



Your voice. For justice.

COUNTRY REPORT

LEGAL AID SOUTH AFRICA

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1. GENERAL OVERVIEW

1.1 Type of Legal System

The legal system in South Africa is founded on the Constitution of the Republic of South Africa of 1996. Prior to the Constitution, the South African legal system was based on a Roman-Dutch system. This system was introduced by Dutch settlers in the 17th century, and became the common law of the country. In time, colonisation by Britain brought with it aspects of English law, which still remain today, particularly in the areas of business and adjectival law.

As was the case in all colonised countries, the introduction of foreign legal systems saw the suppression of indigenous laws and associated court systems. In South Africa, while an attempt was made to document indigenous law and practice, in time, the laws were extensively modified, and eventually found no application in mainstream practice.

21 years into democracy, the legal system still remains largely European based. There is draft legislation in place to give recognition to the traditional court system. However, there is some opposition to this from quarters who argue that the application of indigenous law will have negative effects on certain rights contained in the Bill of Rights, especially the rights of women. So, while the Constitution gives formal recognition to the indigenous laws of the country, it is the same Constitution that may be used to stifle the development of these laws.

1.2 Population

As at 2014, the South African population was reported to be 54 million, and the number of households was 15 107 000. South Africa is made up of nine provinces. Some provinces have relatively large economies and are more urbanised, thus making them more attractive to internal migrants and immigrants from neighbouring countries which are worse off economically. Internal migration and the influx of immigrants have contributed significantly to urban growth. More than 60% of people in SA live in urban areas. Urban areas are cities and towns characterised by higher population densities, high levels of economic activity and high levels of infrastructure. The remaining people live in rural areas, which are usually farms and traditional areas with sparse populations, low levels of economic activity and low levels of infrastructure. The service delivery footprint of Legal Aid

SA must respond to population demographics, in-migration patterns and the urban/rural divide in order to ensure that legal aid services are accessible.

1.3 GDP/Economic Data

Economic growth in South Africa is slow, just as it is globally. Domestic constraints in energy, skills, transport and logistics amongst others are affecting economic growth. South Africa needs to make progress in responding to the electricity challenge or achieve stronger export performance in order to realise higher growth. GDP growth in 2014 was 1.5%. Projected economic growth for 2015 is 2%, which is expected to rise to 3% by 2017.

Unemployment (currently at 24.3%), and poverty, are linked to economic growth. The National Development Plan (NDP) is being implemented to address unemployment, poverty and inequality.

1.4 Per Capita Income Levels

South Africa is one of the nations with the widest income gaps between rich and poor. The annual average household income (2013) was ZAR156,757 (USD 13,063). The annual income per capita (2013) was ZAR 44,802 (USD3,733). A 2011 survey by Statistics South Africa found that 45.5% of South Africans can be described as poor, with 20.2% of the population described as living in extreme poverty.

1.5 Alternative Providers of Legal Services to the Indigent

Legal Aid South Africa is the only statutory body established for the purpose of providing legal aid services to the poor and indigent in both criminal and civil matters. The execution of this mandate is funded by the public purse. In the first 25 years or so of its existence the execution of this mandate was hardly fulfilled as a result of barriers created by apartheid laws and policies. Because of the need to prop up the apartheid system at the time, the right to legal representation was eroded, in keeping with the erosion and total disregard for the human rights of citizens.

This spawned a number of alternative providers of legal services to the poor and oppressed which ranged from community-based advice offices, NGO's and law offices that specialised in human rights law, and were funded clandestinely. A number of these organisations remain today and still

continue to render an invaluable range of services to the poor and vulnerable, to supplement those provided by Legal Aid SA. The following are some of the organisations that render legal services to the indigent:

1.5.1 Community-Based Advice Offices

These are advice offices based within communities that provide advice services, as well as a referral service to refer community members to the most appropriate institutions in order to resolve whatever issues they may have. Started at the height of apartheid, these offices previously served a dual role as advice offices as well as a political organisational role and were operated by people who did not necessarily have any legal training. Advice is provided by community-based paralegals. Because of their close proximity and easy access to the community, Legal Aid SA has programmes in place to support these advice offices with back-up legal services. Community-based advice offices in turn refer clients with more complex issues to Legal Aid SA for further assistance. Funding for these offices is primarily sourced from international humanitarian donors. However, this source of funding is declining, and this is impacting negatively on the sustainability of this sector.

1.5.2 Non-Governmental Organisations (NGOs).

These are organisations with offices staffed by qualified lawyers who provide legal services, mostly in the area of human rights law, to the poor. They are funded largely through international donations. Legal Aid SA does from time to time provide funding to these organisations either on a case by case basis, or as part of a co-operation agreement to fund an aspect of their work that may be of significant impact on citizen's rights. The following are some of the most prominent of these NGOs:

1.5.2.1 The Legal Resources Centre (LRC) – The doyen of legal service NGO's, the LRC was the first campaigner for human rights and has till today, been involved in the litigation of many cases that have had a significant impact on the development of human rights law in South Africa. Some of its founders were part of the defence team that defended former South African President, Nelson Mandela at his treason trial.

1.5.2.2 Lawyers for Human Rights (LHR) – Also specialising in human rights work, they currently concentrate on providing services to refugees and asylum seekers as well protecting the rights of farm workers.

- 1.5.2.3 The Centre for Applied Legal Studies – Based at the University of the Witwatersrand, they are acknowledged as the leading NGO specialising in matters relating to housing, informal settlements , upgrading of land tenure rights and eviction matters.
- 1.5.2.4 Section 27- Only recently established, this NGO incorporates the AIDS Law Project, and specialises in research, advocacy and litigation pertaining to socio economic rights.
- 1.5.2.5 The Women's Legal Centre - is a non-profit, independent law centre that seeks to achieve equality for women in South Africa.
- 1.5.2.6 Tshwaranang Legal Centre – one of the older NGOs, Tshwaranang specialises in issues relating to violence against women.
- 1.5.2.7 The Centre for Child Law - is based in the Faculty of Law at the University of Pretoria. It is the leading NGO dealing with all aspects of the protection of the rights of children and has been involved in all the ground breaking cases that shaped this area of the law.

1.5.3 University Legal Aid Clinics

Almost all of the universities in South Africa have established legal aid clinics. Although they employ qualified lawyers, these clinics are mostly used to train law students on the practical application of the law.

1.5.4 Self-help Services

A new development that came with the new dispensation in South Africa was the move to increase access to justice by making it possible for people to resolve disputes or to prepare and present their own cases, with some assistance from officials who have received specialised training in that specific area. An attempt is made to resolve the dispute by mediation or conciliation and, if this does not succeed, arbitration. Similar services are also available for disputes that in their nature, have to go through the court process. Examples of disputes that parties are able to deal with on their own or with the assistance of a trained official are:

- 1.5.4.1 Conciliation and arbitration of labour disputes before the Commission for Conciliation, Mediation and Arbitration (CCMA).
- 1.5.4.2 Maintenance disputes.

1.5.4.3 Domestic Violence matters

1.5.4.4 Divorce matters

1.5.4.5 Resolution of small commercial disputes relating to credit agreements, short and long term insurance as well as consumer related disputes.

1.5.5 Ombudsman Services

Another development has been the establishment of ombudsman offices in many sectors, to resolve sector specific disputes. An example of this is the Public Protector, who serves as an ombud for all disputes involving government departments.

1.5.6 Pro Bono Services

The various professional governing bodies for Attorneys and Advocates have each developed rules obliging their members to perform at least 24 hours pro bono work per annum. This comes on the heels of a trend for large commercial law firms to establish pro bono departments as part of their corporate social responsibility programmes. This has even given rise to an organisation called ProBono.org, which acts as a clearing house to give pro bono work to these firms.

As the biggest provider of legal services to the indigent, Legal Aid SA is well placed to act as a referral point for legal practitioners seeking clients to represent on a pro bono basis, in compliance with their professional obligations. For this reason, a project was initiated by Legal Aid SA to accredit legal practitioners so that clients can be referred to them on a pro bono basis. This referral system operates in a similar way to the way we allocate instructions on Judicare, with the only difference being that no fees are payable for a pro bono instruction. The system has the added advantage of making it possible for us to provide access to justice to a greater number of indigent people, with no impact on our budget.

Practitioners who are in the full time employment of Legal Aid SA are also obliged to perform pro bono work, as part of their obligations to their professional governing bodies. They cannot however perform this work on the time of Legal Aid SA.

1.5.7 Short-Term Insurance Schemes

Aimed more at the “not-so-poor” market, a number of legal expense insurance schemes have come to the fore. These schemes will pay legal fees to an insured’s lawyer up to a certain limit, against payment of a monthly premium, which is relatively low.

2. LEGAL AID SYSTEM

2.1 Regulatory Framework

Legal Aid SA is established by the Legal Aid SA Act 39 of 2014 (previously Act 22 of 1969). It is governed by a Board of Directors which is accountable to the Minister of Justice and Constitutional Development, as well as to the South African Parliament. It is a national public entity as provided for in the Public Finance Management Act, and is bound by the National Treasury Regulations to prepare a 5 year Strategic Plan which forms part of the 3 year medium term Expenditure Framework and Annual Performance Plan and Budget.

2.2 Mandate

In terms of section 3 of the Legal Aid SA Act, the object of Legal Aid SA is to render or make available legal aid and legal advice, to provide legal representation to persons at state expense and to provide education and information concerning legal rights and obligations, as envisaged in the Constitution and its enabling Act.

The Constitution provides for every detained person, including a sentenced prisoner, to be provided with legal representation at state expense where substantial injustice would otherwise result. There is no such explicit provision in the constitution regarding the provision of legal representation at state expense in civil matters but, Section 34 guarantees access to court and the right to a fair public hearing. This, in terms of the judgment of the Constitutional Court in *Bernstein v Bester*, includes the right to legal representation if required to ensure effective participation as well as equality of arms. Thus legal representation in civil matters where substantial injustice would arise is a constitutional imperative.

With regard to providing legal representation to children, the constitution is clear that this includes both criminal and civil cases. There are also various other pieces of legislation that provide for the provision of legal representation at state expense.

2.3 Qualification for Legal Aid

For an applicant to qualify for legal aid, three (3) requirements have to be satisfied namely:

- (1) The matter must be one that is covered by the legal aid scheme.
- (2) For civil matters there must be merit in pursuing the matter.
- (3) The applicant must pass the means test.

Our means test takes the following into account:

- (a) The applicant's income. To qualify, the applicant must have an amount not exceeding R5 500 remaining after deduction of income tax from his gross income. For an applicant who is a member of a household, the amount is R6 000.
- (b) The value of immovable property owned. Clients are permitted to have immovable property to a value not exceeding R500 000 to qualify.
- (c) The value of movable property owned. Clients are permitted to have movable property to a value not exceeding than R100 000 to qualify.

A discretion has been given to certain managers to grant legal aid within certain limits if the means test is exceeded.

2.4 Discretion to Grant Legal Aid where Means Test Exceeded

Where the legal applicant exceeds the means test, certain managers are provided with a discretion to grant legal aid up to a certain limit. There is also a Constitutional Case Management Committee which considers cases where the means test is exceeded beyond the discretion of the designated managers. This is to allow some flexibility to accommodate those legal aid applicants who on paper, exceed the means test but, can clearly not afford to finance the litigation they are facing, out of their own resources.

2.5 Legal Aid Contribution Scheme

A further mechanism to aid the 'not so poor' legal aid applicants ie those who find themselves on the borderline of affordability, is our contribution scheme in criminal cases. The Act provides for the granting of legal aid subject to the legal aid recipient making a contribution to the cost of his own legal representation. The amount of the contribution is calculated based on a formula which takes into account the amount by which the applicant exceeds the means test, as well as the duration of the trial.

The contribution is paid in monthly instalments until the maximum contribution payable is paid. The contribution automatically falls away if the case is finalised earlier than anticipated, even if the full amount of the contribution has not been paid.

2.6 Scope of Legal Aid

2.6.1 Criminal Matters

The provision of legal aid in criminal matters is informed by s35(3) of our Constitution, which states that 'every accused person has the right to a fair trial, which shall include the right to have a legal practitioner assigned to the accused person by the state and at state expense, where substantial injustice would otherwise result.'

Where clients are charged either in the Regional Courts or the High Courts, an accused will qualify for legal aid without any further enquiry into the nature and seriousness of the charge if the accused is unable to afford the cost of his/her own legal representation. In District Courts, legal aid is available for all offences, except for very minor offences where the worst the accused can face on conviction is a small fine.

Children are entitled to legal aid notwithstanding the nature of the offence. For those offences that are not specifically included in the legal aid scheme, legal aid will still be provided if in the opinion of the Justice Centre Executive, the client is likely to suffer substantial injustice if legal representation is refused.

2.6.2 Civil Matters

Our policy specifically provides for certain types of civil matters which are excluded from the legal aid scheme. This includes matters such as the administration of deceased estates and insolvency cases, personal damages claims, small claims court claims, etc. Legal aid is available for all matters that are not specifically excluded from the scheme, provided the legal aid applicant passes our means test.

An additional requirement for qualification for legal aid in civil matters is that there must be reasonable prospects of success and, where applicable, prospects of enforcement of any court order that may be obtained. A merit assessment is therefore done for some civil matters and where a matter is found to have no merit, legal aid will be refused.

2.6.3 General Advice

Our statistics of legal aid applicants who have come into our offices to consult on civil matters has shown that approximately 30% of these consultations have resulted in civil case files being opened. The majority (70%), of these consultations, only required the provision of legal advice to the client. In some cases, the client only needs to be referred to another institution that is better placed to assist them. This realisation led us to differentiate the services we offer between legal representation, and the provision of a general advice service. General advice is provided primarily by paralegals who are based at all our Justice Centres and Satellite Offices.

During 2010, our general advice service was expanded by the establishment of the Legal Aid Advice Line, a dedicated call centre service to provide telephonic advice to clients. A toll-free line is available to clients, wherever they may be, to call for immediate legal advice, at no cost to them. This service has greatly increased access to general advice services to our clients. During the 2014/2015 financial year, the Legal Aid Advice Line provided advice in 55,623 (17%) advice matters. Of these advice matters, 6,432 (12%) of calls dealt with advice that related to criminal matters.

2.6.4 Impact litigation

Because of our relatively young democracy it has become important to get the courts to interpret and define sections of our constitution so as to ensure the maximum benefit to the citizens. An important way to achieve this objective is to take appropriate cases to court, so that the courts can pronounce on the nature and extent of the rights contained in the Constitution. Our Impact Litigation Unit was established in order to achieve this objective. This Unit is based at our Head Office, but liaises directly with all our offices throughout the country, with regard to the investigation and litigation of cases falling within its mandate. The Unit takes on cases that impact on the lives of indigent and vulnerable communities in areas ranging from socio-economic rights, women and children`s rights, as well as the rights of people with disabilities. The Unit seeks to achieve maximum benefits for a group of people by focusing on constitutional precedent setting cases, test cases and class actions.

2.7 National Footprint

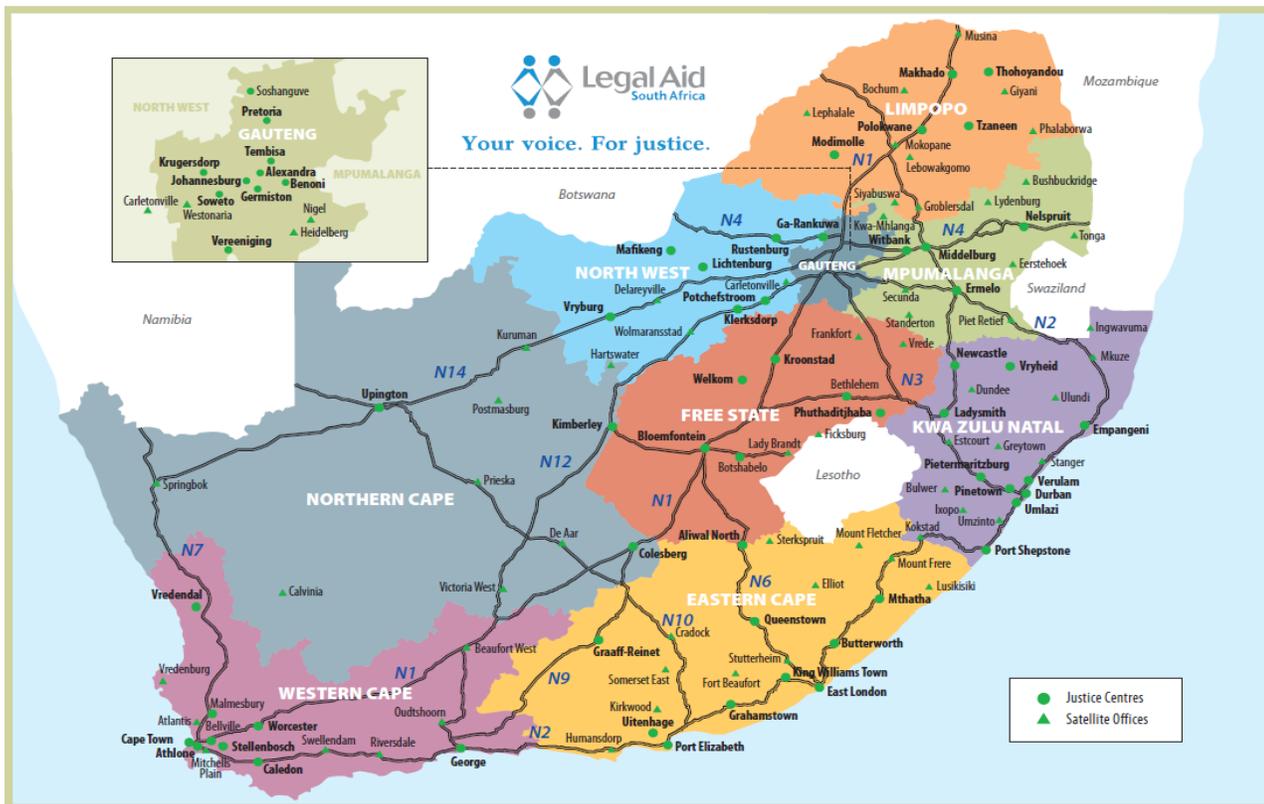
From its inception up to the early part of 2000, Legal Aid South Africa made exclusive use of the services of private legal practitioners to provide legal aid services to the poor. This system is referred to as 'Judicare'. With the expansion of the organisation to provide access to legal services to a larger number of clients, the Judicare system proved unsustainable, both from a financial perspective as well as from a quality monitoring perspective. It also proved itself to be susceptible to abuse by certain elements in the legal profession. This necessitated the restructuring of the delivery systems with the result that the Judicare system has been largely replaced by in-house legal representation made up of salaried legal practitioners, who are contracted directly to Legal Aid SA.

The employment of legal practitioners resulted in the establishment of a number of offices across the country which were modelled and staffed along the lines of a traditional law firm. The country is divided into 6 regions, each of which is headed by a Regional Operations Executive (ROE). Each region has an average of about 10 Justice Centres.

Depending on the size of the coverage area that a Justice Centre is responsible for, one or more Satellite Offices may also be linked to it in order to improve access to clients to our services as well as ensure that our lawyers do not have to travel long distances to attend to their court cases.

The map below, indicates the spread of our national footprint.

Map: Legal Aid SA Offices



The table below shows the distribution of Justice Centres and satellite offices per region.

Table 1: National Footprint

| Legal Aid SA National Footprint - FY 14/15 | | | | |
|--|----------------|------------------|-----------------|-------------|
| Region | Justice Centre | Satellite Office | High Court Unit | Civil Units |
| | No | No | No | No |
| Gauteng | 10 | 4 | 2 | 2 |
| KwaZulu Natal | 10 | 11 | 2 | 2 |
| Eastern Cape | 10 | 11 | 4 | 2 |
| Western/Northern Cape | 12 | 15 | 2 | 3 |
| Limpopo/Mpumalanga | 9 | 17 | 1 | 2 |
| Free State/North West | 13 | 6 | 2 | 2 |
| Total | 64 | 64 | 13 | 13 |

The following table indicates our staff complement as at April 2015

Table 2: Staffing

| Legal Aid SA Staff Complement - FY 14/15 | | | | | |
|---|------------------------|-------------------|--------------------------|--------------|-----------------|
| Region | Legal Positions | Paralegals | Support Positions | Total | % Filled |
| Eastern Cape | 319 | 30 | 70 | 419 | 96.2% |
| Free State/North West | 307 | 27 | 75 | 409 | 91.9% |
| Gauteng | 379 | 27 | 81 | 487 | 93.8% |
| KwaZulu Natal | 336 | 26 | 70 | 432 | 96.1% |
| Limpopo/Mpumalanga | 265 | 28 | 60 | 353 | 94.9% |
| National Office | 13 | 20 | 173 | 206 | 90.8% |
| Western/Northern Cape | 373 | 34 | 84 | 491 | 91.6% |
| Total | 1992 | 192 | 613 | 2797 | 93.8% |
| | 71% | 7% | 22% | | |

3. BUDGET

3.1 Funding Model

Legal Aid SA is funded primarily by the national fiscus. Funding allocations are provided as part of the medium term expenditure framework which covers a period of three years. The total government grant in 2014/15 was ZAR 1,573,813,677 (USD131,151,140). Due to cost cutting measures, the National Treasury has indicated that our cash reserves will be reduced by an amount of R61.8 million in the 2015/16 financial year and R92.7 million in the 2016/17 financial year. This cut however does not impact on our operations.

3.2 Impact of Economic Recession on Legal Aid Services

As has been the experience throughout the world, slow economic growth and the recession has impacted negatively on government revenue and expenditure. As a result the National Treasury has implemented cost cutting measures in all state entities. With the looming budget reductions, the

challenge is to secure alternative funding, so that service delivery will not be negatively impacted by these reductions.

Legal Aid SA's expenditure focus over the five year Strategic Plan period 2015-2020 is on the delivery of legal services which is the core business of the organisation. More than 70% of our budget is directly linked to the delivery of legal services.

Budget constraints threaten the sustainability of the organisation as in the best of times, it is a challenge for any legal aid organisation to match rising demand, with limited available capacity.

4. LEGAL AID SA DELIVERY MECHANISMS

4.1 Justice Centres

The bulk of the work done by Legal Aid SA is done by practitioners employed on a salaried basis. Whilst there were some difficulties in the early years in attracting quality legal professionals who were willing to work for the organisation on a full time basis, this problem resolved itself when the South African government introduced an occupation specific salary dispensation for the remuneration of legally qualified professionals employed in government and quasi-government agencies. The new dispensation resulted in a salary package for these lawyers that was competitive by all industry standards. The introduction of this standardised salary dispensation across all government agencies also had the effect of stemming the constant migration of legal professionals across government agencies in search for better pay, as well as the tendency for legal professionals to seek management positions as a way to improve on their remuneration packages.

Because of the attractiveness of these positions, Legal Aid SA has been able to apply stringent qualification and experience requirements thus greatly improving the quality of the lawyers who are recruited into our organisation.

While our initial focus was in criminal defence work, Legal aid SA has in recent years increased capacity to expand our civil legal aid services. To achieve this, every Justice Centre has a civil section attached to it. These sections are staffed by lawyers who specialise in civil work only. In some of these sections, there are civil practitioners with specialist knowledge of children's matters, who are employed to deal with children's civil matters. The size of each civil section differs according

to the demand for civil services emanating from the Justice Centre. A cluster approach is utilised to ensure that senior civil expertise located at a bigger civil section is shared within the cluster.

There are also specialised labour units situated in centres that have a seat of the Labour Court, to assist clients with labour matters. In areas where the Justice Centre is situated at the seat of a High Court, there is a High Court unit attached to the Justice Centre to deal with all High Court matters.

4.2 Judicare

Whilst there has been a move away from using Judicare to deliver legal services, approximately 5% of our clients are still represented by private practitioners on a Judicare basis. This is necessary especially in cases where there are multiple accused with conflicts of interest and therefore a need to appoint further legal representatives who are independent of Legal Aid SA.

Judicare practitioners have to apply for accreditation with Legal Aid SA in order to receive instructions from us. A practitioner is accredited for the purpose of conducting specified work and only in specified courts depending on his/her level of experience. The accreditation agreement makes provision for the suspension or removal of a practitioner for a variety of reasons. Judicare work is allocated on a rotation basis using a computerised system that takes into account a variety of factors to allocate the work, including provisions for BEE (black economic empowerment). The number and value of instructions already awarded to a specific practitioner over a period of time is also taken into account in selecting the next practitioner to be allocated a case.

4.3 Co-operation Agreements

An important component of our delivery mechanism is the use of co-operation agreements to service civil clients in certain areas. These agreements are normally entered into with University law clinics and involve the provision of part funding by Legal Aid SA of some of the operations of the clinic. This usually involves funding a lawyer or a number of lawyers to improve the capacity of the clinic to deliver its services.

4.4 Agency Agreements

Similar to co-operation agreements are agency agreements. These are agreements we enter into with lawyers in private practice to service legal aid clients in certain rural courts where it may be difficult or uneconomical for our internal practitioners to travel. These agreements are on a retainer basis and the practitioner is paid a fixed amount to service the court exclusively, rather than receive matters on a rotation basis such as on Judicare.

4.5 Use of Paralegals

Paralegals at Justice Centres are used as the first port of call for general legal advice for walk-in clients. Paralegals are office bound and consult with any person that attends at the Justice Centre for general advice. Paralegals will either give advice to the client on their legal matter and/or take an application for legal aid which is channeled to a qualified legal practitioner to assess the merits of the matter and determine whether there are prospects of success to proceed with litigation. In the event that it relates to matters not covered by the legal aid scheme, paralegals will assist by referring walk-in clients to the appropriate forum for assistance. Paralegals also serve as support in the civil section in providing assistance to civil practitioners.

4.6 Call Centre

In order to alleviate the burden on the client of having to travel to a Legal Aid SA office each time they need advice, the need was recognised to establish a telephonic consultation service. The call centre was established with a view to offer a general advice and referral service. The call centre is a supplementary service to the general advice function performed at the Justice centres.

5. USING TECHNOLOGY TO DELIVER LEGAL AID SERVICES

5.1 General

The move towards greater reliance on technology in all sectors of the economy has not been lost to the legal profession and institutions connected with the administration of justice in general. Common

perceptions however, are that the lower LSM groups have little or no access to technological platforms and therefore these platforms cannot be used effectively to service this sector. These perceptions are not entirely correct. In South Africa for example, the penetration of cellular telephones is in excess of 100% of the population. Cellphones are invariably the only means of communication for the poor, especially those living in rural areas. These phones are increasingly being used as a means to access web services, as well as for social networking.

5.2 Call Centre Service

Because of the wide access to telephone services brought about by the advent of the cellular phone, and to alleviate the burden on clients of having to travel to a legal aid service point to consult with a lawyer or paralegal, a call centre service was introduced. The call centre provides a general advice service in five (5) official languages, namely English, Afrikaans, Zulu, Xhosa and Sesotho. Cases that require further-attention are referred to the Justice Centre nearest to the client, or to another appropriate agency to deal with the matter. This is a toll-free service with Legal Aid SA carrying the cost of the call. We also offer clients the option to leave a message with their telephone number, for us to return their call within 24 hours.

The call centre is manned by qualified paralegals who have access to qualified lawyers based in the call centre, for the more complex enquiries. The call centre was initially established with a view to dealing with certain civil cases only. When clients took up the service however, it became impossible to restrict the services provided as clients sought advice on a wide range of matters. Whilst there is a steady flow of calls throughout the year, our experience is that take up of this service is very much dependent on its marketing and awareness raising, with calls increasing in reaction to campaigns to advertise the service.

During the 2014/2015 financial year, 55 623 telephonic consultations were provided by our call centre agents. This constituted approximately 17% of our general advice service for this financial year.

5.3 Web Contact

Another way of interacting with clients is through the 'contact' functionality on the official website of Legal Aid SA. Whilst the intention was to enable clients to post enquiries on how to access our

services, we find that generally, clients will detail the issue that they want addressed on this site rather than ask where they should go to get assistance. As the site forces the client to enter contact information, we are able to contact the client through our call centre or route the enquiry to a Justice Centre.

5.4 Web Based Self-help Modules

There are certain matters that a client is able to deal with himself, without the assistance of a lawyer but in respect of which a client may approach us for assistance because they are not familiar with the procedures to be followed. These issues include for instance access to social security services, assistance with child maintenance or how to deal with domestic violence issues. We have developed self-help modules that clients will be able to access on our website to gain an insight on how to deal with their problem.

The modules that are available on the self-help portal are drafted in a simple style so that they are easy for an unsophisticated client to understand. Where necessary, provision has been made for flow charts that illustrate the steps to follow, in a simplified way. All pages in the self-help portal are designed to allow for easy printing. In some cases, forms are made available that can be filled online and printed. The modules that have been developed include accessing social security grants and pensions, application for maintenance of children, instituting small claims court claims, consumer protection, rights of domestic workers, and application for school fee exemptions.

We have also explored the option of making our self-help services interactive. While not much progress has been made in this regard, we are hoping that this development will be implemented in the near future.

5.5 Short Messaging Services

We are currently looking at ways to utilise short messaging services (SMS) to communicate with clients through their cellphones. These messages will primarily be used to provide updates to clients on their matters, arrange appointments, and to update clients on any information of a general nature.

5.6 Social Networking Service

With the growing popularity of social networking services, the organisation has set up a Facebook and Twitter account to network with clients and other stakeholders.

5.7 Radio and Television

Most of our clients have access to both radio and television. Because of this, we regularly use these media to advertise our services. We also participate in discussions on radio and television aimed at educating the public on topical legal issues as well as answer specific questions from callers.

6. NEW/ADDITIONAL WAYS OF REACHING CLIENTS

6.1 Community Outreach and Contact Points

One of the challenges of delivering services to the indigent is that many of the clients may not have any information about legal aid services that are available to them. It is therefore important that active steps are taken to reach out to communities so that those that may be helped through our offices, are made aware of their rights as well as the availability of legal aid. Common effective points of access to communities are civic bodies, traditional governance structures, faith-based organisations, educational institutions and via participation in radio and television programs.

Within the communities they serve, our Justice Centres have programs in place to conduct regular visits to these community structures, to make the availability of legal aid known. They also participate in programs on community radio stations to educate the community about legal issues affecting them, and to answer specific questions from clients.

6.2 Working with Advice Offices

In South Africa, access to legal services for the poor has historically been facilitated by community-based paralegal advice offices. In spite of the extensive expansion of our footprint, we have always given support to this sector so as to facilitate better access to legal services. We have entered into a co-operation agreement with a national organisation that co-ordinates the operations of all

community based advice offices, in terms of which we give their members access to our offices so that there is a direct referral channel between Legal Aid SA and the advice offices. Within their area of coverage, our Justice centres are also required to identify all advice offices and to pay regular visits to them to assist with those cases that may be above the capabilities of an advice office. This link is also used by Justice Centre as a contact point with existing clients to alleviate the need for clients to travel long distances to our offices.

6.3 Prison Clinics and Advice

A sizable proportion of our potential clients in criminal matters consists of sentenced and unsentenced detainees who are held in prisons. Our Justice Centres have prison visitation programs in order to identify those detainees who may not enjoy legal representation and to offer our services to them.

6.4 Mediation Services

Legal Aid SA has explored various ways to reduce the high number of cases that go to litigation by making use of mediation and other forms of alternative dispute resolution (ADR).

In South Africa, legislation provides some room for the use of mediation services to resolve criminal matters. This is especially true in cases where children are in conflict with the law. As a consequence of this, all our practitioners are obliged to explore ways by which they can resolve matters through ADR and without resorting to trial.

In civil matters however, the use of ADR is a voluntary process that depends on agreement between the parties. The Department of Justice is exploring ways by which mediation will be made compulsory before litigation commences, and a pilot study is currently underway in a number of courts. ADR is otherwise used extensively in civil cases especially in large commercial cases, with businesses trying to avoid the long delays that are attendant on going through the normal court process. There are not many incentives for litigants in less complex cases to make use of ADR. Legal Aid SA has previously piloted a project to encourage the use of mediation services in civil matters, but interest was limited.

However, the launch of The Court-Annexed Mediation Pilot project in February 2015 (which will be implemented in the District and Regional Courts), forms part of the Government's efforts to transform the civil justice system and enhance access to justice. It is anticipated that more people will go this route as a first option to resolve their disputes.

6.5 Independent Correctional Centre Visitors Linkage

An office of the Inspecting Judge of Correctional Centres was established in South Africa, to monitor conditions in correctional centres and to attend to the complaints of Detainees. As part of the duties of this office, Independent Correctional Centre Visitors (ICCV's) were appointed for the purpose of visiting correctional centres on a regular basis to consult with inmates on the issues they have. To ensure that there are no inmates who have difficulty in obtaining legal representation, Legal Aid SA has forged a relationship with the office of the Inspecting Judge as a result of which each Justice Centre has a linkage with the ICCV responsible for the correctional centre closest to them. The names of all detainees requiring legal representation are obtained in this way and further assistance is then given to them.

6.6 Pro Bono

Legal Aid SA has concluded Pro Bono agreements with all statutory Law Societies. Legal Aid SA is now recognised as a structure where practitioners can accredit and render Pro Bono legal services to Legal Aid SA clients. A number of practitioners have already been accredited on our system for purposes of rendering Pro Bono services.

7. QUALITY AND PRODUCTIVITY MONITORING

Because of the inherent susceptibility to criticism of the quality of any service provided by the state at no cost to the citizen, it is important for a provider of legal aid services to have stringent quality control measures in place. To this end, Legal Aid SA has over the years developed a comprehensive quality monitoring and intervention program.

7.1 Quality Interventions

To ensure a high quality output from our practitioners, Legal Aid SA has over the years introduced various intervention measures aimed at continuously improving the quality of our work. These measures include:

- Targeted recruitment to attract the best talent
- Increased supervisory capacity to support practitioners
- Differentiated support which is dependent on the practitioner's support needs
- Extensive legal training and development programme implemented
- Mentorship, coaching and support programme in place
- Dedicated day per week set aside by all practitioners for consultation and preparation.
- Online research and discussion forums support for practitioners.
- e-Learning modules
- Quality monitoring reviews
- Special training programmes for Candidate Attorneys

7.2 Quality Monitoring

The following legal quality monitoring programmes have been implemented by Legal Aid SA in order to improve the quality of legal services delivery:

- Regular file reviews of practitioner files.
- Practitioner self- reviews
- Peer reviews
- Quality assessment reviews by JC legal managers
- Stakeholder feedback
- Complaints monitoring
- Client satisfaction surveys

As an additional measure, we have established a Legal Quality Assurance Unit that is based in our Internal Audit Department, and which conducts its own independent assessments on the quality of services rendered by our practitioners.

7.3 Productivity

Productivity is closely linked with quality in that unmanageable caseloads invariably impact negatively on the quality of the work. On the other hand, delays in finalising cases negatively affect the quality of the work when viewed from a client outcome perspective. Legal Aid SA does not assess practitioner performance on the number of cases taken on or finalised. Practitioners therefore, do not have any specific targets to achieve. Supervisors are required to monitor productivity by ensuring that practitioners plan cases for all court days, and that cases are not unreasonably delayed.

Our computerised case management system has been designed to provide various reports that assist with monitoring the productivity of a Justice Centre. These include:

- The finalisation rate.
- The pending case loads per practitioner.
- The clearance rate based on a ratio of cases finalised to new cases taken.
- The number of cases exceeding target turnaround times.

8. DELIVERY STATISTICS – FY 2014-15

Legal Aid SA provided representation in 448,333 matters during 2014/15. The bulk of our representation (88%) was in criminal matters whilst only 12% of our work was civil matters. With regard to criminal legal aid, 83% of the matters handled were in our District Courts whilst only 1% of matters handled were in the High Courts.

| New Matters By Court Type - FY 2014/15 | | | | | | | |
|---|-----------------|---------------|--------------|----------------|---------------|------------------|-------------------|
| Delivery Systems | Criminal | | | Total | Civil | YTD Total | % of Total |
| | DC | RC | HC | | | | |
| Justice centre | 319,330 | 50,918 | 3,731 | 373,979 | 47,548 | 421,527 | 94% |
| Judicare | 7,320 | 9,404 | 1,351 | 18,075 | 2,599 | 20,674 | 5% |
| Co-ops | 913 | - | - | 913 | 3,864 | 4,777 | 1% |
| Agency Agreements | 1,188 | 11 | - | 1,199 | - | 1,199 | 0% |
| Pro Bono | 59 | 17 | 2 | 78 | 78 | 156 | 0% |
| Total | 328,810 | 60,350 | 5,084 | 394,244 | 54,089 | 448,333 | 100% |
| % of Total Matters | 88% | | | | 12% | 100% | |
| % of Criminal Total | 83% | 15% | 1% | 100% | | | |

9. INTERNATIONAL INVOLVEMENT: SUPPORT TO DEVELOPING LEGAL AID SYSTEMS

Because of the relatively high state of development of the Legal Aid system in South Africa when compared to the rest of Africa and other developing countries, Legal Aid SA has taken it upon itself to exchange information and expertise with all countries wishing to establish or further develop their legal aid systems. To this end, we regularly host delegations from other countries to share information and compare the models we use in our respective jurisdictions. The table below indicates the countries we hosted over the last five years.

| Year | 2010-2011 | 2011-2012 | 2012-2013 | 2013-2014 | 2014-2015 |
|-------------------------|--------------|-------------|------------|----------------|-----------|
| Countries Hosted | Zimbabwe | Iran | Zambia | United Kingdom | Ethiopia |
| | Iran | USA | China | Turkey | Sri Lanka |
| | Egypt | Brazil | Nepal | Afghanistan | Nigeria |
| | Sierra Leone | Namibia | Bangladesh | Zimbabwe | Kenya |
| | Uganda | China | Uganda | Botswana | Tanzania |
| | Afghanistan | Afghanistan | Myanmar | | Uganda |
| | Nigeria | Uganda | Kenya | | Myanmar |
| | | Sudan | India | | |
| | | Liberia | Zimbabwe | | |
| | | Nigeria | Indonesia | | |
| | Mozambique | Namibia | | | |

Legal Aid SA, through its chairperson, played a leading role in the United Nation's Commission on Crime Prevention and Criminal Justice that led to the adoption of a ground-breaking resolution on access to legal aid in criminal justice systems. The resolution adopts a set of "Principles and Guidelines" designed to ensure that access to legal information, advice and assistance is available to all through the provision of legal aid, thus realizing rights for the poor and marginalized and entrenching one of the key building blocks of a fair, humane and efficient criminal justice system. This is the first international instrument on legal aid and it brings us a step closer to ensuring universal access to human rights.

In June 2014, we jointly hosted, with our Department of Justice, an international conference on Access to Legal Aid in Criminal Justice Systems. This conference culminated in the adoption of the

Johannesburg Declaration, which will no doubt serve as a guiding document to providing legal aid in criminal cases, for years to come.