

National Report – Zambia ILAG Conference 2019

1. Country Details / Zambia

- Population: 18 million (2019 estimates)
- GDP: 25.81 billion US dollars (2017)
- Poverty line: In Zambia, 54.4 percent of people live below the poverty line (2015)
- Number of practising lawyers: 1,080 (2018)

2. About the Legal Aid Board in Zambia

The Legal Aid Board in Zambia, established under the Legal Aid (Amendment) Act of 2005, is a statutory body mandated with the provision of legal aid to indigent persons in criminal and civil cases. It also advises the Minister of Justice on policies relating to the provision of legal aid and their implementation.

The Legal Aid Board is managed by a Director and Secretariat, who operate under the supervision of a statutory Board consisting of a Chairperson and 9 other Board members, appointed by the Minister of Justice.

The **Legal Aid Board** has currently a total of **12 offices country wide**, reaching out to all provinces in Zambia with at least one Legal Aid Board office per province.

Over the last years, the Legal Aid Board has largely focused on the provision of legal aid on criminal and civil cases at the high court and subordinate courts. Legal aid is mainly provided by legal practitioners in full-time employment for the Legal Aid Board, further assisted by legal aid assistants that are law graduates attached to the Legal Aid Board and granted limited right of audience as per the provisions of the Legal Aid (Amendment) Act. As at April 2019, the LAB had **31 legal practitioners** and **23 legal aid assistants** as members of staff.

In 2013, the Legal Aid Board developed an innovative scheme to expand the delivery of legal aid at Subordinate Court level, namely the Legal Services Unit. It takes the form of a permanent unit based and operating from the court premises, with daily outreach to remandees appearing in court and other parties in criminal and civil cases, providing them with the whole 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 to 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 according to quality

National Report Zambia – ILAG Conference 2019

standards set by the Legal Aid Board. The supervising legal practitioner from the Legal Aid Board ensures that professional standards are fully complied with.

To date, the Legal Aid Board manages **6 Legal Services Units** with support from the Programme for Legal Empowerment and Enhanced Justice Delivery in Zambia (PLEED) 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).

In 2018, the 6 Legal Services Units based at subordinate court level provided legal aid to over 5,200 indigent and vulnerable parties in civil and criminal cases. Women and juveniles constituted 33 percent of the clients. In addition, all Legal Services Units organise regular outreach activities in communities and through local radios for awareness raising on the rights of suspects and accused persons, criminal offences, specific procedures in the criminal justice system and how to access legal aid services.

In addition, the Legal Aid Board provides supervision to a network of **9 legal desks based in correctional facilities and police stations**. In 2018, these 9 desks operated by paralegals affiliated to CSOs provided legal aid to over 5,100 persons in detention. They further organise legal education sessions targeting inmates and persons in police custody.

Where necessary and for specific cases, the Legal Aid Board engages legal practitioners in private practice under the Judicare system to take up cases at prescribed fees.

3. Legal Aid Board Budget

The Legal Aid Board receives funding annually from the state budget appropriated by the Parliament for administration of the Legal Aid Board and the Legal Aid Fund managed by the Legal Aid Board. The funding of the Legal Aid Board in the 2019 State Budget is as follows:

	2019 Legal Aid Board (LAB) Budget	Increase (in Zambian Kwacha, from 2017 Budget)
LAB General Budget (including operational costs)	1,511,330 USD	+5%
LAB Legal Aid Fund (covering additional costs related to the provision of legal representation)	201,150 USD	+5%
Total	1,712,480 USD	+5%

National Report Zambia – ILAG Conference 2019

This level of state funding translates to 0.10 USD per person on legal aid in Zambia in 2019.

The Legal Aid Board receives additional support under the PLEED Programme, aimed at improving the institutional and organisational capacity of the Legal Aid Board in delivering legal aid. The PLEED Programme also supports the operation of a network of 6 Legal Services Units at subordinate court level managed by the Legal Aid Board, and further supervision by the Legal Aid Board of the 9 legal desks based in correctional facilities and police stations and operated by CSOs (see above).

4. Scope, Caseload and Eligibility for State Civil and Criminal Legal Aid

a) Scope of Legal Aid

The Legal Aid (Amended) Act provides for the definition of legal aid as consisting in legal assistance provided by legal practitioners and legal representation.

Legal assistance is understood as the assistance provided by a legal practitioner including all such assistance as is usually given by a legal practitioner in the steps preliminary or incidental to any proceedings or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings. As for legal representation, it includes representation in any court.

b) Eligibility for Legal Aid

A decision by the Legal Aid Board to grant legal aid in any case is based on the means test and the interests of justice principle. A merit test also applies in civil cases.

Under the means test, the Legal Aid Board assesses whether an applicant's means are inadequate to enable her/him to engage a legal practitioner to represent her/him. The ascertainment of means will include the applicant's income, personal and real property; provided that account shall not be taken of the applicant's dwelling-house, household furniture, the tools or implements of a trade, and the subject matter of the dispute in relation to which legal aid might be granted. The Legal Aid Board may further prescribe other commitments to be considered in assessing an applicant's means.

Should the applicant qualify under the means test, qualification for legal aid also requires that, having regards to all the circumstances of the case, it is in the interest of justice that the person is represented in the proceedings.

Lastly, a merit test also applies in civil cases whereby an applicant must have reasonable grounds for taking, defending or being a party to the proceedings.

National Report Zambia – ILAG Conference 2019

In 2018, the Legal Aid Board received a total of 12,071 applications for legal aid, out of which 6,397 were granted legal assistance and representation (4,471 in criminal proceedings, and 1,926 in civil proceedings), while the other 5,674 applicants were provided with legal information and advice only.

c) Contributions Required from Legal Aid Clients

The following contributions may be required by the Legal Aid Board from a legal aid client:

- A consultation fee applies to anyone consulting the Legal Aid Board. The current amount requested by the Legal Aid Board is equivalent to about 4 USD;
- In granting legal aid, the Legal Aid Board may require a contribution fee from the applicant, for a just and reasonable amount having regards to the applicant's means. The standard amount requested by the Legal Aid Board is equivalent to about 35 USD for criminal legal aid, and about 39 USD for civil legal aid;
- Both the consultation fee and the contribution fee may be waived by the Legal Aid Board when it is shown to the satisfaction of the Legal Aid Board that the applicant is, by reason of poverty, unable to pay, or that a good cause for remission of payments exists;
- Other contributions to the Legal Aid Board from legal aid clients may include deductions from costs awarded by courts to legally aided persons, or costs awarded to legally aided persons as the case may be.

5. Alternative Sources of Legal Aid Services

a) Civil Society Organisations and Paralegals

Over 30 CSOs provide legal aid to indigent persons and vulnerable groups in Zambia. Services are mainly provided by paralegals and range from legal education in communities and correctional facilities, to legal information, advice and mediation in individual cases. Depending on their level of qualification and experience, paralegals also provide some forms of legal assistance. Some paralegals work with backing from legal practitioners, whereas others are supervised by their affiliate CSOs. Some CSOs and paralegals have specialised on the provision of legal aid in the criminal justice system, operating at subordinate court, correctional facility and police station levels. Others focus on communities working primarily on family law and property matters, land matters, gender-based violence and women's and children's rights. The current number of active paralegals is estimated between 750 and 900 country wide.

In July 2018, the **Technical Education, Vocation and Entrepreneurship Training Authority (TEVETA) approved** the newly established **three-level training scheme for paralegals in Zambia**, in line with the National Legal Aid Policy of Zambia (see

National Report Zambia – ILAG Conference 2019

further details on the Legal Aid Policy in Part 6. Holistic Approach to Legal Aid). Different university, higher educational institution and civil society organisations have accredited as training providers with TEVETA and started offering the paralegal training courses in January 2019.

Paralegals play a vital role in Zambia as they assist indigent persons and vulnerable groups to engage with the legal environment and justice system, empowering them to understand and claim their rights. They also play an essential bridging role. With an in-depth knowledge of the community within which they live and work, paralegals are able to provide targeted legal education and advice. They can identify problems and bottlenecks; through linkages with CSOs, legal practitioners, institutions and authorities, paralegals provide simple and proximate solutions. Overall, they support increased confidence of the public in the justice system. Similarly, paralegals in the criminal justice system have outreach to inmates in correctional facilities, police stations and police posts and at courts.

b) Legal Practitioners in Private Practice

There are over 1,000 legal practitioners registered at the Law Association of Zambia and holding a valid practice certificate, against the population of more than 18 million, which makes a ratio of 1 legal practitioner to 16'667 persons. Most legal practitioners that are in private practice are concentrated in Lusaka and in a few other major towns in Zambia, focusing on court work and providing legal services that most citizens in Zambia cannot afford.

Some legal practitioners in private practice engage in pro bono legal aid and CSOs have established linkages with the legal profession, whereby cases that require legal representation may be referred by CSOs either directly to legal practitioners, or through the Legal Aid Committee of the Law Association of Zambia (LAZ). The LAZ undertook a comparative study on pro bono services organised by law societies and associations in the region in order to establish a formal pro bono policy.

c) University Law Clinics

No university law clinic is presently up and running, though the University of Zambia is engaged in establishing a clinic that would operate from Lusaka.

6. Holistic Approach to Legal Aid – Adoption of a National Legal Aid Policy for Zambia (2018)

The Government of the Republic of Zambia has committed itself to enhancing equal access to justice particularly for the poor and vulnerable people, as part of its efforts to observe the rule of law and adhere to human rights, in line with the Seventh National Development Plan 2017-2021 and the National Vision 2030 of the Republic of Zambia.

National Report Zambia – ILAG Conference 2019

On **1st October 2018**, the Government of the **Republic of Zambia** adopted a **National Legal Aid Policy** with the objective to ensure efficient and effective delivery of legal aid services to the poor and vulnerable people in Zambia.

The development of the Legal Aid Policy has been supported under the PLEED Programme with technical assistance from the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) and the Danish Institute for Human Rights (DIHR).

- **Expanding the Mandate and Functions of the Legal Aid Board**

The Legal Aid Policy recognises the duty and responsibility of the State to provide for legal aid. It provides for a strengthened legal aid institutional framework with the mandate and functions of the Legal Aid Board being expanded to include not only the provision and administration of legal aid, but also the coordination, regulation and monitoring of the legal aid system.

The Legal Aid Policy provides for the further decentralisation and rolling out of the Legal Aid Board to more districts. It also puts emphasis on the effective mobilisation and coordination of all legal aid service providers in order to maximise the effectiveness and impact of the legal aid system.

- **Broadening the Definition of Legal Aid**

The Legal Aid Policy widens the scope of legal aid services for the provision of the full spectrum of legal services to the poor and vulnerable people. As a result, services consisting of legal education, legal information, legal advice and mechanisms of alternative dispute resolution expressly fall within the scope of the legal aid system in Zambia, in addition to legal assistance and representation in court.

This will enable the Legal Aid Board and other legal aid service providers to apply more resources on legal education and awareness campaigns on the law and legal aid services amongst the population to empower people to claim their rights and obtain remedies.

- **Recognising Paralegals and Legal Assistants**

The Legal Aid Policy creates a framework for non-lawyers to deliver legal aid services in Zambia. This includes paralegals and legal assistants (law degree holders) with a requirement that they register at the Legal Aid Board for purposes of providing legal aid.

National Report Zambia – ILAG Conference 2019

Paralegals are organised in three categories (level 3, level 2 and level 1 paralegals) whereby qualification requirements match the various levels of specialisation. In July 2018, the **Technical Education, Vocation and Entrepreneurship Training Authority (TEVETA) approved** the newly established **three-level training scheme for paralegals in Zambia**, in line with the Legal Aid Policy.

The quality assurance framework for paralegals will be further developed by a multi stakeholder Paralegal Standing Committee to be constituted by the Legal Aid Board. This will ensure the competence and accountability of paralegals in the legal aid services delivered.

- **Involving Civil Society Organisations and University Law Clinics**

The Legal Aid Policy officially recognises civil society organisations and university law clinics as legal aid service providers, subject to their accreditation at the Legal Aid Board.

Civil society organisations and university law clinics will complement services provided by the 12 offices of the Legal Aid Board countrywide, whereby supporting the geographical expansion of the legal aid system in Zambia.

- **Establishing a Mixed Legal Aid Delivery System**

The Legal Aid Policy establishes a mixed legal aid delivery system involving complementary legal aid service delivery models based on cooperation and engagement between state and non-state legal aid service providers.

In that regard, delivery models include the Legal Aid Board offices, CSOs legal desks, Legal Services Units at court level, correctional facility and police station legal desks, the Judicare system, the pro bono legal aid scheme, and university law clinics

- **Strengthening the Role of the Legal Profession in the Delivery of Legal Aid Services**

The Legal Aid Policy promotes the establishment of a comprehensive pro bono framework for an increased number of legal practitioners to provide legal aid services on a pro bono basis. This will ensure legal practitioners take on pro bono cases and complement legal aid work carried out by the Legal Aid Board, civil society organisations and university law clinics.

National Report Zambia – ILAG Conference 2019

- **The Right to be Informed on Legal Aid**

The Legal Aid Policy establishes a duty for state institutions to inform persons on their right to legal aid and the availability of legal aid services. It further requires institutions to assist unrepresented detained persons in contacting the Legal Aid Board in order to apply for legal aid.

This should ensure that legal aid becomes readily accessible at all stages of the justice system enabling individuals to claim their rights.

- **United Nations Sustainable Development Goal (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”, the Legal Aid Policy establishes a comprehensive legal aid system in Zambia that is accessible, effective, credible and sustainable. It strengthens the role and institutional capacity of the Legal Aid Board to adequately manage the legal aid system. It also strengthens the role of other justice institutions and stakeholders in supporting the efficient and effective operation of the legal aid system.

Overall, the Legal Aid Policy lays the foundation for the continued and sustained delivery of legal aid services to the poor and vulnerable people in Zambia, enabling them to claim their rights and seek remedies, and enhancing equal access to justice for all in Zambia.

7. For More information

- The Legal Aid Board Zambia
Mr. Anderson Ngulube, Director, Lusaka, Zambia – andngulube@yahoo.com
- The Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)
Ms. Sabine Midderhoff, Programme Coordinator, Lusaka, Zambia – sabine.midderhoff@giz.de
Ms. Christiane Roth, Rule of Law Adviser, Lusaka, Zambia – christiane.roth@giz.de
- The Danish Institute for Human Rights (DIHR)
Mr. Karol Limondin, Senior Legal Adviser, Lusaka, Zambia – kli@humanrights.dk
Mr. Charles Dinda, Senior Legal Adviser, Lusaka, Zambia – charlesdinda@gmail.com