

NATIONAL REPORT – ZAMBIA

ILAG CONFERENCE 2023

1. Country details for Zambia

- Zambia has a total population of 19.6 million by the year 2022 of which 9.6 million are males and 10.0 million are females. While, about 11.8 million people live in rural areas while 7.8 million in urban areas¹.
- GDP, 22.15 billion USD (2021)
- In Zambia, about 54.4% of the population is deemed to be living below the poverty line².
- There are 2,166 practising lawyers registered with the Law Association of Zambia to provide legal services countrywide.

2. About Legal Aid Board in Zambia

The Legal Aid Board (LAB) is established under the Legal Aid Act No. 1 of 2021 to provide for the granting of legal aid in both civil and criminal matters to persons whose means are inadequate to enable them to access legal services. It is also responsible for providing regulation of law clinics, registration of practitioners, legal assistants, paralegals and legal aid service providers in the provision of legal aid in Zambia.

The provision of legal aid services dates back to 1967 when the Government of the Republic of Zambia passed the Legal Aid Act No. 20 of 1967, which has since undergone several amendments. In 2005, the amendment of the Legal Aid Act Chapter 34 of the Laws of Zambia culminated into the establishment of the Legal Aid Board. The 1967 Act was repealed and replaced by the Legal Aid Act No. 1 of 2021 which broadened the scope and mandate of Legal Aid Board. The Legal Aid Board is managed by a Director assisted by a Chief Legal Aid Counsel who operate under the supervision of a statutory Board consisting of a Chairperson and 9 other Board members, appointed by the Minister of Justice.

Legal Aid Board is mandated with the provision of legal aid in civil and criminal matters to persons whose means are inadequate to engage a private practitioner for legal services.

¹ Zambia Statistics Agency. 2022 census of population and housing, preliminary report

² Poverty & Equity Brief Sub-Sahara Africa, Zambia. 2020. World Bank Group

The Act No. 1 of 2021 has the following additional overall functions for the institution:

- a) administer a comprehensive legal aid system that is accessible, effective, impartial and sustainable;
- b) publish and disseminate information relating to legal aid;
- c) coordinate the provision of legal aid by State and non-state legal aid providers;
- d) regulate, oversee and monitor the provision of legal aid based on a quality assurance framework and standards;
- e) register a civil society organisation and higher education institution law clinic that intends to provide legal aid;
- f) undertake regular assessment of legal aid provided by a registered higher education institution law clinic;
- g) register practitioners, legal assistants and paralegals;
- h) mobilise financial resources;
- i) facilitate the provision of legal aid to persons granted legal aid under this Act; and
- j) Issue guidelines on the application of the means test and the interest of justice.

The Legal Aid Board has provincial offices in all 12 provinces in Zambia, 8 district offices, and 6 Legal Services Units whose presence is in the Southern, Lusaka and Copperbelt provinces. Over the last few years, the Legal Aid Board has largely focused on the provision of legal aid in criminal and civil cases in the subordinate court, high court, court of appeal, and Supreme Court. Legal aid is mainly provided by legal practitioners and legal aid assistants that are law graduates attached to the Legal Aid Board in full-time employment. The Legal Aid Assistants are granted limited rights of audience as per the provisions of the Legal Aid Act. As of December 2022, the Legal Aid Board had 49 legal practitioners and 20 legal aid assistants as members of staff.

The Legal Services Unit (LSU) was developed in 2013 as a scheme to facilitate speed access to justice at the subordinate court level for people whose means are inadequate to hire a private lawyer. Legal Services Unit operates from the subordinate court premises, with daily outreach to remandees appearing in court and other parties in criminal and civil cases, providing them with a wider range of legal aid services, ranging from legal education and information to legal advice, mediation, legal assistance, and representation in court. It is run jointly by paralegals affiliated with Civil Society Organisations (CSOs) and legal aid

assistants attached to the Legal Aid Board, all of them operating under the supervision of a Legal Aid Board legal practitioner. All Legal Services Unit staff have complementary profiles, roles, and responsibilities. They operate and are supervised according to quality standards set by the Legal Aid Board.

Legal Services Units (LSUs) take the form of semi-permanent structures and in 2021 there were 7 LSUs of which one has been taken over as a district office to ensure sustainability as a permanent legal aid board office. As of 2022, the Legal Aid Board managed 6 Legal Services Units (LSUs) with support from the Enabling Access to justice, Civil society participation and Transparency (EnACT) supported by the European Union and the Federal Republic of Germany, implemented by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) with further technical assistance from the Danish Institute for Human Rights (DIHR).

3. Legal Aid Board Budget

The Legal Aid Board is funded by the government of the Republic of Zambia annually from the state budget adopted by the Parliament for the administration of the Legal Aid Board and the Legal Aid Fund managed by the Legal Aid Board. The table below shows the funding for the last 2 years (2021 and 2022 budgets³):

Table 1. Legal Aid Budget for 2021 and 2022

	2021 LAB Budget (US Dollar)	2022 LAB Budget (US Dollar)
LAB General Budget (including operational costs)	964,759.42 USD	2,348,854.94 USD
LAB Legal Aid Fund (covering additional costs related to the provision of legal representation)	110,796.40 USD	127,415.86 USD
Total	1,075,555.82	2,476,270.80

Government funding increased by 43.43% from the 2021 budget in comparison to the 2022 budget as shown in table 1. The increase is attributed to the commitment of the current government towards access to justice for all people in Zambia who cannot afford private

³ 2022 Yellow Book – Zambia

legal services. The state funds are uncapped as there is no budget limit by the state to how much should be spent on civil or criminal cases, salaries and or other operational cost in delivering legal aid services.

The Legal Aid Board receives additional support under the Civil Society Participation Programmes (CSPP) and EnACT programme aimed at improving the institutional and organisational capacity of the Legal Aid Board in delivering legal aid. The CSPP and EnACT Programmes also supported the operation of the 7 Legal Services Units at subordinate court level managed by the Legal Aid Board, and further supervision by the Legal Aid Board of the 12 legal desks based in correctional facilities and police stations.

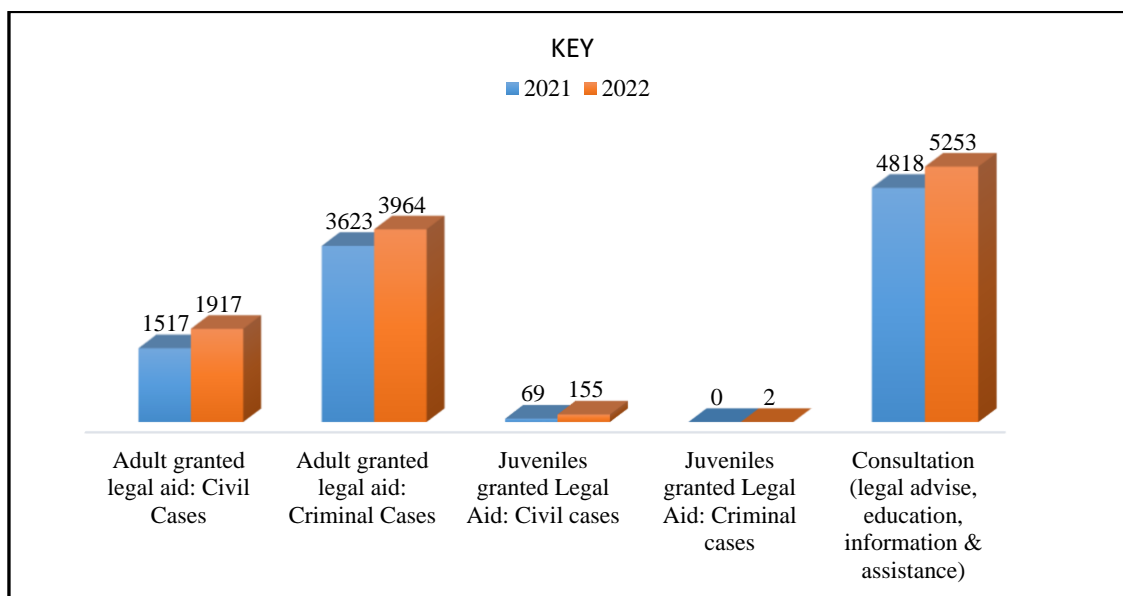
4. Scope, Caseload and Eligibility for Legal Aid at Legal Aid Board – Zambia

a) Scope of Legal Aid

The Legal Aid Act No.1 of 2021 broadened the scope of legal aid services in Zambia to include services consisting of legal education, legal information and legal advice, in addition to legal assistance and representation in court of law for the poor and vulnerable people whose means are inadequate to hire a private lawyer.

b) Caseload

Figure 1. Caseload at LAB - Zambia Main offices for 2021-2022



Legal Aid Board had attended to 21,318 cases for the period 2021 to 2022 broken down as indicated in figure 1 above. It is reported that 3,434 adult were granted legal aid in civil cases while 7,587 were in criminal cases. In terms of juveniles, only 2 children were granted legal aid in civil matters and 224 children were represented in criminal matters. In the period under review, 10,071 received consultation which include legal advice, information and education at legal aid board's main offices.

On the other hand, LAB through the 7 Legal Services Units (LSUs) attended to 11,659 cases in the last two years (2021 to 2022) of which 5,930 were adult civil cases while 5,244 were adult criminal cases. In addition, LAB attended to 82 civil cases and 403 criminal cases for juveniles in Zambia respectively. Through LSUs about, 7.1 percent of the total cases did not pay any contribution fees (waived) while consultation fees were waived to all the clients who came to the LSU facilities, and 26.4 percent were youthful population between the age of 15-35 years. With regards to the total criminal case, 23.3 percent of inmates in the correctional facilities were granted bail by the court as a result of the Legal Services Unit in the period 2021 and 2022 in Zambia. They further organised legal education sessions targeting inmates and persons in police custody.

Law Association of Zambia has also collaborated with the Legal Aid Board (LAB) under the 'Judicare system', which is a system where LAZ members from private practice provide legal aid services at a set 'token fee' financed from the legal aid fund. It is important to note that access to justice is a fundamental human right, and the provision of legal aid services is essential in ensuring that this right is upheld for all individuals, regardless of their financial status. To encourage private lawyers to take up matters, the Legal Aid Board through the 2005 Act introduced the Judicare system, which allows private practice lawyers to provide legal aid services at a token fee of US\$ 97.81 (ZMW2000.00) upon collecting a file from Legal Aid Board and another US\$ 97.81 (ZMW2000.00) upon the close of the case from the state fund. This is a commendable effort to bridge the access to justice gap in Zambia and about 20 criminal cases and 1 civil case were attended to from 2021 to 2022 using this model by 5 lawyers. Despite this model being in existence for many years, the number of lawyers taking up cases on judicare has remained low for many years.

The Judicare system was meant to mitigate the still existing gaps in access to justice in Zambia. While the judicare system still exists, it is an unsustainable solution due to the

financial challenges that the LAB faces and the growing need for pro bono legal services by the general population in Zambia. To address this challenge legal aid board engaged stakeholders, including the government, private sector, and civil society with the financial support from GIZ and EU explored innovative and sustainable ways to provide legal aid services on pro bono basis to those who need it the most.

This included strengthening the existing legal aid system, exploring alternative funding models, and encouraging more lawyers to offer pro bono services. In doing so, the Legal Aid Board and the Law Association of Zambia jointly launched the pro bono framework on 6th May 2022, to facilitate the process for law practitioners in Zambia to take up matters on pro bono basis to supplement the effort of LAB to meet the growing demand. The Pro Bono Framework is jointly supervised by the Legal Aid Board, and the Law Association of Zambia (LAZ), which regulates all members of the legal profession in Zambia.

c) Eligibility for Legal Aid

The eligibility of a client to be granted legal aid is dependent on (i) the merits of the applicant's case; and (ii) means test. The merit test is done during the consultation stage at the first instance a client comes to Legal Aid Board offices or Legal Services Units to be helped. The Legal Aid Board lawyer will ask the applicant various questions about the facts of their claim to determine whether the claim has a basis in law or not. If there is no basis in law, the client is given appropriate legal advice. If there is a basis in law, the LAB lawyer will go further to assess whether the claim has a chance of success or not and if this success can either be best achieved through the court process or alternative process, such as mediation. Once the lawyer is done with the merit test, the will proceed to conduct a means test.

The means test is conducted to assess the financial capacity of a claimant in order to appropriately support their claim that they have inadequate means to hire a private lawyer hence they want the services of legal aid. The client declares their sources of the current finances and assets, then swear that they have given the correct information which gives Legal Aid Board the authority to revoke the legal aid granted once discovered that a client gave false information. The Legal Aid Board charges consultation fee of 50 Kwacha (approximately US \$2.43); and a contribution to the Legal Aid Fund of a minimum of 1,000 Kwacha (approximately US \$48.69). During the process of the means test, when the lawyer discovers that the client cannot pay the contribution fee, the client is advised to request for

a waiver in writing to the Director who further assesses the client and if truly they cannot manage to pay the contribution or consultation fees, the Director can either grant two types of waivers; (i) a partial waiver (were a client is asked to contribute any amount they can manage) and (ii) a full waiver (were a client does not contribute any money).

In circumstances where a claimant is ordered to pay costs by the court, section 55 of the Legal Aid Board Act No.1 of 2021⁴ state that:

(1) Where a court awards costs against a legally aided person, those costs shall not exceed the contribution which that person was required to make or which the court considers that person could reasonably have been required to make under section 51, whichever is the greater.

(2) Costs awarded by a court against a legally aided person shall be paid out of moneys from the Fund.

Based on this section of the Act, legally aided litigants who has been ordered to pay costs are not liable to pay the other party because legal aid board will settle on their behalf.

5. Quality Assurance

Legal Aid Board has put in place a client grievance system to ensure that clients can provide feedback and raise any concerns they may have either about their legal aid lawyer or the service provided by the Legal Aid Board. Clients who are unsatisfied with the way their case has been handled or have any other grievances can submit a written complaint to the Director by dropping a letter in the suggestion box located at the entrance of the reception door. The Legal Aid Board has designated specific days of the week to review and respond to complaints. This ensures that clients' concerns are being addressed in a timely manner.

Moreover, the open door policy is a great way to demonstrate a commitment to resolving grievances and providing quality service to clients which is a norm with the office of Director who meets with clients whose grievances cannot be resolved by senior officers. Overall, Legal Aid Board has a strong client grievance system in place that is designed to collect feedback and ensure that clients are satisfied with the legal aid services provided to them.

4

Legal Aid Board also has an audit department and human resource department that work together to conduct staff audits. This demonstrates a commitment to ensuring that legal aid services are delivered to clients in a timely and quality manner. By assessing the performance of supervisors and managed members of staff, the Legal Aid Board identify areas where improvements can be made and take corrective action as needed. This has helped to ensure that legal aid services are provided efficiently and effectively, and that clients receive the reasonable support they need. Overall, the supervisor audit process is an important component of the Legal Aid Board's quality assurance efforts. It helps to ensure that staff members are performing their duties effectively and that clients are receiving the best possible service.

The pro bono framework provides pro bono clients with the same rights as paying clients to file complaints before the Legal Practitioners Committee (LPC) of LAZ if they have a grievance against a member. This helps to ensure that all clients, regardless of their financial situation, have access to a fair and effective complaints process. Additionally, the provision in the pro bono framework that a lawyer's license will not be renewed if they have not taken up at least one pro bono case in a year provides an important incentive for lawyers to provide pro bono services. However, it's also important to note that this provision is implemented fairly and with consideration for lawyers who may have valid reasons for not taking up a pro bono matter in a particular year.

6. Public Legal Education and awareness

Legal aid board has taken a step to educate the public on legal aid related matters through the radio programs which was done using the local radio programs and in the last 2 years about 8 sessions have been done, one community law clinic with the support of Chapter One Foundation, a local CSO which focus on the rule of law and constitutionalism advocacy. This is progressive and LAB plans to collaborate more with CSOs and University Law Clinics to go on the grassroots to educate the public on the access to justice.

Additional efforts have been taken by LAB to educate the public on legal aid related matters. For example, Legal Aid Board, National Legal Aid Clinic for Women together with Chapter One Foundation conducted a community law clinic in Mandevu constituency to educate the people about their rights, where to access legal aid services and some of them had their

matters taken up by Legal Aid Board and National Legal Aid Clinic for Women. By using various educational programs, the Legal Aid Board was able to reach a wider audience and provide important information on legal aid services and how to access them.

Going forward in the year 2023, Legal Aid Board has planned to increase awareness and public education programs by going to the grassroots to educate the public on access to justice. This will be done by collaborating with community based organisation who has existing presence in the community to raise awareness and increase access to legal aid services especially those communities where people may not be aware of their rights or may face barriers to accessing legal assistance.

7. Alternative and holistic Legal Aid services:

The 2021 Legal aid Act is a significant step forward for legal aid in Zambia, it had allowed many poor and vulnerable people who are unable to afford legal services to have access to justice. For the first time, paralegals have been recognised as a professional cadre that work under the guardianship of qualified legal practitioners to contribute to the efficient and effective delivery of legal aid services at grass root level. The 2021 Act prescribes that the LAB must register legal practitioners, legal assistants, paralegals, CSOs, and higher education institution law clinics as providers of legal aid. This has resulted in an increase in the number of institutions and individuals who can lawfully provide free or inexpensive legal services to people in need of advice or representation in Zambia.

It's encouraging to report that there are already organizations like the Legal Resource Foundation, National Legal Aid Clinic for Women, Prisoners Counselling and Care Association, Up-Zambia, Prisoners Future Foundation, and Chikwanda chiefdom foundation among other CSOs that have taken advantage of this new legal framework to collaborate with the Legal Aid Board in providing legal aid services to underserved populations in prison facilities, urban and rural communities.

d) Recognising Paralegals and Legal Assistants

The Legal Aid Policy and enactment of the Legal Aid Act of 2021 in Zambia created a framework for non-lawyers to deliver legal aid services. This helped to increase access to justice for those who were not able to afford legal representation.

The requirement for paralegals and legal assistants to register with the Legal Aid Board and be supervised by legal practitioners is an important step in ensuring that the legal aid services provided are of high quality and competence. In 2022, the Legal Aid Board embarked on the process of developing operational guidelines by taking a comprehensive approach of involving paralegals and CSOs who are actively operating in the justice space and have paralegals. The involvement of paralegals and CSOs as legal aid service providers in the consultative process for developing the guidelines was also a positive move towards ensuring that the guidelines are practical and effective in the real world. The draft regulation document was submitted to the Ministry of Justice for approval, and that a statutory instrument will be issued to enforce the quality assurance framework and standards related to the provision of legal aid by non-lawyers. This will help to ensure that paralegals and legal assistants are held accountable for the legal aid services they provide.

e) Involving Civil Society Organisations and University Law Clinics

The Legal Aid Policy and Legal Aid Act of 2021 in Zambia recognized civil society organizations (CSOs) and university law clinics as legal aid service providers. This helped to expand the reach of the legal aid system in Zambia so far and ensured that more people could have access to legal aid services such as legal education, information, mediation (away from court mediation), and advice on the legal-related issues they may face day-to-day.

The registration requirement at the Legal Aid Board will help to ensure that CSOs and university law clinics meet the necessary standards to provide legal aid services. This will help to maintain the quality and competence of legal aid services provided by non-governmental organizations. By recognizing CSOs and university law clinics as legal aid service providers, the Legal Aid Board has taken a step towards promoting collaboration and partnership between different stakeholders in the legal aid system. This has helped to improve the efficiency and effectiveness of legal aid services provided in Zambia.

From 2021 to 2022, under the Enabling Access to justice, Civil society participation and Transparency (EnACT) program funded by GIZ and EU, the Legal Aid Board partnered with six different civil society organizations (CSOs) including Caritas Monze, Legal Resources Foundation, National Legal Aid Clinic for Women, Prisoners' Future Foundation, Prisons Care & Counselling Association, and Undikumbukire Project Zambia to establish a network of legal services units/desks and paralegal desks. These desks were located at subordinate court level,

correctional facilities, and police stations, with a total of seven legal services units, ten correctional facilities desks, and two police desks respectively.

Between January 2021 and December 2022, with support of GIZ and EU under the EnACT programme, the Legal Aid Board hired 14 legal aid assistants who were supervised by Legal Aid Board practitioners. Additionally, 30 paralegals from the six civil society organizations were engaged to offer legal aid services. Working together, these legal aid assistants and paralegals were deployed to various legal services units, correctional and police desks handling a total of 32,344 cases. Of the total number of cases, 76 percent were adult males, both in civil and criminal cases, while 15 percent were adult females. Male and female juveniles constituted 8 percent and 1 percent respectively, in both civil and criminal cases.

f) Establishing a Mixed Legal Aid Delivery System

The Legal Aid Policy and the Legal Aid Act of 2021 have established a mixed legal aid delivery system that aims to provide legal aid services to those who cannot afford them. This system involves the cooperation and engagement between state and non-state legal aid service providers. Some of the delivery models that are part of this mixed system include:

- a) Legal Aid Board offices: These are offices that provide legal aid services to the public through the government-funded Legal Aid Board.
- b) CSOs legal desks: These are legal aid desks that are operated by civil society organizations (CSOs) to provide legal aid services to their beneficiaries.
- c) Legal Services Units at court level: These are units that provide legal aid services to litigants at the court level.
- d) Correctional facility and police station legal desks: These are legal aid desks that are located in correctional facilities and police stations to provide legal aid services to detainees and suspects.
- e) Judicare system: This is a system where private lawyers provide legal aid services to clients who cannot afford them, and Legal Aid Board pays the private lawyer a minimal fee for the services from the Legal Aid fund.
- f) Pro bono legal aid scheme: This is a scheme where lawyers provide legal aid services to clients free of charge.
- g) University law clinics: These are clinics that are operated by law schools to provide legal aid services to the public, while also providing practical training for law students.

g) Strengthening the Role of the Legal Profession in the Delivery of Legal Aid Services

The Legal Aid Policy and the Legal Aid Act of 2021 also aimed at promoting access to justice for all, regardless of their financial circumstances. One way of achieving this goal was through the establishment of a comprehensive pro bono framework that encouraged legal practitioners to provide legal aid services on a pro bono basis.

On 6th May 2022, Legal Aid Board and Law Association of Zambia launched the Pro bono framework which entails that legal services that are provided free of charge to individuals or groups who cannot afford to pay for legal representation. By encouraging more legal practitioners to take on pro bono cases, the Legal Aid Policy sought to complement the work of the Legal Aid Board, civil society organisations, and university law clinics in providing legal aid services to those who need it most.

The establishment of a comprehensive pro bono framework was an important step because it progressively helped to bridge the justice gap that existed between those who can afford to pay for legal services and those who cannot. Pro bono work will also help to build the capacity of legal practitioners, particularly those who are just starting out in their careers, by giving them the opportunity to gain practical experience in a real-life setting.

8. UN SDG Standard 16.3

In line with the United Nations SDG Standard 16.3 “Promote the rule of law at the national and international levels and ensure equal access to justice for all”, A significant step has been taken towards achieving SDG 16.3 and ensuring equal access to justice for all in Zambia. The establishment of a comprehensive legal aid system that is accessible, effective, impartial, and sustainable is a crucial component of any effort to promote the rule of law and protect the rights of vulnerable populations by the government of Zambia.

By strengthening the role and institutional capacity of the Legal Aid Board and other justice institutions and stakeholders, the Legal Aid Policy and Legal Aid Act of 2021 provided a framework for the efficient and effective delivery of legal aid services to people with inadequate means to hire a private law practitioner. This, in turn, has helped to empower individuals to claim their rights and seek remedies for injustices they may have been experienced, ultimately contributing to a more just and equitable society.

Overall, it is encouraging to see Zambia taking steps to prioritize access to justice and legal aid services, and it will be important to continue monitoring the implementation and impact of these policies and laws in the years to come.

9. Covid-19 effects

Legal Aid Board experienced setbacks due to the COVID-19 pandemic, with around 8 legal staff members falling ill and two offices being temporarily shut down for two weeks. However, the remaining offices continued to operate in accordance with the Ministry of Health's COVID-19 guidelines, which included measures such as social distancing, frequent hand washing, wearing masks, and rotating employees. Despite these challenges, Legal Aid Zambia had achieved significant successes in the past two years.

10. For more information

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