its services to all indigents, it is still an apparent duplication of efforts. The researchers believe that it would have been wise had one of them opened the legal aid service center elsewhere where the service is not available.

In selecting the locations for legal aid service center, accessibility for the beneficiaries must be given greater consideration. In most cases legal aid services are provided in the ground floors of buildings making them more accessible to persons with disability. However, some legal aid offices are located in the upstairs of buildings without elevators which make the offices less accessible for persons with disabilities and unfriendly for the poor from rural areas.¹⁴² In some instances, the

¹⁴¹ For instance, one of the centers of AAU-CHR in Adama is located in a building found at the center of the city. However, the number of beneficiaries coming to this center is minimal compared to other centers located in premises of prisons and court houses.

¹⁴² The office of ECLF (Lideta Center), AAU-CHR (Adama branch), EWLA, FSC-CJPO (the center in the Federal High Court Bole branch) are found, respectively, on the third, second, six and first floors of their respective buildings. Some of the offices in Gondar are also located on upstairs.

person providing the legal service give the service by coming to the ground floor whenever persons with disability visit the centers seeking legal services.¹⁴³

3.3.3 Program Access

The legal aid service provided by different actors should be made accessible to all. Programs can be made accessible through different strategies. One of the strategies is advertisement of the program by using different means. Unless the existence of the legal aid service is known by the poor and vulnerable members of the society, no one will be able to use the service.

Awareness of existence of legal aid providers and the type of service provided can be promoted using print and electronic media, posters, leaflets, etc. Basic information regarding the kind of service provided, where the legal aid provider is located and when the service is provided is what needs to be communicated.

Various legal aid providers use different means of advertisement. AAU-CHR has a radio program on Radio Fana FM station by which it informs the public about its service. Further, it uses leaflets, posters, banners, megaphones advertisement in market places on market days etc. A booklet entitled ‘Legal Advice and Information in Three Regions of Ethiopia: A practical Guide’ is prepared containing information on the program. Trainees from *idirs*, *kebele* and other community associations, who take part in paralegal trainings partner with the AAU-CHR to advertise its program whenever there is public gathering and members meeting. It has also a web page describing its programs and activities. Further, members of Project Advisory Committee (PAC) and Local Advisory Committee of the Access to Justice Project¹⁴⁴

¹⁴³ For instance, AAU-CHR (Adama branch legal aid office).

¹⁴⁴ Members include representatives from governmental and non-governmental organs such MoJ, EHRC, MoWCYA, Women’s Association, Federal HIV/AIDS Prevention and Control Office,

advertise the activities of the legal aid service provided by AAU-CHR in their respective institutions.

Among the advertisement means used by AAU-CHR, advertising the services through radio program proved to be effective since many clients coming to the legal aid service centers referred the radio program as their source of information about the service.¹⁴⁵

CJPO-FSC occasionally uses an Ethiopian Television show, *Chilote*, to publicize its activities. EWLA currently has a weekly radio program on Sheger Radio (FM 102.1) which is transmitted for half an hour. This program and printed outlets are used to inform the public about EWLA's services. Brochures on the program are distributed on the various workshops organized by the association. It used to advertise its program through television previously, which does not exist currently because of financial constraints.¹⁴⁶ According to EWLA, electronic media is more effective in popularizing its programs. ECLF uses radio, television, newspaper, billboard, brochures to advertise its program while ELA uses brochures and billboard.

ELA, the Federation of Ethiopian National Associations of Persons with Disability, EWLA and the Ethiopian Elderly and Pensioners' Association. Local Advisory Committees also exist at the local level in the localities where AAU-CHR has established branch offices to provide legal aid service (i.e., at Hawassa, Adma Addis Ababa). Members of the Local Advisory Committee are drawn from governmental and non-governmental organs. The committees have the responsibility to provide strategic guidance, adopt work plans of the Project, assess progress of the Project and receive regular reports on progress, ensure financial accountability, assist in campaigns on legal rights issues, speak on behalf of the Project and work for the sustainability of the Project.

¹⁴⁵ AAU-CHR, 'Legal Advice and Information in Three Regions of Ethiopia: A Practical Guide', 2011, p. 28.

¹⁴⁶ Interview held with Meron Aragaw, Program Coordinator at EWLA.

Public universities use various means to increase awareness in communities about the legal aid service they provide. The most common method used is dissemination of printed materials such as brochures, flyers, posters etc.¹⁴⁷ It is also usual to make announcement of their service in courts and prisons when they have offices in such locations.¹⁴⁸ Due to high costs, media advertisements are rarely used. Only few universities use community radios to transmit information about their programs.¹⁴⁹ For instance, Jimma University legal aid center uses Jimma community radio station to advertise its services. Likewise, Gondar University and Haramaya University legal aid centers advertise their program using their respective community radio stations. Gondar University further uses Gondar Fana FM radio. Universities also utilize their institutional links with various organs to disseminate information about their legal aid programs.¹⁵⁰ There are also some public universities which use websites to inform the public about their legal aid service.¹⁵¹

In most instances, information about the program is posted on billboards around the office of legal aid centers to be viewed by the public. However, the researchers observed that in some instances notice boards in front of legal aid centers are not placed to assist clients identify the service providers.¹⁵²

The Amhara Regional State, Bureau of Justice uses radio programs, brochures, and newsletters to advertise its legal aid program.

¹⁴⁷ Bahir Dar University use brochures, billboard, and occasional interview by media to promote and inform the public about its service.

¹⁴⁸ Hawassa University.

¹⁴⁹ Hawassa University.

¹⁵⁰ Haromaya University.

¹⁵¹ Jimma University, Addis Ababa University, and Gondar University.

¹⁵² Adama branch office of AAU-CHR legal aid center.

The extent of promotion of the legal aid service by legal aid providers varies significantly. Because of high cost implication of advertising the program using electronic media outlets, most service providers prefer using print media. This being the case, innovative ways of low cost advertisement methods such as posting stickers on taxis etc. should be explored. The use of public forums as well as liaising with local leaders such as chairpersons of *Idir* and civil servants can be less costly and effective to inform the public about the availability of legal aid service.

3.3.4 Financial Access

Lack of financial resources is one of the major barriers hindering people from accessing justice. Thus, legal aid services are expected to entail less or no financial burden on beneficiaries. In principle, legal aid service for the indigent and vulnerable groups of the society should be provided free of charge. However, there are indirect/incidental costs clients incur to benefit from the service such as transportation and photocopying cost, court fees and so on. Further, identifying indigent persons who cannot afford to pay for the service from those who can is an issue that needs to be sorted out in the provision of legal aid service. The source of fund to cover operational costs of legal aid providers is another issue which will be discussed under this section.

Although the extent of the engagement varies from institution to institution, all legal aid providers try to identify the financial status of the client approaching them for assistance. However, most of them lack formally set eligibility criteria to identify indigent clients. Legal aid providers such as EWLA and FSC-CJPO which exclusively focus on women and children, respectively, as their target groups, use the same criterion as the first test to identify their clients rather than the financial condition of their clients. In case of EWLA, unless a male client brings a case on

behalf of a woman, he would not benefit from the service. The same is true for FSC-CJPO which requires the client to be either less than 18 years of age (a child) or in case he/she is above 18 years, he/she must show that the case involves legal issues affecting children. Therefore, in these two institutions the issue of financial capacity of the client comes next to him or her falling within the target group of the organizations.

Other legal aid providers require their client to be an indigent or vulnerable person. They use various objective and subjective criteria to identify indigent and vulnerable persons. Those who apply objective criteria require pauper evidence to be presented from *Kebele* Social Courts.¹⁵³ In these circumstances, sometimes it might happen that a person who can't present pauper evidence since he/she owns a valued property in kind may stand in need of free legal aid service since under his/her current situation he/she may not have access and control over his/her property to avail it for the service expenses. This is the case most of the time with women who desert their home because they are battered by their husband. The same is true for persons who do not have valid *Kebele* ID cards who would not be considered as *Kebele* residents and are not eligible to request pauper evidence from the *Kebele* Social Courts.

The legal aid providers that apply subjective criteria determine the situation of the client through an interview about his/her employment status, income status, educational status, whether he/she owns any property, number of dependents, marital status etc. to determine his/her financial capacity. Some others try to find out about the financial capability of the individual from his social status which can be inferred from the way he/she speaks, dresses, etc. In this case, it is the service provider's

¹⁵³ Haromaya University and MoJ.

judgment/appreciation of such factors that determine whether the client should benefit from the service. The problem with the subjective criterion is that most of the legal aid providers do not have uniform criteria to determine what amount of minimum wage, number of dependents, estimated value of property or educational level, manner of speech and clothing, etc. that makes an applicant an indigent and therefore eligible for the service.

Furthermore, in most instances, only the aforementioned parameters are applied to determine the eligibility of the applicant and other tests relating to the nature of the case are not considered. As the experience of other countries shows 'test cases' i.e. cases that are deemed to have a general impact on local community are one of the criteria utilized to determine cases that should be handled for free.¹⁵⁴

Although most legal aid providers prefer to use both the subjective and objective eligibility requirements on a case by case basis, some of the informants argue that it is better to use subjective criteria by taking into account the situation of the client rather than requesting the applicant to present pauper evidence which might create inconvenience to the client in some cases. The experience of most legal aid providers shows that the fact that the applicant is a member of vulnerable groups such as children, women, elders, persons with disability or HIV/AIDS, etc. qualify him/her to benefit from the service without the need to present pauper evidence. A person who does not belong to these groups would be required to furnish pauper evidence.

In more than few instances, the result of interviews with legal aid providers show that most of the time they accept clients without the need to screen visitor for eligibility since the number of beneficiaries approaching their centers seeking legal

¹⁵⁴ See the experience of legal aid providers in Kenya and Tanzania, *supra* note 139, p. 84.

aid is small. It is in a very few instances that they have refused to offer their service for the fact that the applicant does not fulfill the eligibility criteria. However, this might bring conflict of interest with practicing lawyers and those who are not licensed but are involved in writing pleadings and preparing other court documents for consideration as they would be losing their potential clients. There are instances, in few places, where lawyers/pleading writers posed resistance to legal aid providers. The case of Bahir Dar University legal aid service office inside Bahir Dar Prison facility is a good show case for this. Although, the problem was resolved by the prison administration by informing that the Bahir Dar University Legal Aid Center serves only those who cannot afford to pay for the service, prisoners with legal expertise who are engaged in providing legal services to other inmates for consideration were engaged in act of destroying posters of the legal aid center of Bahir Dar University.¹⁵⁵ This demonstrates that there is a need for formulation and strict application of uniform eligibility criteria in order to avoid conflict of interest with professional lawyers and to wisely use the limited resource to serve the indigent members of the society.

Beneficiaries access legal service free of charge in all institutions which provide legal aid services. In most cases, expenses for papers, copying etc., when the service rendered involves preparation of legal documents, are covered by legal aid providers. However, other indirect costs such as transportation cost, court fees, subsistence costs, etc. are not covered by legal aid providers. In this regard, since most of the legal aid centers are located in court premises, prison, and other governmental institutions compounds where people gather to seek remedies, the

¹⁵⁵ Interview held with V/Commander Negalegn Tulu, Prisoners Rehabilitation and Administration V/Head, Bahir Dar Prison Institution.

beneficiaries do not incur additional transportation or opportunity costs to benefit from legal assistance services. FSC-CJPO has victims fund which can be used to cover some of immediate costs such as transportation, court application, medical, shelter, food, etc costs.¹⁵⁶ EWLA also used to have such scheme which is now discontinued. In an interview held with Amhara Regional State Bureau of Justice, it was indicated that the Bureau covers costs related to the provision of free legal aid such as service fee, fees for filing, copying and per diem for witnesses, etc. However, beneficiaries of the service are required by courts to pay for stamp duty and fees for copying judgments of lower courts which the Justice Bureau does not cover and which is unaffordable for the clients. This made the service provided by the Bureau futile since such indigent persons cannot take their cases to the court even if they can get free legal aid service since they do not have the means to pay for the stamp duty and cover the photocopying expense. It was suggested that when courts waive court fee for pauper applicants, it should also order that the applicant be exempted from any other court related payments.

With regard to the source of funding to run legal aid service, most CSOs providing legal aid obtain their funding from grants provided by EHRC and other local sources by undertaking different fundraising activities.¹⁵⁷ FSC-CJPO obtained its funding for its legal aid program predominantly from ACPF. Since providing legal aid to women and children is provided for in the establishment proclamation of the MoJ, except for the mandatory *pro-bono* service by licensed lawyers, funding for

¹⁵⁶ This fund is allocated by ACPF and individuals can also make contributions to this fund.

¹⁵⁷ EWLA for instance prepares exhibitions to raise findings by selling t-shirt, bags etc. bearing its logo. It also prepared music concert with free service of the singers. EWLA cannot secure funding from foreign sources since CSOs working on rights cannot receive more than 10% of their funding from foreign sources.

staff and the actual service provision in Addis Ababa and Dire Dawa comes from government budget.

Most of the public universities providing legal aid obtained funding from EHRC. However, their program which depended on such funding is at the verge of discontinuation due to the fact that such fund is not available currently. Recognizing the need to make legal aid programs sustainable, public universities providing legal aid need to include the cost of running the service into their budget. For instance, Mekele University, Haromaya University, and Gondar University have incorporated the cost of running legal aid service into their budget. They should also try to pull funding from other sources. In this regard AAU-CHR has been able to acquire funding from Norwegian Embassy for its legal aid and access to justice related activities.

The good practice that should be mentioned in this regard is the practice of Amhara Regional State Justice Bureau and the MoJ. The Bureau and the Ministry have integrated the program within their organizational structure and programs and have convinced their respective governments to allocate budget for the service. This is an important step in making legal aid service to indigents sustainable.

3.4 Delivery of Services

The delivery of legal aid services relate to the identity of actors delivering legal aid services, the range of services provided, and the methods of delivery. Consideration of these issues primarily focuses on two core questions: who should deliver legal aid services in terms of professional competence and what services should be made available. These two questions also raise two corollary issues as to the types of cases for which the services are available and the profile of beneficiaries, i.e. who should benefit from legal aid services.

3.4.1 Service Providers

The profile of legal aid service providers is a matter inherently dictated by the very rationale for legal aid. This linkage starts with the identification of barriers to access to justice. Generally, four fundamental barriers to access to justice are recognized. These are: lack of legal identity,¹⁵⁸ ignorance of legal rights, unavailability of legal services, and unjust and unaccountable legal institutions.¹⁵⁹

The most serious among these barriers for the poor is the unavailability, or expense, of obtaining legal representation or other forms of legal assistance. Even individuals not formally excluded from the legal system, and generally aware of their legal rights, may be unable to rely on the legal system because they do not have access to legal services. Legal aid service provision is, therefore, intended to address this gap through access to free or discounted legal services. However, the same limited availability of professional legal expertise that made it expensive also impacts legal aid service providers. One way of addressing this challenge is through the engagement of actors other than lawyers in the process of legal aid service provision. These typically include trained paralegals, law students and non-legal professionals.

Ideally, legal aid service provision should take a functional approach in the sense that it should focus “*on the nature of the task to be performed and on the skills*

¹⁵⁸ Lack of legal identity refers to the total exclusion of disadvantaged groups from the opportunities and protections of the legal system in the sense that they cannot engage in juridical acts or receive basic services, like water, sewage, mail delivery, and garbage collection. An example relevant to the Ethiopian context may be people living on the street who cannot access public services since they have no residence/domicile.

¹⁵⁹ Commission on Legal Empowerment of the Poor, Progress Report, Working Group 1: ‘Access to Justice and Rule of Law’, First Meeting of the Commission on Legal Empowerment of the Poor, 20-21 January 2006.

*and competencies necessary to perform that task*¹⁶⁰. The logic is that not all, if not most, tasks involved in the provision of legal aid services require the skills and knowledge of a legal professional but could generally be addressed by less skilled actors with the supervision of a lawyer. In most cases, the needs of the beneficiary could be effectively addressed with little or no involvement of a lawyer, especially where efficient systems are in place.

The finding of the current assessment suggests that the profile of service providers is generally the function of the nature of the institution providing the services as well as the services provided. Typically, higher education institutions link their services to clinical legal education and other curricular arrangements as part of their primary roles as providers of professional legal training. As such, they generally use their own staff and normally senior class students to provide the legal aid services. In some cases, they only use staff (e.g. Hawassa University) or students (e.g. Mizan-Tepi University). There are also cases where university legal aid centers use external practicing lawyers either through independent arrangements with the lawyers or through the official *pro bono* service requirements under the law.¹⁶¹ In one case, i.e. Mekelle University, lawyers have been engaged for the exclusive purpose of providing legal aid services through the center. Finally, the use of paralegals either as trained community members or students has been observed in a number of cases.¹⁶²

¹⁶⁰ Geraghty and Geraghty, *supra* note 87, p. 14.

¹⁶¹ Advocates practicing before federal courts are required to provide *pro bono* services for at least 50 hours per year and regions have also developed similar standards with varying implementation arrangements.

¹⁶² The AAU-CHR has a unique approach of involving students from other universities as paralegals reflecting its practice of establishing centers outside Addis Ababa. For instance, the Center has engaged graduating class students from Hawassa and Adama universities as paralegals.

Charities and societies engaged in the provision of legal aid services could be categorized into two overlapping groups based on the profile of service providers. The first category, typically covering associations of legal professionals (i.e. ELA, AALF-AAU and Selam Professionals' Association for the people) only use lawyers to provide legal aid services. Those in the second category, on the other hand, employ the services of both lawyers and paralegals. These include the ECLF, EWLA, and the Children's Legal Protection Center under the FSC/CJPO.¹⁶³ The distinction, however, appears to be incidental rather than inherent to the profile of the institutions.

Finally, the government institutions providing legal aid services use practicing lawyers as service providers. This is done through referral arrangements following the official *pro bono* service requirements or through individual referrals based on the willingness of the advocate involved. The Ministry of Justice, the Amhara Region Justice Bureau and the SNNPR Women, Children and Youth Affairs Bureau were among the institutions in this category. The MoJ and the Amhara Region Justice Bureau also provide direct services through legal officers and prosecutors assigned for the purpose. The experience of the SNNP-WCYAB in using the *pro bono* obligations of advocates practicing in the regional courts for the provision of legal aid services to women through a collaborative effort with the SNNP Justice Bureau's licensing functions can be noted as a good practice in this respect.

3.4.2 Types of Cases

The types of cases entertained by the legal aid service providers covered in this study are generally limited to 'civil cases' in the broadest sense. That is, since

¹⁶³ Treated here as a charitable institution due to its peculiar profile of operating as a government-CSO partnership.

the study did not cover the provision of legal aid services for criminal cases through the PDO, reference is mainly made to the specific types of ‘civil’ cases for which legal aid services have been made available.¹⁶⁴ In addition to a general question on whether or not the legal aid service providers entertained civil, criminal and administrative cases, the respondents were asked to note the specific cases they have entertained. The findings show that family, property and labor cases are predominant. Maintenance allowance and succession issues are especially recurrent according to the responses from key informants representing service providers of all categories of legal aid providers, i.e. universities, civil society and government institutions.

The following table shows a summary of the cases handled by the AAU-CHR’s legal aid centers in a period of nine months (April 2012 – Jan 2013).¹⁶⁵ As could be seen from the table, family and labour cases stand out among the most frequently handled cases of the centers. This conforms to the findings of the primary data collected from key informants representing the legal aid service providers. These findings may not be surprising considering the profile of the beneficiaries of the services, i.e. the poor, women and other disadvantaged groups.

¹⁶⁴ Representatives of legal aid service providers were asked about whether their services are available in criminal cases but the specific types of cases have not been sought.

¹⁶⁵ While this table does not represent the whole spectrum of legal aid service providers identified and contacted while doing this assessment, it does provide a general view applicable to most, if not all, direct service providers. This could best be surmised from the fact that almost all key informants identified family and labor issues as the most recurrent cases they have handled.

Type of case	Addis Ababa	Adama	Hawassa	Total
Property	74	18	59	151
Labour	214	31	57	302
Family	135	81	114	330
Succession	123	21	49	193
Criminal	31	12	0	43
Contract	40	0	44	84
Other cases	141	28	67	236
Extra contractual	13	0	0	13
Land	0	0	143	143
TOTAL	771	191	533	1495

Source: Compiled from the reports of the Centers.

3.4.3 Services Provided

The definition of legal aid services or legal assistance could be understood as covering a broad range of services necessary in ensuring one's access to justice or addressing justice needs. In the broadest sense, these could include services utilized in and outside the justice system. However, the current assessment focuses on the services availed within the justice system and in relation to civil proceedings. Thus, what is being discussed here is about three major types of services that may in some cases be viewed as part of a continuum. These are: oral advice or legal counseling, preparation of written pleadings and other documents, and representation by an advocate before a court of law. Other relevant services falling within the scope of the assessment include mediation services which are generally considered composites of the above noted services.

The general trend among service providers identified during the current assessment is indicative of a predominantly oral advice oriented service provision approach. The finding of the assessment did not only reveal that legal counseling

service is availed but also identified it as the most recurrently provided form of legal aid service. This is to be expected for two reasons. First, most legal issues and disputes affecting the indigent are amenable to resolution through simple professional or at least informed advice as well as referral to other available services. This is particularly true for the legal needs of the poor which are generally of low profile requiring simple legal services. Secondly, oral advice or legal counseling is the form of legal aid service that is easiest and cheapest to provide to the largest number of beneficiaries within the justice system. As such, it is most likely to be available to and utilized by most beneficiaries.

Information gathered from key informants show that the preparation of written pleadings and other documents enabling beneficiaries to access formal legal processes are the second most recurrently offered service.

Finally, the provision of court representation services is the least availed and utilized of all legal aid services. For instance, the Mekelle University Legal Aid Center, which apparently has extensive experience in this respect, provided representation services in 72 cases while Hawassa University provided the service for 20 cases during the year long financial support it received from the EHRC.¹⁶⁶ The limited availability of qualified legal professionals and high cost of representation have been noted as key causes for the apparently limited provision of court representation. Service providers have sought to address these challenges using existing mandatory *pro bono* requirements and through the engagement of external advocates on voluntary basis. The experience of the MoJ that enables clients' access court representation either through direct service provision by prosecutors at sub-city

¹⁶⁶ Annual reports of the legal aid centers and interview with key informants.

offices of the Ministry or when this is not possible through referral to licensed attorneys is worth mentioning here.

3.4.4 Beneficiaries

The beneficiaries of legal aid services are by definition the poor or those who are prevented from accessing the justice system due to various constraints. While a few identify specific vulnerable groups such as children (e.g. FSC/CJPO), women (EWLA and the SNNP WCYAB) or both (the MoJ and the Amhara Region Justice Bureau), almost all legal aid providers characterize their beneficiaries as the indigent, the marginalized and under-privileged sections of society. Other specific groups of beneficiaries identified by key informants include the elderly, PLWHA and inmates of detention facilities. In terms of variations among institutions, the legal aid centers of universities and some of the charities and societies characterized as ‘professional associations’ (e.g. ELA and ECLF) appear to have the broadest variety of beneficiaries. However, the level of disaggregation of actual beneficiaries by the institutions does not enable to see the diversity of beneficiaries since the documentation is generally limited to distinctions by sex.

3.5 Quality of Services

The quality of legal aid services is a measure of its effectiveness in addressing the justice needs of the beneficiaries or service recipients. An effective legal aid system “*delivers services that are competently performed, that are provided in accordance with high professional and ethical standards, and which positively impact the lives of individual and vulnerable groups of beneficiaries*”.¹⁶⁷ The specific issues to be considered are: whether or not the system of legal aid has established

¹⁶⁷ Geraghty and Geraghty, *supra* note 87, p. 16.

professional standards for providers, existence and adoption of model rules, and provision of relevant training for service providers.¹⁶⁸ The findings of the current assessment are presented in three sections: professional standards; case management and case follow up; and, training. Though the issue of coordination and networking has significant implications for the quality of legal aid services (especially through standard setting and referral arrangements), coordination issues have been dealt separately for the purpose of emphasis and in light of the objectives of the current assessment.

3.5.1 Professional Standards

The development of professional standards for legal assistance providers is a key hallmark of an effective and thereby high quality legal aid system. The development or existence of professional standards, however, is not sufficient to ensure effectiveness and quality of legal aid services. Two additional requirements relating to the scope of the rules and the substantive standards set forth should be fulfilled to this end. First, the model rules should govern the conduct of both legal professionals and non-lawyers providing the legal aid services. Secondly, the rules should set forth applicable standards of professionalism including integrity, thoroughness, promptness, responsiveness, record keeping, and ongoing training.

An important consideration in the context of the current assessment is the existence of an official ‘code of conduct’ for advocates’ promulgated as a law at the federal level. This piece of legislation requires advocates licensed to practice law in the federal courts to render a minimum of fifty hours legal service a year free of charge or upon minimal payment (*pro bono publico*). As such, the rules of

¹⁶⁸ UNICEF, ‘Child-Friendly Legal Aid in Africa: Outcome Report’, First Draft, Dakar, Senegal, June 2010, p. 42.

professional conduct covered in the regulation are also applicable to services provided by licensed advocates practicing before the federal courts in the provision of legal aid services. However, these legal rules do not specifically address the relationship between the providers and recipients of legal aid services and does not apply to lawyers licensed to practice before regional courts.¹⁶⁹ Paralegals and non-licensed legal professionals, including staff of universities, are also excluded from the scope of application. Thus, the existence of separate professional standards for legal aid providers at institutional and sector level is very preferable.

The findings of the assessment show that legal aid service providers do not have specific professional standards for the provision of legal aid services. While a few (e.g. the FSC/CJPO and MoJ) have working manuals and guidelines in place, others do not have comparable tools to ensure quality of services. The AAU-CHR also provides training to paralegals on the principles of professional conduct. In short, there are no specific professional legal standard setting instruments for legal aid service provision at institutional or sector level. The problem is especially critical in relation to the services provided by higher education institutions (with the possible exception of the AAU-CHR and its three centers) and the civil society actors involved in the provision of legal aid services.

The legal aid center operated by the FSC-CJPO has put in place extensive manuals and working procedures for the provision of legal aid services for children. These include: a legal counseling guideline, *pro-bono* service guideline, court representation guideline; and a Referral Service Manual for Children involved in the

¹⁶⁹ Some regional justice bureaus are reportedly in the process of adopting comparable codes of conduct for legal practitioners. More importantly, the current assessment has identified an initiative underway in the SNNP to adopt a specific regulation for the provision of *pro bono* services.

Justice System.¹⁷⁰ These are by far the most extensive set of instruments identified during the current assessment. A similar initiative was also reported by Jimma University which has had internal rules, student practice rules and court representation rules developed by an independent committee.¹⁷¹

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Principles governing the provision of legal aid services to its beneficiaries:

- **Free:** services are provided free of any charges to the beneficiaries
- **Confidentiality:** client information shall not be disclosed without his/her consent.
- **Impartiality:** paralegals shall not discriminate in deciding to whom they will give advice and shall not be influenced by their own views and prejudices.
- **Independence:** the provision of advice and information is based on the law and policies of Ethiopia and free from Government interference.
- **Empowering:** Project aims at empowering people by giving them the information and advice they need to claim their rights.

3.5.2 Case Management and Case follow-up

The case management and follow up arrangements for legal aid service provision, though typically a delivery issue, have a significant bearing on the quality of the services. The centers operated by the AAU-CHR use a comprehensive case management and recording system that provides detailed information on the profile of the beneficiary/applicant, the case or grievances, services provided and follow-up information. Most providers (e.g. Jimma University) have specific forms developed for the purpose of recording and following up the progress of cases with some clarity and uniformity. However, the practice among a number of service providers did not

¹⁷⁰ The FSC-CJPO also has 'Guidelines for the (establishment and) Administration of Victims Fund' inherited from the CLPC of ACPF.

¹⁷¹ Reported to the EHRC in 2004 EC.

conform to the requirements of the service. Oftentimes, the records were incomplete and lacked cross referencing to adequately follow up on the progress of cases. There were also cases where follow ups were not conducted once the cases have been assigned to an individual service provider. The FSC-CJPO has developed a case follow up strategy which categorizes each case handled by its centers as cases that need serious and less serious follow up. It also puts in place the method of follow up for each category and actions to be taken after each follow up session.

3.5.3 Training

Legal aid providers, including non-lawyers, should receive ongoing need based training in areas relevant to the provision of legal aid services. Such training should incorporate both theoretical and practical training in substantive legal concepts and applicable laws as well as skills in communication, counseling, advocacy, negotiation, and mediation.¹⁷² Linkages should also be made with higher education institutions both in terms of professional legal education and short term training.

Service providers contacted during this assessment indicated that they provide orientation training of varying depth for lawyers, paralegals, and students providing legal aid in their respective institutions. Others reported participating in the training programmes of the justice sector and other comparable institutions upon invitation. The MoJ provide training based on the implementation manual developed to guide the provision of direct legal aid by its staffs. However, no service provider reported the existence of a regular on-going training programme for service providing personnel at any level. An exceptional good practice in this regard is that of AAU-CHR, that provides a week long training for its student-paralegals and paralegals

¹⁷² Geraghty and Geraghty, *supra* note 87, pp. 17-18.

drawn from the community before they commence giving service and refresher training based on gaps observed during service provision by the paralegals. Although the provision of such training program should be need based and aimed at filling observable gaps, the training is very critical for non-lawyers as well as the whole spectrum of service providers including qualified lawyers and licensed advocates.

3.6 Coordination and Networking

The assessment has found extensive evidence of coordination with various stakeholders among service providers. In some cases (e.g. Mekelle University), the range of actors and stakeholders engaged were found to be broad-ranging including various community-based organizations, professional associations, governmental and non-governmental organizations and other stakeholders operating at regional, national and international levels.¹⁷³ Legal aid service providers have utilized the linkages they have with various stakeholders to forge partnership as well as for referral arrangements. A typical example of the first is found in the experience of the AAU-CHR which has forged partnerships with Adama, Hawassa, and recently Ambo universities as well as the Prison Administration in Adama and courts in the SNNP for the provision of its services. The FSC/CJPO similarly utilized the facilities of

¹⁷³ Links were identified with Action Aid Ethiopia (AAE), Open Society justice Initiative, the Ethiopia Human Rights Commission, Organization for Social Service and AIDS (OSSA) Tigray Branch, the Government of the National Regional State of Tigray, Bureau of Justice of the National Regional State of Tigray, the Prison Administration of the National Regional State of Tigray, the Police Commission of the National Regional State of Tigray, the Women's Association of the Region, the Women's Affairs of Bureau the National Regional State of Tigray, Lawyers' Association of the National Regional State of Tigray, Action Professionals Association for the People (APAP), Prison Fellowship Ethiopia, Ethiopian Women Lawyers Association, Mekelle University Human Rights Center, Gondar University School of Law, and Bahir-Dar University School of Law Legal Aid Center.

courts in Addis Ababa to establish its centers and forged partnership with AAU-CHR, EWLA and ECLF to mobilize paralegals and pro-bono lawyers.

However, the level and quality of coordination among legal aid service providers as well as with key actors and stakeholders leaves much to be desired. While there is clear evidence of coordination, the existing practice appears to be disparate and disjointed. On the one hand, the efforts to establish referral, networking and coordination arrangements among service providers has been put on the shelf since the last effort in 2007. In November 2007, organizations that provide free legal aid service to disadvantaged social groups launched a referral and coordination network. A directory of complementary service providers and a Directory of Legal Aid Providers in Ethiopia were also developed and publicized around the same time. However, the arrangement has become ineffectual with the phasing out of legal aid programmes of many of the organizations along with their re-registration as Ethiopian resident charities and scaling down of programmes in others as a result of Charities and Societies Proclamation.

The only serious effort in this connection appears to be the one underway with the focal role of the FSC/CJPO and AAU-CHR. The issue of coordination between legal service providers and justice sector and other stakeholders, on the other hand, remains to be left to the endeavors of each organization acting independently of other service providers. While major efforts to put in place a coordination framework at the national level around issues such as VAWC and child justice (a major initiative hosted by the MoJ) have noted the need to bring together legal service providers, the results have yet to materialize.

4 Recommendations

1. The Legal and Institutional Framework

- 1.1. Constitutional Issues - While constitutional changes cannot be foreseen at this stage, the following gaps could be addressed through legislative provisions. The FDRE Constitution (Article 20/5) recognizes the right to be represented by legal counsel at the expense of the state at the trial stage of criminal proceedings, subject to requirements pertaining to inability to pay for counsel and resulting miscarriage of justice. Thus, legal aid has not been explicitly recognized in the Constitution as a right in civil and administrative proceedings, in the early stages of the criminal justice process (i.e. during arrest, interrogation, and pre-trial detention), and after judgment has been rendered. Finally, the scope of ‘legal services’ is limited to ‘representation by legal counsel’.
- 1.1.1. Though the Constitution does refer to the right to communicate with legal counsel in dealing with the rights of persons held in custody and convicted prisoners, it does not extend representation at state expense to these categories of persons. It is also not clear if the obligation to provide legal aid services extends to appeals.
- 1.1.2. The obligation of the state towards the realization of ‘representation by legal counsel’ is stated in restrictive terms both in the Constitution and the Criminal Justice Policy excluding the role of the state in encouraging and facilitating the provision of services by other non-state actors. A mere statement of the right would have been more appropriate.
- 1.1.3. The Criminal Procedure Code perpetuates most of the shortcomings in the provisions of the Constitution recognizing the right to representation by

legal counsel. These include the availability of legal assistance at the trial stage of criminal proceedings and, and services limited to representation.

- 1.2. The legal aid mandate of the MoJ faces the risk of narrow interpretation in terms of scope limited to civil proceedings arising from criminal conviction. The Ministry should thus take a clear position on the issue towards making its services available to women, children and other vulnerable groups in all civil proceedings within its mandate.
- 1.3. The *pro bono* services stipulated in the Code of Conduct Regulation have not been supported by the creation of appropriate institutional structures and procedures for implementation. This has made it difficult to utilize the legally stipulated obligations of advocates to benefit the poor. Drawing up and executing an implementation framework for mandatory *pro bono* services should thus be a priority consideration. Replicating the practice to regional states should also be given due consideration.
- 1.4. Despite the legal provision for ‘the special advocacy license’, the legal regime currently applicable to the regulation of charities and societies excludes a large number of non-state actors from engaging in legal aid service provision. This has limited the utility of the special advocacy license in addressing the justice needs of the poor. The issue should thus be resolved preferably with the involvement of all key actors and stakeholders including the MoJ, the Charities and Societies Agency and service providers.
- 1.5. The multiplicity of government actors with relevant mandates to engage in access to legal aid for women, children and other vulnerable groups is likely to pose challenges in relation to overlapping mandates, duplication of efforts, coordination and monitoring. This is specially a concern in terms of putting in

place a comprehensive information management and monitoring system at the national level. The mandates of the MoWCYA, MoJ, FSC and the EHRC should be clarified through promoting dialogue and creating effective linkage among the various actors.

2. Access

- 2.1. The geographic coverage of legal aid programs has been characterized as urban and local for a very long time. This has particularly been true for programs operated by NGOs that have been the primary providers of legal aid services until very recently. While there has been trend towards availing services to rural communities using various outreach programs and other approaches, these need to be enhanced and extended.
- 2.2. Very few among existing legal aid service providers undertake specialized programs targeting the most vulnerable groups in society. While some non-state actor do provide focused services as a core component in their legal aid programs, most offer generic services to a broader group of targets. The same is also true for the free legal aid centers operated by public universities across the country. Promoting specialized programs helps in enhancing quality of legal aid service.
- 2.3. Some legal aid service providers, mainly charities and societies, appear to have scaled down or terminated their legal aid programs for reasons attributed to limited access to funding. This is particularly worrying in terms of vulnerable groups' access to legal aid in that some of the organizations noted for their specialized services fall within this category. Unless promptly addressed through alternative sources of funding, this could lead to a

dwindling number of service providers and loss of accumulated organizational experience with adverse implications on access to legal aid.

- 2.4. The provision of legal aid services by public universities does not appear to have been conceived and implemented within a framework of clinical legal education. This is likely to adversely affect the sustainability of the programs as well as limiting the utility of the approach. While there are existing experiences to this end, they need to be more properly documented, extended and replicated across institutions.
- 2.5. The current system for access to legal aid is not an integrated whole with the various programs forming a comprehensive national service provision framework. The gaps in the system include geographic variations of availability, scope and service profile. Legal assistance to beneficiaries in civil proceedings is seldom available in general while coverage of criminal legal aid varies across regions, between urban and rural areas as well as federal and regional jurisdictions and levels in the criminal justice system. This issue could only be resolved within the framework of a national legal aid system. In the meantime, coordination and referral arrangements could alleviate the problem.
3. Delivery and Quality of Services
 - 3.1. In terms of the providers of legal aid services, the existing practice does not seem to have effectively utilized available professional legal services. This is particularly true for the mandatory *pro bono* services required of advocates practicing before federal courts and in some regional states. While there are efforts to this end, the current practice lacks detailed implementation and follow up framework. Moreover, the practice does not appear to be uniform

among regional states. Addressing this issue could best be commenced with detailed implementation guidelines preferably issued by the MoJ. This could serve as a model for regional states which do not have their own implementation tools to date. Similarly, the provision of *pro bono* services should be linked with other service providers, notably charities and societies as well as university legal aid clinics, towards creating access to more qualified service providers. This end could also be served by strengthening the practice of granting advocacy licenses to service providers.

- 3.2. The absence of quality standards for the provision of legal aid services is a critical concern. To date, the only relevant, standardized and uniform standards that have been made widely available are the Orphans and Vulnerable Children Service Standards published by the then Ministry of Women's and Children's Affairs in early 2010.¹⁷⁴ The standards include a section on legal protection services that outlines relevant principles, strategies, components and standards for programs designed to reduce stigma, discrimination and social neglect while ensuring access to basic rights and services protecting children from violence, abuse and exploitation. However, the guidelines are too generic to be of much use as professional standards for the provision of legal aid services even to children cannot be extended to other vulnerable groups. Resolving this issue could be addressed from two perspectives. The first is coming up with an official comprehensive set of mandatory standards for legal aid service delivery similar to the 2010 OVC standards. The existing efforts to regularize *pro bono* service delivery by

¹⁷⁴ Ministry of Women's Affairs (MOWA) and the Federal HIV/AIDS Prevention and Control Office (FHAPCO), Standard Service Delivery Guidelines for OVC Care and Support Programs, Addis Ababa, February 2010.

licensed advocates in the SNNP Region could serve as a starting point for this purpose. Secondly, one could contemplate a bottom-up approach wherein the service providers come together to develop and adopt uniform standards for legal aid service delivery to be endorsed by the government. The experiences of the FSC-CJPO, the AAU-CHR and Jimma University could be important in this respect. The provision of legal aid services does not appear to have been linked with professional legal training or on the job training for service providers. Despite significant reviews and improvements, the legal education curricula at public universities are still geared towards general legal practice rather than specific knowledge and skills required in the provision of legal aid services. While some specialized training programs do exist, their primary targets are judicial and law enforcement personnel. The programs administered within the Justice Organs Professionals Training Centers provide a good example in terms of specialized service delivery. Alternatively, legal aid service providers should consider coming up with training programmes that can be applied in a more uniform manner across the sector. This could at best be achieved through a network of service providers rather than on an individual basis.

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Annexes

Annex 1: Checklist for the Database on Existing Legal Aid Service Providers

Profile of the Legal Aid Service Provider/Center

1. The name of the institution
2. Year of establishment: _____
3. Location
 - 3.1. Head Office
 - Address _____ City _____ Woreda _____ Kebele _____
 - 3.2. Branch Offices/Centers (if any)
4. Institutional Profile
 - 4.1. Vision-
 - 4.2. Mission
 - 4.3. Goal/s
 - 4.4. Objectives
5. Intervention Profile
 - 5.1. Beneficiaries
 - 5.1.1. Specific social groups targeted by the institution
 - 5.1.2. Profile of beneficiaries by disaggregation (sex, age, disability, etc ...) (Please, give us any document that shows such data)
 - 5.2. Service Providers
 - 5.2.1. Lawyers ☐
 - 5.2.2. Social workers ☐
 - 5.2.3. Paralegals ☐
 - 5.2.4. Others (please specify): _____
 - 5.3. Types of cases/issues/complaints entertained (Please, give us any document that shows such data)
 - 5.3.1. Civil cases
 - 5.3.2. Criminal cases
 - 5.4. Services provided
 - 5.4.1. Legal counseling (oral advice) ☐
 - 5.4.2. Preparation of pleadings ☐
 - 5.4.3. Legal representation ☐
 - 5.4.4. Other (please specify):- _____
 - 5.5. No. of staffs

5.5.1. Administrative:- _____

5.5.2. professional

5.5.2.1. Lawyers:- _____

5.5.2.2. Paralegals:- _____

5.5.2.3. Law students:- _____

5.5.2.4. Non-lawyers:- _____

5.5.2.5. Others:- _____

Annex 2: Guiding Questions to Examine the Services Provided by Existing Service Providers

1. Profile of the Key Informant
 - 1.1. Name of the Institution Represented:- _____
 - 1.2. Official Capacity/Title of the Informant in the Institution:- _____
 - 1.3. Address of the informant:
 - Tel. (office) _____
 - Mobile _____
 - Email _____
2. Level of Access
 - 2.1. Legal Awareness:
 - 2.1.1. Are there any programmes and activities in place to improve rights awareness in served communities?
 - 2.1.2. Are there any programmes and activities to popularize the services availed by the legal aid service provider?
 - 2.1.3. Was a legal need assessment conducted in the design of the programme?
 - 2.1.4. Are there ongoing efforts to proactively identify legal needs in served communities?
 - 2.2. Geographic Access:
 - 2.2.1. Does the provider have branch offices? How many?
 - 2.2.2. If there are branch offices, how were the locations selected?
 - 2.2.3. Was a baseline or needs assessment conducted prior to opening the branch offices/centers?
 - 2.2.4. Are all the centers currently in operation?
 - 2.2.5. Is there a situation where you closed any of those branches? If so, why?
 - 2.2.6. How does the legal aid service provider work to improve geographic access to its services? (e.g. are there any outreach programmes?) How do you reach out to rural areas?
 - 2.2.7. Are the buildings where legal aid is provided accessible to all?
 - 2.2.8. Do you have sign language expert?
 - 2.2.9. Do you have translators in case the client speaks a different language?
 - 2.3. Program Access:
 - 2.3.1. Is adequate funding and other resources available for the provision of legal aid services?
 - 2.3.2. Have alternative funding sources and schemes been sought? Are the services provided in a comprehensive manner?

- 2.4. Financial Access:
 - 2.4.1. Are there any direct costs for the provision of legal aid services (e.g. costs of application)?
 - 2.4.2. What about indirect costs (e.g. transportation) and opportunity costs (e.g. time spent at the center)?
 - 2.4.3. What has been done to minimize these costs?
 - 2.4.4. Does the center provide any financial support to cover direct, indirect and opportunity costs of accessing the services?
- 3. Delivery and Use of Services
 - 3.1. Service Providers:
 - 3.1.1. Who is providing the legal aid service?
 - 3.1.2. What are the qualifications of the individuals providing the legal aid service?
 - 3.1.2.1. Lawyers
 - 3.1.2.2. Social workers
 - 3.1.2.3. Paralegals
 - 3.1.2.4. Others (please specify):
 - 3.1.3. How is the center managed? Who is involved in the management of the center?
 - 3.2. Types of cases/issues/complaints entertained: What types of case are most recurrently brought before the Center?
 - 3.2.1. Civil cases
 - 3.2.2. Criminal cases
 - 3.2.3. Administrative proceedings
 - 3.3. Services provided: What are the services provided most recurrently to beneficiaries?
 - 3.3.1. Legal awareness
 - 3.3.2. Legal counseling (oral advice)
 - 3.3.3. Preparation of pleadings
 - 3.3.4. Legal representation
 - 3.3.5. Other (please specify)
 - 3.4. Beneficiaries
 - 3.4.1. What are the eligibility criteria for an individual to benefit from the service? Do you use subjective or objective criteria? If it is subjective, what are they?
 - 3.4.2. How do you identify a person who can afford to pay for the service from the other who can't?
 - 3.4.3. Who are the beneficiaries of the legal aid provision?
 - 3.4.3.1. Specific social groups targeted by the institution

- 3.4.3.2. Profile of beneficiaries by disaggregation (sex, age, disability, etc ...)
- 3.4.4. What mechanisms do you use to follow-up cases?
- 3.4.5. How do you advertise the service? What mode of advertisement do you use?
- 4. Quality of Services
 - 4.1. Establishing Professional Standards for Lawyers and Non-Lawyers
 - 4.1.1. What mechanisms do you apply to make sure the service provided is confidential, independent and empowering of the client?
 - 4.1.2. Is there a code of conduct for legal aid service providers in place?
 - 4.1.3. Does the center have an operational manual governing the provision of services?
 - 4.1.4. What type of quality assurance mechanisms do you employ? Are model rules in place to govern the conduct of lawyers and non-lawyers providing legal aid services?
 - 4.1.5. Do these rules set forth the duties of such advocates, and applicable standards of professionalism (including integrity, thoroughness, promptness, responsiveness, record keeping, and ongoing training)?
 - 4.2. Training
 - 4.2.1. Is training provided to lawyers and non-lawyers providing legal aid services on a regular basis? Is there a regular training programme in place?
 - 4.2.2. If yes, does the training programme cover substantive legal concepts and applicable laws, regulations, and rules, as well as skills training in advocacy, negotiation, and mediation? Is there a standard training manual for legal aid service providers?
 - 4.2.3. Does the center support or promote professional education and training to service providers on areas specific to legal aid service provision (e.g. graduate studies on legal aid)?
 - 4.3. Performance
 - 4.3.1. Identification of target areas for the provision of services based upon evaluation of the needs for legal aid
 - 4.3.2. Coordination with other agencies and groups providing legal aid in order to minimize duplication of effort, as well as coordination with other service providers to ensure that beneficiaries are linked into essential services
 - 4.3.3. How do you coordinate and cooperate with justice actors such as prison, police, courts and other governmental organs?
 - 4.3.4. Creation of minimum standards for providers of legal aid
 - 4.3.5. Advocacy for comprehensive supported legal aid programs, including government and non-government actors

- 4.3.6. Staffing and resourcing of legal aid delivery programs that include lawyers and non-lawyers
- 4.3.7. Provision of continuing education to staff service providers
- 4.4. Additional Issues
 - 4.4.1. What are the challenges in providing legal aid service?
 - 4.4.2. Has the program been evaluated previously either internally or externally? What are the results?
 - 4.4.3. Is there a need for specialization in targeting a specific group to benefit from your service?

Documents to be collected

1. Legal aid service manual from MOJ
2. Case Filing formats of each legal aid providers
3. Rules available at the Centers
4. Activity reports
5. Documents that shows the Profile of beneficiaries by disaggregation (sex, age, disability, etc ...), Types of cases/issues/complaints entertained and service provided

Annex 3: List of Questions for Stakeholders

The following interview questions have been adapted to the name and functions of each stakeholder institutions. The guideline actually used for the courts and the Police are presented below as a sample to avoid duplication.

Courts

1. Profile of the Informant
 - 1.1. Name
 - 1.2. Represented court/bench_
 - 1.3. Responsibility_
 - 1.4. Address (For additional information)
 - 1.4.1. Telephone (Office)
 - 1.4.2. Mobile Phone_
2. E-mail Address_
3. Demand for and Availability of Legal Aid Services
 - 3.1. How much of the demand on the part of beneficiaries of the court's services for legal aid services has been met?
 - 3.2. Which social sections face problems or unable to access legal services?_
 - 3.3. In what areas do these social sections need legal aid services?
 - 3.3.1. Civil cases
 - 3.3.2. Criminal cases_
 - 3.4. Other (please specify)_
 - 3.5. What types of services do the unmet needs of these social sections relate to? Please prioritize.
 - 3.5.1. Legal counseling/oral advice
 - 3.5.2. Preparation of applications, pleadings, and other documents_
 - 3.5.3. Legal representation_
 - 3.6. Other (Please specify)_
4. Is there any institution providing legal aid services to the users of the court? Yes ☐ No ☐ If yes, please specify the name of the institution_
5. Delivery of legal aid services, networking and coordination
 - 5.1. What is the role of the court in the provision of legal aid services to users?_
 - 5.2. Who provides the legal aid services to the users of your services?
 - 5.2.1. Lawyers ☐

- 5.2.2. Social workers ☐
- 5.2.3. Paralegals ☐
- 5.3. Other (Please specify)
- 5.4. Is there a mechanism through which paralegals, law students and interns (persons without an advocacy license) to the users of the court's services? If so, please describe_
- 5.5. Are there mechanisms in place to avoid overlapping and improve the availability and quality of legal aid services through coordination with other justice sector institutions? If so, please describe_
- 5.6. Can you think of a successful experience that can be considered a good practice in the delivery of legal aid services? If so, please describe_

Police

- 1. Profile of the Informant
 - 1.1. Name
 - 1.2. Represented institution_
 - 1.3. Responsibility_
 - 1.4. Address (For additional information)
 - 1.4.1. Telephone (Office)
 - 1.4.2. Mobile Phone_
- 2. E-mail Address_
- 3. Demand for and Availability of Legal Aid Services
 - 3.1. How much of the demand on the part of beneficiaries for legal aid services has been met?
 - 3.2. Which social sections face problems or unable to access legal services?_
 - 3.3. In what areas do these social sections need legal aid services?
 - 3.3.1. Civil cases
 - 3.3.2. Criminal cases_
 - 3.4. Other (please specify)_
 - 3.5. What types of services do the unmet needs of these social sections relate to? Please prioritize.
 - 3.5.1. Legal counseling/oral advice
 - 3.5.2. Preparation of applications, pleadings, and other documents_
 - 3.5.3. Legal representation_
 - 3.6. Other (Please specify)_
- 4. Is there any institution providing legal aid services to the users of your services? Yes ☐ No ☐ If yes, please specify the name of the institution_

5. Delivery of legal aid services, networking and coordination
 - 5.1. What is the role of your institution in the provision of legal aid services to users?
 - 5.2. Who provides the legal aid services to the users of your services?
 - 5.2.1. Lawyers ☐
 - 5.2.2. Social workers ☐
 - 5.2.3. Paralegals ☐
 - 5.3. Other (Please specify)
 - 5.4. Is there a mechanism through which paralegals, law students and interns (persons without an advocacy license) to the users of the your services? If so, please describe.
 - 5.5. Are there mechanisms in place to avoid overlapping and improve the availability and quality of legal aid services through coordination with other justice sector institutions? If so, please describe.
 - 5.6. Can you think of a successful experience that can be considered a good practice in the delivery of legal aid services? If so, please describe

Annex 4: List of Key Informants of Legal Aid Providers

No.	Name of interviewee	Institution represented	Position
1.	Shemelese Abebe	AAU Center for Human Rights Legal Aid Center (Adama branch office)	Office assistant
2.	Yednekachew Ayele	AAU Center for Human Rights Legal Aid Center (Hawassa branch office)	Center Coordinator
3.	Gizachew Sileshi	Bahir Dar University Legal Aid Center	Academic staff & Coordinator of the Center
4.	Fitsum Zeleke	Ethiopian Christian Lawyers Fellowship	Coordinator
5.	Yemaneh G/Mariam	Ethiopian Lawyers Association	Lideta Branch Legal Aid legal counsellor
6.	Mulugojjam Demesse	Ethiopian Women Lawyers Association, Bahir Dar Branch	Branch Office Coordinator
7.	Meron Aragaw	Ethiopian Women Lawyers Association, Addis Ababa Main Office	Program Coordinator
8.	Fasika Hailu	Child Justice Project, Federal Supreme Court	CLPC Coordinator
9.	Hiruye Wubie	Gondar University Free Legal Aid Center	Legal Aid Center Director
10.	Sultan Kasim	Haramaya University College of Law Free Legal Service Centers	Director of the Social Justice Center
11.	Kassahun Molla	Jimma University School of Law Legal Aid Center	Director
12.	Eyob Awash	Mekelle University Legal Aid Center	Director
13.	Admassu Alemayehu	Hawassa University Legal Aid Center	Coordinator
14.	Solomon Guadie	Jigjiga University Legal Aid Center	Coordinator
15.	Milion Menbere	Southern Ethiopia Young Lawyers Association	V/President
16.	Mezegebu Bejaura	Adama University	Coordinator and legal counsellor
17.	Kasahun Sertse	Selam Professionals' Association for People	-

Annex 5: List of Key Informants from Institutional Stakeholders

No.	Name of the interviewee	Institution represented	Position
1.	Alebel Tadesse	Amhara National Regional State, Bureau of Justice ¹⁷⁵	Civil Cases Business Process Owner
2.	Beserat Abera	North Gondar Zone, Bureau of Justice ¹⁷⁶	Civil Cases Expert
3.	Sgt. Desta Geze	Azezo 5 th Police Station	Coordinator of Community Policing
4.	Aster Yayehe	Azezo Kebele Admini., Women, Children & Youth Affairs Bureau	Women, Children and Youth Affairs Head
5.	Anonymous ¹⁷⁷	North Gondar Zone, Prison Administration	Head
6.	Guade Demeke	North Gondar Zone, Women, Children and Youth Affairs Bureau	Gender and Youth Affairs promotion head
7.	Ayanelem Endeya	Mekele First Instance court	Registrar
8.	A/Inspect. Giday G/Michael	Kedamaye Weyane Kefele Ketema Police Station	Human Resource Head
9.	V/Comma. Tebreha Ibrahim	Mekele Prison	Counselling Service coordinator
10.	Mesho Hailu	Mekele Kedamay Weyane Kifle Ketema, Bureau of Justice	Prosecutor
11.	Kahassaye G/Kidan	Tigraye Regional State, Labor and Social Affairs Bureau	Capacity Building and Community Mobilization Senior Expert
12.	Atumo G/Mariam	MoJ. Advocates Licensing and Administration Directorate	Legal Expert
13.	Lemna Mulugeta and Tegabu Aregawi	Ministry of Women, Children and Youth Affairs	Legal Service Experts

¹⁷⁵ It is also a legal aid provider.¹⁷⁶ It is also a legal aid provider.¹⁷⁷ The name of the informant has not been indicated in the questionnaire sent from this site.

14.	Asha Ameni	Adama Zone High Court	Adama Zone High Court President
15.	Comma. Abebe Teshome	East Shoa Zone Prison	Prisoners Rehabilitation Head
16.	Zewedu Mulugeta	Adama Wereda Justice Bureau	Prosecutor
17.	Ayesha Aba Simer	Adama City, Women, Children and Youth Affairs Bureau	Women empowerment head
18.	V/Comma. Negalign Tulu	Bahir Dar Prison Center	Prisoners Admin. & Rehabilitation Head
19.	Danete Gashu	Anihara Regional State, Women, Children and Youth Affairs Bureau	Gender and Youth Affairs Promotion Expert
20.	Gezali aba Simel	Jimma Zone High Court	Judge & Representative of the President
21.	Inspector Habiamu Taderu	Jimma Zone Prison	Legal Service officer
22.	Kedjeja Aba Mecha	Jimma Zone Women, Children and Youth Affairs Bureau	Gender Promotion Officer
23.	Inspector Girma Hailu	East Harerge Prison Administration	Prisoners Admin. and Rehabilitation Head
24.	Keder Abedujeda	East Harerge High Court	Judge
25.	Amin Adem	Oromia Regional State, East Harerge Justice Bureau	Head
26.	Admasu Tilahun	East Harerge Zone, Women, Children and Youth Affairs Bureau	Information not provided
27.	D/Inspect. Aliy Aman	Harari Regional State Prison Administration	Legal Service officer
28.	Abdulaziz Mohammed	Hareri Women, Children and Youth Affairs Bureau	Project Coordinator
29.	Seblewengel Tilahun	SNNPRS Women, Children and Youth Affairs Bureau	Gender Officer
30.	Mate Matane Gemeda	SNNPRS High Court (Sidama zone)	President
31.	Hailegebriel Tadesse	SNNPRS Justice Bureau	Prosecutor
32.	Tewodros Gethahun	SNNPRS Hawassa Prison Center	Counsellor in Psychology
33.	Kedere Abedo Juda	Easter Harerge High Court	Judge
34.	Zekiya Asmali	Harari Regional State Justice Bureau	Senior Prosecutor

Workshop Report:

**National Workshop of Legal Aid Providers
in Ethiopia**

Rapporteur:

Kalkidan Aberra

Editor

Kokebe Wolde

Addis Ababa

May 09 & 10, 2013

1. Overview

The National Workshop on of Legal Aid Providers in Ethiopia was organized by Center for Human Rights, Addis Ababa University. The main purpose of the Workshop was to create a forum for the different actors that are engaged in legal aid provisions to discuss the state of legal aid in Ethiopia, share their experiences, share the experience of other countries and map the way forward to improve the state of legal aid in Ethiopia. Thus, the workshop brought together over 50 participants and representatives of legal aid providers in Ethiopia, namely, public universities, government organs, non-governmental organizations and donor agencies. A series of presentations on legal aid were presented and discussed upon by participants.

The main themes of the presentations and discussions focused on the legal and policy framework governing legal aid service delivery in Ethiopia, the type of legal aid services provided, the level of cooperation and coordination among legal aid service providers, and the challenges in the provision of legal aid service. In addition an overview of models of legal aid delivery, international principles and the experience of three African countries were presented by Professor Thomas Geraghty, Dirtector of Bluhm Legal Clinic at Northwestern University. This led to plenary discussion on the objectives of networking, models of networking, opportunities and challenges and process and procedure to be followed in setting a networking forum.

This report highlights the key points raised during presentations and presents a narrative summary of the discussion made by participants and the eventual networking proposal that emerged from the Workshop.

2. Opening Speech

The Workshop was formally opened with opening speech made by W/t Elshaday Kifle, Head of the Center for Human Rights, Addis Ababa University. In her opening speech W/zt Elshaday welcomed the participants to the workshop. She

also outlined that the aim of the Center, established in 2008, was to promote human rights in Ethiopia through teaching, research and community service. In line with this aim the Center offers a Masters program in human rights which approaches human rights from a multidisciplinary perspective. It also has a joint PhD Program in 'Peace, Federalism and Human Rights' which is run jointly with Institute of Peace and Security Studies and Center for Federal Studies. She also highlighted the Center so far has produced and/or published: the first edition of Ethiopian Human Rights Journal, the Handbook on the Rights of the Child and Background Documents on Children's Acts in Ethiopia. In addition there is a plan to publish a peer-reviewed book on Good Governance and Human Rights. In relation to community service, the Center has been running the Legal Literacy, Rights Advice and Information Project since 2010, which is now substituted by the Access to Justice Project.

W/rt Elshaday also reflected that equality before the law and access to justice are fundamental rights recognized in numerous international and domestic legal instruments. However, the high cost of legal services, ignorance of the law and illiteracy results in the absence of effective realization of the rights. In the absence of rights advice and information giving, these rights will continue to be meaningless for the poor and vulnerable section of our society. Therefore, it is imperative that there be a vibrant system for free legal aid provision that involves the concerted effort of all the stakeholders, where those who cannot afford the paid services of the lawyer can resort to avail their legal right of access to justice. She stated that to make significant changes and to make the legal aid system robust and more relevant to the justice system collaborative work by the actors and stakeholders in legal aid provision is crucial. To this end, the Center for Human Rights has organized the workshop to strengthen cooperation, coordination and networking among legal aid providers. In her concluding remarks, she stressed the importance of mapping ways

of cooperation and networking among legal aid providers; and to lay the ground work for establishing a strong network.

3. Brief Introduction on Access to Justice Project

Facilitator: Ato Getahun Kassa – Center for Human Rights, Addis Ababa University

Presenter: W/ro Tsege Alemayehu –Center for Human Rights, Access to Justice Project, Addis Ababa University

In the introductory session, W/ro Tsege Alemayehu introduced to the participants about the genealogy of the project, its current programs and achievements to date. She explained that the project first started in 2010 in partnership with the University of Glasgow with the aim to provide legal advice and information to poor and vulnerable groups; improving access to information, training and advocacy work by using evidence from clients to identify gaps in the law and its implementation of evidence based advocacy; establish and strengthen the network of legal aid service providers to ensure that best practices are shared, and the service is provided in an efficient and coordinated manner; and enhance awareness and practical implementation of human rights laws and standards through research, training and sharing of good practice.

Currently the project has partnership agreements with universities of Hawassa, Adama and Ambo (with the new Access to Justice Project) and Supreme Court Child Justice Project. It has eighteen (18) legal aid centers consisting of urban centers in Addis Ababa, Adama Hawassa and outreach services in rural areas surrounding those cities. The core activities of the project are: provision of free legal aid service; legal literacy and awareness creation through various publications, radio

programs and trainings; networking; training on human rights; research and publications and internship and exchange programmes.

She identified the achievements of the project to date as being: maintaining sustainability; assisted over 6000 clients; raised awareness of rights among general public; trained paralegals or better qualified law students and built legal capacity in other organizations; established effective partnerships with governmental, non-governmental, community based organizations, and universities – in the provision of community service; established infrastructure for legal aid service delivery; developed training manuals, case records, quality control mechanism and contributed to evidence based advocacy. She concluded her presentation by identifying key lessons learned from the project which are:

- **Information** – has to be accurate, up to date and accessible
- **Training** is crucial
- **Volunteerism works** but they must be supported and managed
- **Good case recording system** and role of the manager in checking cases - vital to quality
- **Networking** should be strengthened

4. Models for the Provision of Legal Aid: Experiences of Other Countries

Facilitator: Ato Getahun Kassa – Center for Human Rights, Addis Ababa University

Presenter: Professor Thomas F. Geraghty - Director of Bluhum Legal Clinic, Northwestern University

Professor Thomas F. Geraghty began his presentation by briefly reflecting on the existing legal aid service in Ethiopia which is mainly provided by law schools and law students. He further stated that in order to further develop the existing legal aid service participants should focus on adopting a national legal aid model or framework. To this end, he stressed the UN principles and Guidelines on Legal Aid in Criminal Justice Systems and Lilongwe Declaration and Plan of Action on Legal Aid in Criminal Justice Systems in Africa as well as the experiences of Malawi, Sierra Leone and Uganda could serve as good source for standard setting.

In elaborating the UN Principles and Lilongwe Declaration he listed some of the guiding principles such as widening the scope of legal aid in criminal cases to include legal representation upon arrest or legal advice to victims of crimes, issue of equity and independence of legal aid providers. The independence of the legal aid service is related to the kind of legal aid system a country adopts; government funded or non-governmental funding. Maintaining independence could be difficult if the legal aid is funded by the government. He drew attention to the experience of government funded legal aid service in Chicago where Congress occasionally has cut funding where the provision of legal aid service to those wanting to sue the government has resulted in conflict of interest.

However, Professor Geraghty pointed out that government funding could help overcome the issue of sustainability which is a major concern in providing legal aid

services. He highlighted the experience of non-governmental organizations such as the Ethiopian Bar Association and the *pro bono* services provided by lawyers. The same challenge is faced by organizations in the USA where legal aid services move from project to project.

Professor Geragthy also highlighted that another area to be considered in choosing a certain model of legal aid service is the use of lawyers versus paralegals. For instance Malawi's implementation plan for Legal Aid Act advocates for the use of paralegals taking into account the scarcity of resources, in this case lawyers, and seeking to address the need of the poorest and most vulnerable parts of society. The same approach is adopted by Sierra Leone where the parliament has issued a legal aid act explicitly providing that paralegals are to be in each of the 149 Chiefdoms. On the other hand, the number of law schools and law students in Ethiopia has increased substantially in recent years which could be a huge resource potential for the legal aid service. Of course to use this potential it could be necessary to adopt some kind of 'student practice rule' where senior law students will be allowed to represent clients in court under the supervision of qualified lawyers or faculty.

Professor Geragthy finally pointed that if Ethiopia aims to set up a nationwide legal aid service, the experience of these countries which have launched a nationwide legal aid service is worth to look at to answer the questions regarding: the model of legal aid, role of government in enacting legislation pertaining to legal aid, monitoring, standard setting, ensuring quality and sustainability.

Discussion

During the ensuing discussion, the participants noted the Workshop should focus not only in networking NGOs, as previous initiative have done, but also on establishing a network with government organizations such as the Ministry of

Justice, public defense office, etc. with the view to come up with guidelines and mechanisms to make legal aid service provision effective. In relation to legal aid clinics run by law schools concerns were raised regarding linking and balancing of clinical legal education and legal aid service and sources of funding which has an impact on the sustainability of these programs. Sustainability of programs is also a concern for resident NGOs since the new civil societies law provides that resident NGOs have to get their funding mainly from within Ethiopia. On the question of independence of government funded legal aid centers, the presenter stressed overcoming the independence problem would require strengthening of professional ethics of lawyers whereby loyalty to the client will out weight loyalty to the funder. In addition, sometimes the national context would require balancing duty to the client versus duty to the community.

Participants also discussed the need for a broad, nationwide consensus on the definition and scope of legal aid service. They further noted community level participation in designing and providing legal aid should be encouraged. Elaborating on this point of discussion, W/ro Zenaye Tadesse, Executive Director of EWLA, identified four main challenges facing the legal aid service in Ethiopia: difference of opinion on the nature or definition of legal aid by service providers; the absence of law regulating provision of legal aid services; and lack of coordination and networking among service providers. She thus recommended that a certain government organ should be responsible for coordinating service providers, setting up standards and ensuring accessibility of the services. Reflecting on the points raised by her, the presenter cautioned that too much regulation could impose restrictions on individuals and/or groups that can have creative approaches to the provision of legal aid services.

5. Synchronizing Legal Aid Services and Clinical Legal Education in Ethiopia

Facilitator: Ato Getahun Kassa – Center for Human Rights, Addis Ababa University

Presenter: Ato Seife Ayalew - Center for Human Rights, Access to Justice Project, Addis Ababa University

Ato Seife Ayalew began the session by identifying the legal and policy basis of legal aid services and clinical legal education in Ethiopia. Thus, he stated that the Higher Education Proclamation No. 351/2003 set the objective of providing quality education and rendering community services. In addition, since 2006 clinical legal education has become part of the Ethiopian law schools' curriculum. According to the curriculum, the objectives of clinical legal education are expanding and deepening law students' understanding of substantive laws, supporting the development of essential professional skills, sensitizing students to ethical issues, promoting professional collaboration, enhancing interdisciplinary knowledge, serving underserved clients, improving legal systems, and promoting access to justice. He noted that legal aid service preceded clinical education and as such Mekelle University and Bahir Dar University established free legal aid centers in 2004 and 2005 respectively.

Since then most law schools have established legal aid centers, most of them based on the funding provided by Ethiopian Human Rights Commission (EHRC). A number of elements were identified as common features of these centers. First, the objectives of establishing legal aid centers were: providing "community service", provide practice oriented legal education and allow students to practice what they have learned in class. Second, the types of legal aid centers run by these law schools

can be generally divided into: urban, rural (outreach/satellite) and prison based. Third, their target groups are indigent and vulnerable groups mainly women, children, persons with disabilities, the elderly and persons living with HIV/AIDS. Finally the main actors in these centers are teachers, students, practicing lawyers and paralegals.

Coming to the main theme of the presentation Ato Seife emphasized the need for synchronizing legal aid centers with clinical legal education by presenting the benefits of such synchronization. He noted the following as some of the benefits that ensue from linking legal aid centers with clinical legal education: Serves both community service and curricular objectives via practical legal education; provides a great opportunity for students to learn professional ethics, professional responsibility and practical skills such as interviewing, counseling, drafting pleadings; ensures sustainability in the provision of legal aid services; makes universities and law schools more socially relevant; legal aid centers cases may be used to inform academic discussions and policy research and legal aid centers can benefit from law faculties' expertise and students' volunteer work.

He then presented the Strengths, weakness, opportunities, threats (SWOT) analysis of the legal aid centers currently run by Ethiopian law schools. He identified the fact that most law schools are running legal aid centers and outreach programmes and provide their services both on civil and criminal cases as strengthens of these centers. Whereas the fact that these centers were established without undertaking needs assessment, they are also heavily dependent on external funding, are located at isolated outposts (laws schools), poor quality control mechanisms, supervision and follow- up and case recording as weaknesses of these centers.

Discussion

After the presentations, participants shared the best practices of their institutions in providing legal aid services. Gondar University, for instance, have eight legal aid centers operating in Gondar city and nearby *Woredas* and clients that need representation are represented by the law school teachers, who have an obligation to provide community service that amount to two credit hours. Mekelle University, on the other hand, has prepared a guideline on how to screen clients and cases to be handled by the legal aid center. Concerning representation, attorney hired by the University usually represent the client in court after a panel decides for the case should go to court. In addition, the Tigray Regional State allows students to represent clients in court. In the case of Haramaya and Jimma universities, the license to practice is given to the universities that enable these institutions to represent clients in court in their respective jurisdictions. However, the license given to these universities by the regional justice bureaus is sometimes challenged by judges as lacking clear legal backing. Jimma University's comprehensive internal rule dealing with issues such as screening of clients and case recording was also mentioned as one of the best practices.

Participants have also noted the difficulty that is encountered in running law schools' legal aid centers as the funding from EHRC is interrupted and university officials do not own and integrate them into their planning. A representative from the Federal Supreme Court Children justice Project has remarked that since children and women's cases are complicated and students have no experience and expertise, students should do the advice service under close supervision.

Participants also noted that the new charities and societies (CSO) law has an indirect effect on the working of law schools' legal aid centers because CSOs

working on human rights issues were one important source of funding for law school legal aid programs. On the other hand, participants stressed the need to collaborate and network among universities and other service providers that would enable them to share best practices, overcome service gap regarding representation as well as advocate for their common cause such as the need for a legal framework regulating legal aid and student practice law. Finally, some participants stated including representatives of government stakeholders in such workshops is important to raise their awareness and change attitude on such issues as student practice rule.

6. Research Report on Assessment of Legal Aid in Ethiopia

Facilitator: Ato Fasil Mulatu – Center for Human Rights, Addis Ababa University

Presenters: W/ro Anchinesh Shiferaw - Center for Human Rights, Addis Ababa University

Ato Getnet Mitiku - Consultant

In introducing the assessment report on networking and provision of legal aid in Ethiopia, the presenters highlighted that there are various governmental and non-governmental institutions that provide legal aid in Ethiopia. However, these actors use various modes in the provision of the service. Despite some general trends, the kind of service they provide, who provides those services, how the service is delivered varies across legal aid providers. The service rendered by these institutions includes provision of information about legal rights and responsibilities; outreach and community legal education; legal advice and brief services; support and assistance for individuals capable of representing themselves; representation before judicial organs, etc. The presenters noted that preliminary assessments indicate that the

provision of the service is scattered, uncoordinated, urban-based and unpredictable due to various reasons.

The Centre for Human Rights initiated this assessment with the objective to identifying the trend in legal aid provisions by different governmental and non-governmental organs including a description of the main legal aid practices, its gaps and challenges, and identification and description of the coordination and cooperation among the various legal aid providers. The legal aid service provided by Public Defence Office at the Federal level and at the regional level was not included in the study.

After briefly reflecting on the meaning of legal aid, relevance of legal aid, international and regional human rights framework concerning legal aid; they outlined national policy and legal framework such as the adoption of general human rights instruments; constitutional provisions on access to justice; fair trial and equality before the law; equality before the law under the Criminal Code (Art. 4) and the Criminal Procedure Code which provides for mandatory legal representation for serious crimes (Art.174); juveniles without adult representation (Art.172(4) and providing interpreter (126)2.

According to the presenters models of legal aid service provision in Ethiopia can mainly be categorized as:

- *Government provided legal aid:* public defenders; court appointments; and publicly financed representation [emphasis on criminal cases]
- *Legal profession: pro bono* schemes (voluntary or mandatory); universities and law clinics (clinical legal education)
- *NGOs* based legal aid centers: public interest litigation; paralegal programmes; informal justice mechanisms

The presenters further noted that accessibility of legal aid service is very crucial in terms of determining category of beneficiaries, quality of service, the outcome, and output of the service. The researchers measured accessibility of legal aid service in Ethiopia in terms of legal awareness, geographical, program, and financial accessibility. On the basis of these ‘indicators’ the researchers concluded that:

- Although most legal aid centers use different mechanisms such as publication and distribution of briefing sheets and radio programs, these initiatives are not well planned, are seasonal and hence not sustainable to help create awareness about the legal rights as well as the provision of legal aid services;
- In relation to the geographical coverage of legal aid services, most legal aid centers operate in major cities and towns. In addition most centers are located in court houses, prison premises, and governmental offices such as Bureau of Women, Children and Youth Affairs (BWCYA). The location of the legal aid centers in such places has both positive and negative aspects; on the positive side the centers are accessible to the beneficiaries since most of the time it is these institutions that are approached by indigent and vulnerable people who seek legal aid services. It also avoids additional transportation cost they might incur to access these legal aid providers.

On the other hand, some offices of the legal aid centers are found far away from beneficiaries and there is an overlap of service provision in a single place in certain cases. Finally the fact that most legal aid centers are found in buildings which are less accessible to persons with disabilities was noted.

- With regard to financial accessibility it was noted that eligible clients, although the criteria for eligibility vary greatly, benefit from legal aid

service for free and expenses for documents copying etc. are covered by legal aid providers. However, other indirect costs such as transportation cost, subsistence cost etc. are not covered by legal aid providers except in the case of Federal Supreme Court Children Justice Project (FSC - CJP) which has victims fund.

In concluding their presentation they noted, *inter alia*, that the narrow conception of legal aid services within the constitution and Criminal Procedure Code should be addressed through a substantive legislation adopting a broader definition of legal aid; efforts to create legal awareness should be strengthened and legal awareness should be considered as a component of legal aid service and development and implementation of uniform service provision standards for legal aid services providers should be considered.

Discussion

The participants began the discussion by raising questions to be answered by the presenters and giving comments on the research report. The questions and comments focused on: the importance of needs assessment before opening legal aid centers, the research questions and data collection methods, the non-inclusion of some of the experience of NGOs and universities in the research report. In relation to the importance of needs assessment, most participants felt that, given the socio-economic status of the country and scarcity of lawyers in rural areas, failure of most legal aid centers to conduct a needs assessment upon establishment should not be raised as a shortcoming of these programs. They stressed that this concern should probably be raised only in the case of Addis Ababa as most NGOs and lawyers are found in this city. They noted that the issue that needs to be raised by the report should have been impact assessment. With regard to the research question and data

collection method, some participants raised their concern that the research question as well as the nature of the research report is not clear.

Further, a representative of Alumni Association of Faculty of Law of Addis Ababa University pointed that the report failed to include his organization in the list of service providers. He explained that established in 1992 E.C. the alumni association has been giving community services in two streams: three months legal literacy program to community members and legal aid service. He noted that the legal literacy program is no longer functional due to lack of funding whereas in the provision of legal aid service the alumni association teams up senior law students with lawyers to give legal advice and write pleadings other court documents to clients. The final comment was the non-inclusion of the experience of Ethiopian Human Rights Council (EHRC) in the report. According to a representative, the EHRC attempted to establish a network of legal aid providers with the aim of avoiding duplication of activities, develop referral system, guidelines, case selection manual and case recording or management system. To this end it has signed a memorandum of understanding with seven organizations. Hence, the participant stressed, the report should have looked up prior experience and attempt to network legal aid service providers and learn the reason why it has not succeeded.

Reflecting on the questions and comments, the presenters responded that the assessment is not yet finalized and comments forwarded by the participants will be included in the report. With regard to needs assessment, although the need for the legal aid service is obvious, any designing of project to provide legal aid service need to identify which segments of the society needs the service and how to make it accessible to them. Moreover, the assessment has identified some legal aid centers that provide the same services at the same location or that entertain very few number

of cases. Thus, the report has identified the lack of needs assessment by legal aid centers upon establishment as one shortcoming.

The presenters also elaborated that the research is a survey focusing on who is providing legal aid services and describing the types of services provided. They said that the main research questions are: are there policy and legal frameworks governing the service, are the services being provided adequate, available and standardized and is there coordination and networking among service providers. In dealing with the research questions, the assessment has concluded that there is a need for a legal framework dealing with legal aid and the preliminary findings show the most successful legal aid system are those that have clear legal framework. In the Ethiopian context, this issue warrants further investigations to clarify the role of government in the provision of legal aid service. This is so because due to the new charities and societies law, legal aid service is shifting from civil societies to public institutions /universities/ and clients seeking legal aid service first approach government institutions. Consequently, the role of government institutions in providing legal aid service and setting legal framework should be analyzed. Further, in relation to setting up legal framework in areas such as institutional licensing for student practice, the regional dimension needs further scrutiny.

The presenters also stressed that they have taken into consideration prior networking attempts which have not succeeded due to technical incapacity and the new charities and societies law which has banned pioneer service providers from providing the service. Finally, the participants discussed the appropriateness of using the term 'legal aid' as access to justice is a legal rights and a responsibility of the lawyer, not a charity. However, it was noted that almost all lawyers use this terminology although human rights instruments have opted for the term 'legal assistance' instead.

7. Experiences and Challenges in Legal Aid Service Delivery:

The Case of Ethiopian Women Lawyers Association and Children's Legal Protection Center – Federal Supreme Court

Facilitator: Ato Fasil Mulatu – Center for Human Rights, Addis Ababa University

Presenters: W/ro Zenaye Tadesse – Ethiopian Women Lawyers Association (EWLA)

W/ro Fasika Hailu – Children's Legal Protection Center – Federal Supreme Court

W/ro Zenaye Tadesse, Executive Director of EWLA, began her presentation by introducing to the participants about EWLA, its mission and objectives, its organizational structure and core programs. Accordingly, she stated that EWLA is a non-profit and non-partisan membership organization established in 1995 (operational in 1996) with the overall objective of promoting the legal, economic, social and political rights of Ethiopian women. As such EWLA's mission is to contribute towards the realization of the economic, political and legal rights of women.

On the basis of its mission EWLA has set four main objectives, namely: identify working laws and traditional practices that are discriminatory and harmful to women so as to make recommendations and to advocate for the amendment of laws that discriminate against women and for the enactment of new laws that are necessary to promote the interests of women and balance the harm made against them in the past; educate women and society on the rights of women guaranteed in existing laws and the remedies available when the rights are violated, to encourage and support women to stand up for their rights by making use of the existing justice system; provide legal aid and counseling to women that cannot afford paid legal services and to represent them in court; and increase the number of women lawyers

by encouraging and supporting female law students and those women who are interested in becoming lawyers.

As she explained it, the organizational structure of EWLA includes:

The General Assembly: is the supreme policy formulating and decision making organ of EWLA, which is composed of regular members. Currently, the number of EWLA's regular and associate members is estimated to be around 500;

The Board of Directors: consists of 7 persons elected by the General Assembly, provides a leadership oversight in the process of implementing the management and programmatic tasks of the organization including periodic evaluation of performance and,

The Secretariat: The Secretariat consists of the Head office, six branch offices in the regional states and 53 voluntary committees working at grass roots level.

She further highlighted that the organization has three core programs: legal aid & representation, public education & capacity building, and research & advocacy. By focusing on legal aid and representation, she identified the services provided by the organization as: mediation services, free legal aid and assistance to women (counseling, provision of legal advice, preparation of court briefs (affidavits, suits, appeals, etc)), regarding civil cases and follow ups of criminal cases, court representation depending on the gravity of the case, and periodic case analysis activities are also undertaken, as these provide an insight on test cases which provide material on laws that need to be reformed in order to afford better protection to women. She also noted that the primary beneficiaries of EWLA's legal aid service are women and girls.

She shared the experience of EWLA in establishing some form of networking with other organizations working on the area. In this respect, she raised the cases

where the organization partnered with local government to expand the service (A.A: sub-cities, Regions: women's affairs offices and police stations); participated in the establishment of a network to cooperate for the provision of legal aid services to the poor (2008); is currently working with Federal Supreme Court with the aim of cooperating for the provision of legal aid to children and referral to administrative organs and law enforcement institutions. Finally she raised some of the challenges the organization faced in providing legal aid: lack of comprehensive legislation, lack of clear guideline in administering *pro bono* service, networking, and identification of responsible body to monitor and raise funds and the new charities and societies' law which puts financial constraint on the provision of legal aid by local NGOs.

In sharing the experience of Children's Legal Protection Center on the provision of legal aid service W/ro Fasika began by outlining the rationale of the program. According to the population census of the country, children account for 52% of the total population and this section of society is the most vulnerable to violence and abuse. Moreover, in spite of the improvement on the part of other service providers such as child friendly courts, there are still gaps in the provision of legal aid to children and lack of coordination among service providers, hence, the need for such a specialized legal aid center. As a result the center was established with the aim of providing free legal aid service and psycho-social support with a broader view of ensuring the protection and fulfillment of children's rights. It also provides trainings to judges, public prosecutors, police, and rehabilitation centers working with children in conflict with the law, lawyers, medical professionals, social workers, registrars and other governmental and non- governmental organizations on the rights of the child.

Currently the Center provides these services at three locations, namely: the Federal Supreme Court, Federal First Instance Court Lideta branch and Federal High

Court Bole branch. In addition, the Center has signed Memorandum of Understanding (MOU) with 34 government and non-governmental organizations. The objective of these MOU is to strengthen child rights protection activities undertaken by the Center and these organizations. So far the Center has provided free legal aid services to 1376 children; referred 165 cases, six of which were referred to the police while the remaining were referred to different organizations that provide psycho- social services to children and provided training on children's rights to 599 professionals. She stated that the Center was successful to achieve its objectives because it works within the government structure, was able to coordinate with partner organizations, the involvement of seasoned private practitioners in the provision of legal advice, it provides mediation services and undertakes follow up and monitoring in accordance with preset guidelines.

8. The Role of Ministry of Justice in Civil Justice Administration

Facilitator: Ato Getahun Kassa – Center for Human Rights, Addis Ababa University

Presenter: Ato Adiamseged Atnafu – FDRE Ministry of Justice

Ato Adiamseged Atnafu, representative from Ministry of Justice, spoke about the powers and functions of the Ministry, legal basis or mandates of the Ministry in relation to the provision of legal aid and the activities undertaken so far by the Ministry in the provision of legal aid service. The Ministry was said to have four main functions in relation to its mandate in civil matters: legal advice service, contract drafting services, alternative dispute resolution and litigation. The legal advice service included services to indigent and vulnerable persons either by prosecutors at the Ministry or utilizing the *pro bono* obligation of private practitioners; the alternative dispute resolution, a mandate that emanates from

Proclamation No. 691/2003, also mainly focused on resolving cases that involve women and children and the Ministry also represent women and children in litigating civil cases. These functions of the Ministry emanate from Proclamation No. 691/2010, Proclamation No. 471/1998, Proclamation No.4/1995 and Proclamation No.11/1988 which all regulate the provision of legal aid service by the Ministry.

Regarding the beneficiaries of their legal aid service, Ato Adiamseged said that they are indigent members of the public. In order to identify who an indigent is for this purpose the Ministry has developed a draft directive. According to this draft directive, a person will qualify as indigent and be entitled to the free legal service of the Ministry if,

- He/she has no immovable property,
- He/she has no movable property the value of which exceed 10,000 Birr
- His/her monthly salary is less than the minimum monthly salary of public employees

Other needy persons who will not be covered by these criteria will be covered by *pro bono* service of licensed lawyers

In order to operationalize the mandate of the Ministry to provide legal aid service regulations, directive and guidelines are needed. In this regard Ato Adiamseged identified the following areas that need clear guidelines or regulation: the management of *pro bono* service by licensed advocates, criteria to identify persons that can receive legal aid service from the Ministry and identification of cases to be assigned to *pro bono* service by licensed advocates. He noted that the legal aid service of the Ministry is currently facing three main challenges: lack of awareness among the public about the Ministry's mandate to provide legal aid service, absence of clear legal framework on the provision of legal aid service and problems of networking and coordination among legal aid service providers. As a

final note he explained that the Ministry is working towards standardizing and structuring the legal aid service provision in the country.

Discussion

The participants raised numerous questions regarding the role of MOJ in the provision of legal aid service. The questions can be summarized as follows:-

- Has the Ministry synchronized its legal aid service with the functions of public defender office?
- In relation to the mandatory 50 hours *pro bono* service to be provided by lawyers, how does the Ministry deal with cases that may exceed the allotted time? Wouldn't making the service mandatory affect the willingness and effectiveness of the lawyer to deal with the case? How does the Ministry plan to work in collaboration with lawyers on the issue?
- Has the Ministry taken any initiative to collaborate, engage with and support other legal aid service providers?
- The Ministry is representative of the government interest, and as such how does it deal with conflict of interest cases where the clients are litigating with government organs?

In response, the presenter stated that there is no need to synchronize the functions of public defender's office and legal aid service of the MOJ as they are very different as the former only deal with serious criminal cases while the latter deals with civil cases. The *pro bono* obligation of licensed advocates should be seen as a great potential because if we multiply the 50 hours with the number of lawyers, according to the Ministry's Business Process Re-engineering (BPR) document, this could go as high as 50,000 hours per year. But with regard to the implementation and the ensuing burden on the lawyer, the Ministry is drafting a document that addresses

the concern. One option is lending financial support to cover transport, photocopy and translation costs of the lawyer providing *pro bono* service.

So far the Ministry has not taken an initiative to collaborate, engage with and support other legal aid service providers to the expected level. However, the current five-year strategic plan of the institution includes a plan to strengthen the link with charities and societies, universities, regional justice bureaus and others that provide support to the administration of justice in the country. On the question of conflict of interest, the presenter clarified that if the client is woman or child, the Ministry will represent the woman or child instead of the government office. In other cases of conflict of interest the Ministry dares to represent neither.

Continuing on their discussion, the participants further explored the role of the Ministry in setting a national standard, institutional and policy framework to ensure sustainability and accessibility of legal aid service in the country. In setting standard one major concern is the criteria for indentifying indigent persons. For instance, MOJ uses ownership of immovable property as an indicator while the Mekelle University uses monthly income. The participants then agreed standardization should be a priority. In addition, a participant mentioned that the Ministry and Regional Justice Bureaus have a consultative forum that could be helpful to facilitate standardization of the practice of legal aid in the country.

9. Networking: Plenary Discussions

Facilitator: Ato Faisl Mulatu – Center for Human Rights, Addis Ababa University

Before breaking into groups, participants first discussed the necessity of networking, the model to be adopted, prior experience of networking, and the relevance of regulating legal aid service. As to networking, all the participants agreed that it is necessary to avoid duplication of service, experience sharing and to set up

referral system. The informal and case based referral experience of Gondar University to Bahir Dar University, Mekelle University to Hawassa University and Mekelle University to EWLA was shared to shed light on the importance of networking among service providers. The model of networking to be adopted, however, should consider the similarities and difference among the service providers mainly between law schools based legal clinics and those run by charities and societies. The objectives of the legal aid clinics are also different. They are aimed at integrating clinical legal education with legal aid.

It was noted that a new effort to create a networking forum needs to draw lessons from prior experiences. In relation to this, the 2010 Ethiopian Human Rights Commission (EHRC) led networking attempt, the 2009 ‘Ethiopian Law Schools Legal Aid Networking Workshop’ organized by Mekelle University that established a committee to draft the networking constitution and other attempts lead by NGOs such as Action Professionals Association for the People (APAP) and EWLA were mentioned. The participants agreed that the documents from these attempts could serve as an input for the ongoing effort. Finally, regulation of legal aid service was agreed upon although no consensus was reached regarding the nature and depth of the regulation. In this regard, the National Human Rights Action Plan, which includes legal aid, and the plan to draft a ‘National Legal Aid Strategy’ in the next five years were mentioned as important steps. Further it was stressed that regulation should take into consideration the diversity of service providers, local variations, contexts and creativity.

After the plenary discussion, participants broke up for group discussion on the subject of networking of legal aid providers. The group discussions enabled the participants to discuss on and come up with networking ideas. The group discussions focused on the objectives, goals and purposes of networking, the model of

networking, opportunities and challenges of networking and the process or procedure to establish the networking. The response of the four group discussions are summarized as follows:

- 1) Establishing a network of legal aid service providers is absolutely essential;
- 2) The objectives of this network should include: experience sharing, fund raising and distribution, standardization of legal aid services, avoiding duplications, setting up referral system, lobbying on issues of common interest, working toward expansion of the services, conducting research on legal aid, creating awareness, research sharing, and monitoring and evaluation of quality of services;
- 3) The participants suggested two types of networking: the first, an all inclusive network of all individual legal aid providers based on a memorandum of understanding, and the second proposal suggested model is network of networks after small networks are created by different category of legal aid providers. However, all the participants agreed whatever model is adopted it should be a loose forum with no permanent body and hierarchical relationship with the service providers.
- 4) The participants recognized the networking forum could make use of existing institutions and forum, such as legal aid centers, Ethiopian Human Rights Council, or NGOs to serve as a secretariat;
- 5) The participants also identified possible challenges the networking could face: legal impediment to the establishment of a new organization, similar initiatives by various stakeholders, lack of uniform standards by legal aid centers, lack of comprehensive legal framework and guidelines, financial constraint, minimal level of volunteerism, lack of support from university

administration in some cases, lack of awareness and ineffectiveness of loose networking forums;

- 6) The participants finally forwarded their suggestions on the process and procedure to be followed to set up the networking. Accordingly, they suggested identification of core actors and setting up a committee that represents these actors that will develop TOR, guidelines, organize workshops, etc...

10. Workshop Follow up

At the end of the Workshop, all the participants reached a consensus that a networking committee should be established. They identified a number of benefits that can emanate from networking which includes joining forces for common aim, resource and experience sharing, avoiding duplication of tasks, funding raising and cost sharing.

To ensure an effective follow up of the consensus reached at the workshop, the participants also agreed to establish a steering committee. The participants also discussed which service providers should be included in the steering committee and the following institutions were identified as the steering committee members: Addis Ababa University- Center for Human Rights, Ethiopian Women Lawyers' Association, Federal Supreme Court- Children's Legal Protection Center, and the Ministry of Justice. Addis Ababa University Center for Human Rights was assigned to take up the initial task of facilitating and convening the committee and setting up a consultative meeting.

Directory of Legal Aid Providers in Ethiopia

This Directory of Legal Aid Providers in Ethiopia is part of the research report on Assessment of Legal Aid in Ethiopia. As such, the information contained in it reflects that which was available and valid in May 2013. Note, however, that information regarding public defender offices has not been included in this listing.

A. Higher Educational Institutions Providing Legal Aid Service

N.B.: The information for legal aid providers of Gondar University, Bahir Dar University, Mekele University, Adama University, Hawassa University, Haramaya University, Addis Ababa University, Jimma University and Jigjiga University is obtained directly from the m through interviews conducted by the researchers themselves or research assistants. The information for the remaining legal aid providers is obtained from their activity reports of 2011 and 2012.

No.	Name of the legal aid provider	Contact Information of the main office	Location of main and branch offices	Target group (beneficiaries)	Service providers
1	Gondar University Free legal Aid Center	Tel- 0588110619 Email- hiruy.wubie@gmail.com Website- WWW.uog.edu.et/legalaid	Gondar main office, North Gondar Prison, Azezo branch, Aremacheho Woreda/Tekele Denegaye branch, Makesnet branch, Denebeya Woreda/kola deba branch, Chelega Wereda branch, Addis Zemebe branch	Indigents, women, children and people with HIV/AIDS	Lawyers and law students
2	Mizane-Tepi University Free legal Aid Center	Email- adane.gebre33@yahoo.com	Mizan Aman branch, Tapi Town branch (is not operational b/c secretary is not hired)	Indigent people (all)	Staffs (no court representation yet)
3	Jimma University Free legal Aid Center	Tel- 0478110141 Email- kassahun.molla@yahoo.com Website- http://www.ju.edu.et/legalaid/	Jimma High Court Branch, Jimma Woreda Court branch, Jimma Prison branch, Main Office at Jimma University, Serbo branch, Debo branch, Agaro branch (Goma Woreda branch)	Indigent persons and vulnerable persons such as women, children, people with disability, veterans, prison inmates	Academic staffs and law students

4	Ambo University Free legal Aid Center	Email- vedalgrgamsal@gmail.com	Ambo branch (university main office Ambo High Court Wereda court Guder branch Addis Alame branch (phased out)	Indigent members of the society and vulnerable groups such as Women, children, persons with disabled and HIV/AIDS	Legal center have license , students, staffs
5	Mekelle University Free legal Aid Center	Tel- 0344408379 Email- eyobawash@yahoo.com	Mekelle Main Office, Mekell prison, Mekelle Wereda Court, Mekelle High Court, Axum branch, Adigerate branch, Maichew branch	Marginalized and vulnerable groups such as women, children, the elderly, people with HIV/AIDS, persons with disability, arrested and convicted persons	Law students, instructors, paralegals and lawyers
6	Bahirdar University Free legal Aid Center	Tel.- 0582220526 Email- gizl973@yahoo.com	Bahir Dar Main office, Bahirdar prison Center, Finote Selam Center, Enjibara Center, Woreta Center	Women, Children, persons with disability and People with HIV/AIDS	Law students and instructors

7	Wellaita Sodo University Free legal Aid Center	Tel.- 0465514590 Email- dereko39@yahoo.com	Wellaita Sodo High Court Wellaita Sodo Zone Prison Administration Wellaita City Main Office	Indigent members of the Community and vulnerable groups such as women, children persons with disability, people with HIV/AIDS	Law students, paralegal and instructors
8	Hawassa University, Social Justice Center Free legal Aid Center	Tel. 0462209441 Email- bushoodmas@yahoo.com	First Instance Court, Hawassa City prison Administration, Hawassa High Court, Yergalem Town, Zeway Town, Arba Minch Town , Shashemene Town	Indigent and vulnerable groups such as women, persons with disability	Law students
9	Addis Ababa University, Center for Human Rights Access to Justice Project	Tel. 0111222562 Email- tsageal@hotmail.com Website- http://www.aau.edu.et/humanrights/index.php/project/legal-literacy-rights-advice-information	Addis Ababa (Sidest Kilo main office, Ferensay Legasyon and Amist Kilo), Adama (Adama legal aid branch main office, Branch at Adama Women, Children and Youth Affairs Bureau, Misrak Shewa Zone Prison, Depo Prison Administration Center, Kebelle 07 branch, Kebelle 01 branch), Hawassa (Hawassa main office, Sidama Zone High Court, Hawela Tula Sub-city branch, Dore Bafano branch)	Indigent and vulnerable members of the community	Paralegals and graduating law students (In case of Adama branch, 12 lawyers gave their consent to give pro bono service)
10	Dire Dawa University Free legal Aid Center		Dire Dawa First Instance Court, and Shenele Zone High Court		
11	Jigjiga University Free legal Aid Center	Solomonquadie67@gmail.com	Awaberie, Kebribayah, Gurrume	Indigent people, Children and women	Lawyers

12	Haramaya University Free legal Aid Center	Tel : 025 553 0084 Email: sultangeema@yahoo.com	Deder Woreda Court, Deder Prison, Kombolcha woreda court, Haramaya woreda court, Awoday town, Girawa woreda court, Gawa Prison, East Hararghe High Court, East Hararghe Prison, Harari Prison, West Hararghe High Court, Chiro Woreda Court, Oda Bultum Woreda Court, and in all Harari Regional Courts.	Indigent members of the community such as women, children, persons with disability and elders	Law students and Lawyers using the advocacy licenses issued in the name of the university from Oromia and Harari Regional Justice Bureaus.
13	Debre Markos University Free legal Aid Center	N/A	Mesrake Gojjam (DebreMarkos) High Court Debre Markos City Prison Debre Markos City Wereda Court Dejen Wereda Court Dembecha Wereda Court		
14	Wollega University Free legal Aid Center		Wellega High Court Rebi Woreda High Court Shambo/ Horo Gudro High Court		
15	Dilla University Free legal Aid Center	N/A	Dilla High Court Yerga Chefe Woreda Court		

16	Wollo University Free legal Aid Center	N/A	N/A	N/A	N/A
17	Arbaminch University Free legal Aid Center	N/A	N/A	N/A	N/A
18	Adama University Legal Aid and Research Center	Tel. 0221100022 Email- mezgebu2004@gmail.com	Adama University main office, Adama Wereda Court, Adama Special Zone High Court, East Shewa Zone High Court, East Shewa Prison, Adama Wereda Court (Beshoftu), Mojo Wereda Court, Bosete Wereda Court (Welenchite)	Indigent members of the community including prison inmates, persons with disability, veterans, children and women	Law students of the university, trainees of Oromia Justice, legal research and training institute and Lawyers using the advocacy license issued in the name of the university by Oromia Regional Justice Bureau,

B. CSO and professional association providing legal aid service

No.	Name of the legal aid provider	Contact Info. of main office	Location of main and branch offices	Target group (beneficiaries)	Service providers
1.	Ethiopian Christian Lawyers Fellowship (ECLF)	Tel- 011 860 5377 email- ecfaddis@gmail.com Website- www.advocatesethiopia.org	Lideta Center (Near Federal High Court, Lideta Branch); Finifine Special Zone	Indigent members of the community including Children, women and Persons with disability	Lawyers and paralegals
2.	Ethiopian Women Lawyers Association (EWLA)	Tel- 0115508759 Email- ewla1995@gmail.com Website- www.ewla-eth.org	Main office in Addis Ababa Hawassa Branch & outreach - Hosa'ena - Welkite - Alana - Jinka - Aleta Wenedo - Yirga Alem - Arba Minche - Welaita - Butajira Benshangul Branch & outreach - Menge - Bambasie - Kamashe - Mao-Komo	Women	Lawyers and Para legals

			<ul style="list-style-type: none"> - SherekelleWereda - Kamash Adama Branch & outreaches <ul style="list-style-type: none"> - Assela/Arsi - Boset/Wellenchiti - Sebeta - Goma/Jimma - Shalla - Yabello - Agaro - Metahara - Meki - Lale - Debere Zeit - Gini Michu - Western Wollega - Shashemene Gambella Branch & outreach <ul style="list-style-type: none"> - Goni Wereda - Abo Wereda - Godere Woreda - Lire Dire Dewa Branch & outreach <ul style="list-style-type: none"> - Belewa - Beyewalye 		
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			- Keressa Bahir Dar Branch & outreach - North Shewa- D/Birhane - South Wello- Desse - Waghamra- Sekota - North Wollo- Weldia - South Gondar- D/Tabor - Oromia Special Zone- Kemise - East Gojjam- Debre Markose - Fenote Selam - Harbu Wereda- Mersa		
3.	Ethiopian Lawyers Association (ELA)	Tel.- 011 5530122 Email- elba@ethionet.et Website- www.ethiopian-bar.org	Federal High Court, Lideta Branch	Indigent persons	Lawyers
4.	Selam Professionals' Association for the people		Main office in Harer city	Indigent persons	lawyers
5.	Alumni Association of Law Faculty of Addis Ababa University	Tel 251- 11-4-579361	Main office in Addis Ababa, Yeka Sub-City with centers at the Federal High Court/Federal First Instance Court Lideta and Arada branches ¹⁷⁸	Indigent persons	Lawyers and paralegals (students)
6.	Ethiopian Bar Association	N/A	N/A	N/A	N/A

¹⁷⁸ The Association also has collaborative legal aid projects with the Ethiopian Lawyers Association.

C. Government institutions providing Legal Aid Service

S/no.	Name of the legal aid provider	Contact Information of main office	Location of main and branch offices	Target group (beneficiaries)	Service providers
1.	Ministry of Justice, • Advocacy licensing and Administration Directorate • Women and children's Protection directorate, • Civil Cases Directorate	Tel.- 0115551721	It operate in Addis Ababa	Indigent members of the society	lawyers
2.	Children's Legal Protection Center/CLPC/ under the Federal Supreme Court Child Justice Project Office	Tel.- 0115565603/ 0118965394/95/96	Federal Supreme Court- Coordination Office, Federal High Court Lideta Branch, Federal High Court Bole Branch	Children and Care givers (When their legal problem affects Children)	Lawyers, Paralegals and social workers
3.	Amhara Regional State, Bureau of Justice		It exists at the regional, Zonal, and Woreda level Justice Bureaus in the Region.	Indigent and Vulnerable groups such as children, person with disability, elderly, people living with HIV/AIDS	Lawyers (licensed advocates & staff)

