

The transformation of Zambia's legal aid system – Key developments over the period 2018-2024

- ✓ **Taking legal aid services closer to vulnerable groups**
- ✓ **Involving paralegals at all levels of the justice system in both formal and customary justice**
- ✓ **Based on cooperation between the state Legal Aid Board and non-state legal aid providers**
- ✓ **In collaboration with the Judiciary, prisons, police stations; and at community level, with Chiefs, traditional leaders and customary courts**
- ✓ **Empowering individuals to claim their rights and obtain remedies**
- ✓ **Supporting increased protection of human rights in Zambia**

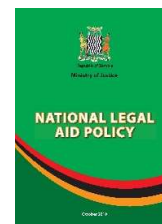
In Zambia, the majority of the poor and vulnerable people has limited access to legal aid services. This means that the rights to legal assistance, legal representation and equality before the law as set out in the Constitution are not adequately fulfilled in practice:

- Overall, awareness levels on the law and the available legal remedies and protections amongst the population are low, with an additional lack of knowledge on where to seek assistance when confronted with a legal issue;
- In the criminal justice system, legal information and advice in police stations, police posts, prisons (called 'correctional facilities' in Zambia) and at court level were largely absent (until the introduction of legal aid desks at courts, prisons and police stations in 2017, see further details below). This left many suspects and inmates unable to claim their rights;
- At community level, women and other vulnerable people including children face significant violations of their rights in a wide range of justice matters, often related to family life and property ownership. This includes human rights violations in the context of the family, gender-based and domestic violence, as well as discriminatory practices imposed on women and various forms of child abuse and child labour. It also involves land and property related issues such as denial of property upon divorce, property grabbing at succession, and undue restrictions in accessing land. As legal education and information on the law and the available legal remedies and protections were not provided in a consistent manner to the population, most cases of women's and children's rights violations and gender-based violence are not reported to the formal justice system. In practice, the vast majority of disputes are settled locally according to customary law (*National Legal Aid Policy, Government of the Republic of Zambia, 2018*).

2018 – 2021: Adoption of a National Legal Aid Policy, a new Legal Aid Act and a standardised national three-level paralegal training scheme

Against this background, the Government of Zambia adopted on 1st October 2018 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 National Legal Aid Policy followed an inclusive approach based on extensive consultations involving institutions and stakeholders at provincial and national levels. The process was led by the Ministry of Justice and the Legal Aid Board in Zambia. The participants in the consultations included ministries and other state institutions, the Law Association of Zambia, universities and other higher educational institutions, and more than 25 civil society organisations involved in legal aid.



The National Legal Aid Policy establishes a **comprehensive and forward-looking legal aid system in Zambia**:

- It widens the scope of legal aid services, now including legal education / awareness raising, legal information, legal advice and mediation, in addition to legal assistance and representation in court;

- It recognises the role of civil society organisations in providing legal aid through paralegals and law degree holders providing legal aid (called ‘legal assistants’), and the additional contribution from university law clinics and legal practitioners providing pro bono legal aid;
- It puts emphasis on the effective mobilisation and coordination of all legal aid service providers including state and non-state actors;
- It supports increased awareness on the law and legal aid services amongst the population in order to empower people to claim their rights and obtain remedies;
- It 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.

Overall, the National Legal Aid Policy recognises the **duty and responsibility of the State to provide for legal aid** and expands the mandate and functions of the Legal Aid Board to include the coordination, regulation and monitoring of the legal aid system.

In 2021, a **new Legal Aid Act** was enacted, operationalising the objectives and policy measures set in the National Legal Aid Policy. The two documents have laid down a solid **foundation for the legal aid system in Zambia**. Both contain **radical innovations** in the Zambian context, in particular with the formal recognition of paralegals, legal assistants, civil society organisations and university law clinics, based on a broadened definition of legal aid, and with strengthened partnership between state and non-state legal aid providers.

The Legal Aid Board in Zambia is a statutory body 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 pay for legal services. The Legal Aid Board is also responsible for providing regulation of paralegals, legal assistants, civil society organisations, university law clinics and practitioners in the provision of legal aid in Zambia.

In addition, a **standardised national three-level training curriculum for paralegals** was developed by a multi-stakeholder committee mandated by the Ministry of Justice and led by the Legal Aid Board. It involved stakeholders from the paralegal and vocational training sector. Before 2018, paralegals were trained by various learning and vocational institutions and organisations. The content and duration of the trainings varied, as well as the qualification of the trained persons. This caused a lack of confidence in the competency of paralegals to provide legal services.

In 2018, the newly designed national three-level training curriculum for paralegals was officially approved by the Technical Education, Vocation and Entrepreneurship Training Authority (TEVETA). The new curriculum has a dedicated focus on paralegal skills development. Together with the adoption of the National Legal Aid Policy, clear training standards, qualifications and mandates are now established for paralegals. This led to increased competence and professionalism of paralegals, and enhanced quality of paralegal services provided. It further contributed to the recognition of the paralegal profession in Zambia.

Since the beginning of the new training scheme, 422 paralegals were trained in total as of 2024 (50% of whom are women). They are made up of 325 paralegals trained at level 3, 59 paralegals at level 2 and 38 paralegals at level 1. An additional 50 paralegals are presently being trained at level 1 of the TEVETA-approved paralegal training scheme. Paralegal training manuals have been developed and updated at all three levels of the training scheme, and paralegals can now get trained through distance learning. Trainings are being held by 11 different training providers, including universities, training institutes and civil society organisations.

There are 3 levels in the training programme that qualify for different tasks:



Source: GIZ, 2020.

2018 – 2024: The Legal Aid Board and civil society legal aid providers joining efforts to create and strengthen a more accessible legal aid system, based on a network of 116 legal aid desks, with services provided at various levels of the justice system

35 legal aid desks based in courts, prisons and at police stations



Paralegal receiving a client at the pilot Legal Services Unit, in the initial year of operation, at the Lusaka Subordinate Court.

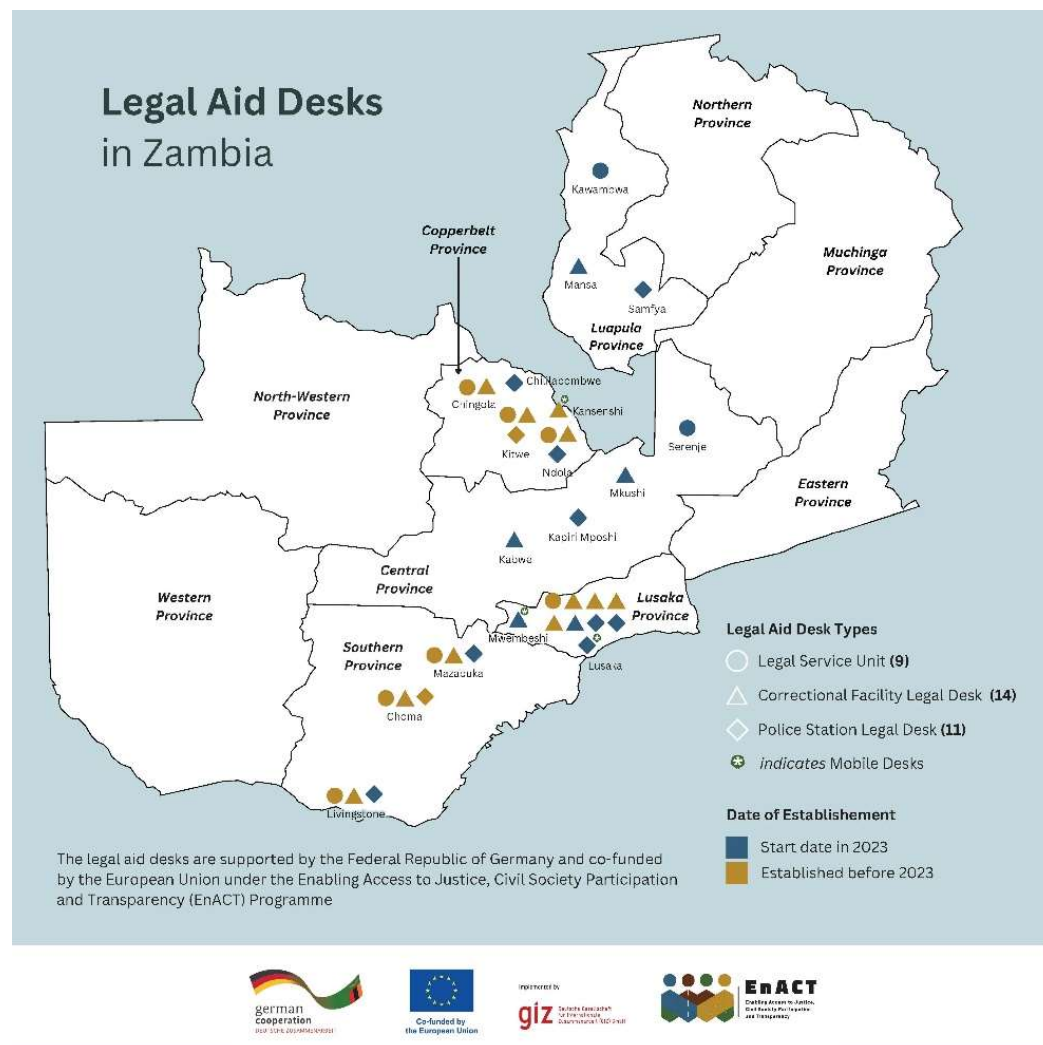
Building on the success of the pilot Legal Services Unit at the Lusaka Subordinate Court (initiated in 2013), the Legal Aid Board has partnered with various civil society organisations to gradually come up with a **network of 35 legal aid desks** in 5 select provinces in Zambia i.e. Central, Copperbelt, Luapula, Lusaka and Southern provinces. These desks are set up to provide legal aid services to suspects, accused persons and other litigants in civil and criminal matters. They are strategically **placed inside police stations, prisons and courts**, with daily outreach to suspects in police custody and inmates. The desks are based on a unique cooperation between the Legal Aid Board, civil society organisations providing legal aid, and the Judiciary of Zambia, the Zambia Correctional Service and the Zambia Police Service.

Such legal aid desks complement the services provided by the Legal Aid Board who reaches out to all provinces with a Legal Aid Board provincial office in all 10 provinces of Zambia, and an increasing number of Legal Aid Board offices at district level (from 2 district offices in 2021 to 8 in 2024) as the Legal Aid Board is actively decentralising its services throughout the country. As of December 2022, the Legal Aid Board had 49 legal

practitioners and 20 legal aid assistants as members of staff, providing legal aid services through the 18 Legal Aid Board provincial and district offices.

With an overcrowding rate of over 232 percent, Zambia has the 13th most overcrowded prisons in the world, according to Forbes Statista a global data and business intelligence platform, providing data, statistics and rankings. In order to **reduce case accumulation in the penal system** and to **ensure greater respect of the legal rights of all Zambians**:

- 9 legal aid desks (Legal Services Units) have been placed at Subordinate Courts with high caseload;
- 14 desks are based within the major prisons; and
- 12 desks operate from the main police stations, ensuring early access to legal aid.



Source: GIZ, 2023.

The legal aid desks are run by a team of professional staff who are experienced, qualified and fully committed to the desks and their clients. This includes:

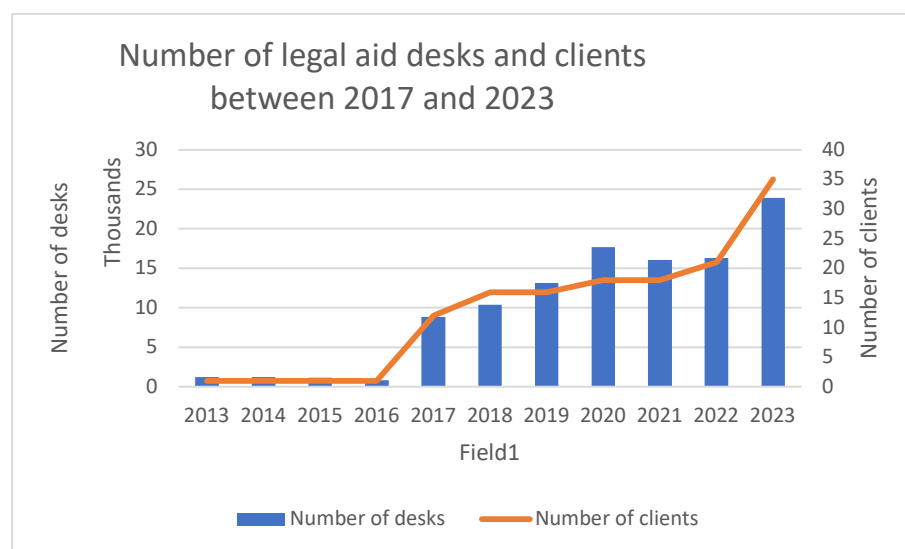
- 79 paralegals and legal assistants from various civil society legal aid providers, namely Caritas Mansa, Caritas Monze, Legal Resources Foundation, National Legal Aid Clinic for Women, Prisoners' Future Foundation, Prisons Care & Counselling Association, Undikumbukire Project Zambia; and
- 19 legal aid assistants (who are law graduates attached to the Legal Aid Board, with limited rights of audience in court as per the provisions of the Legal Aid Act).

They all operate according to the quality standards set by the Legal Aid Board and under the direct supervision of a Legal Aid Board practitioner, who ensures that professional standards are fully complied with in order to be able to best serve desks' clients.

The legal aid desks at court and in prisons and police stations address cases of ongoing stay in remand or in police custody, ongoing trials and delayed judgments. Similarly, desks liaise with the Department of Immigration on cases of illegal immigrants facing ongoing detention. The desks assist child offenders in detention and support the increased use of diversion measures.

In **2023**, these 35 legal aid desks provided **legal aid services to 23'886 people**, **25%** of whom are **women and children**. Out of this number, 4'226 inmates or persons in police custody (18%) were successfully released on police bond or bail following the desks' assistance. In addition, 346 children were sent for diversion. Further, only 37 per cent of the people who were assisted and represented in court through one of the court-based legal aid desks (Legal Services Units) were sentenced to imprisonment (others were acquitted, discharged, withdrawn or diverted away from the criminal justice system, or received a non-custodial sentence).

Overall, this is a **total of 110'700 clients** who received legal aid from the desks based in courts, prisons and at police stations, ranging from 1'238 clients in 2013 (at the pilot Legal Services Unit at the Lusaka Subordinate court) to 23'886 clients in 2023 (at the 35 desks). In 2024, it is anticipated that more than 26'000 people receive legal aid through the community desks.



Further, the legal aid desks' staff (or their supervising practitioner from the Legal Aid Board) participate in the **Communication, Cooperation and Coordination Initiative (CCCI) Chapters** that have been formed at Subordinate Court level in Zambia. CCCI is a platform of actors in the administration of justice. It includes criminal justice institutions, civil society organisations and other stakeholders working in the justice system. It aims at addressing challenges within the system through better communication, coordination and cooperation among justice stakeholders. Due to the visible impact of CCCI Chapter's on the efficiency of the justice chain, the Judiciary of Zambia in 2019 initiated the establishment of CCCI Chapters in all districts of Zambia.



Source: GIZ, 2020.

The CCCI Chapters usually meet once a month to provide a platform for discussions on administrative, procedural or legal challenges arising in the justice system. During these meetings, the CCCI members identify specific issues or bottlenecks and find joint solutions for challenges. Also, the CCCI members undertake various activities together, including awareness raising and visitations to police stations and prisons. With their in-depth knowledge of the issues faced by litigants and communities on the ground, the legal aid desks' staff contribute to the CCCI Chapters discussions and actions, and play a crucial role in improving the access and delivery of justice in Zambia.

Here is an example of a case handled in 2023 by one of the legal aid desk:

Case study: At the age of 16, Smart K. was convicted of a theft he denies committing. For 19 months he was kept in police custody and later in one of Zambia's congested prisons. Smart is one of 23'886 Zambians who in 2023 received help from one of the legal aid desks at court, prison and police station levels.

According to Smart, at the age of 16, he purchased some household goods, which turned out to be stolen goods. After the police found the stolen items at his home, they charged him with theft. At first Smart was detained in a police cell at a police station in his hometown. While in custody waiting to take plea, there was brawl in the police cell and a detainee was badly beaten. The Police decided to charge everyone in the cell with assault including Smart, however he denied being involved. He was jointly charged with 3 adults. Three months after buying the stolen goods and now facing two charges, the Subordinate Court of the town discharged Smart for the offence of theft. However, the assault case went to trial. Smart was found guilty of the offence and ordered to be detained at a reformatory school.

According to the Juveniles Act, a legal framework that protected the rights and welfare of children and youth of Zambia, which has since been replaced by another legal framework, a reformatory order had to be confirmed by the High Court before it took effect. While Smart awaited a response from the High Court, he was transferred to a prison in Zambia's capital, Lusaka, one of the most overcrowded in the country.

"It was a nightmare. I didn't know when I would get out. I felt really bad and considered committing suicide," says Smart.

Legal aid paves the way for freedom

It is not until he met Kabota C., a senior legal officer and Jephther C., a legal assistant working for the organisation Undikumbukire Project Zambia (UP Zambia) at one of the legal aid desks located in prisons, that Smart began to harbour a small hope of returning to his hometown.

When the UP Zambia team delved into Smart's case, they found out that Smart was not on the High Court's cause list of children whose order needed to be confirmed by a High Court judge. It turned out that the court documents could not be located either at the local Subordinate Court or at the High Court.

Several times, Kabota C. together with his colleagues at UP Zambia requested the court and social services in his home town to have Smart's sentence being confirmed by a High Court judge. In UP Zambia's letters to the Judiciary, they emphasise that the right to a fair trial is a human right, which includes the confirmation order to be issued in a reasonable period of time.

After a year and three months, UP Zambia finally succeeded in having Smart brought before a High Court judge, who ended up sentencing him to an 18-month suspended sentence for the assault charge.

"If he hadn't received legal assistance, Smart would likely still be in detention. There are many children in Zambia who, like Smart, end up detained in prisons for several years." says Jephther C.

Smart is grateful for meeting the legal aid desk. "I didn't know my rights and didn't know that I had the right to get help," says Smart.

When he was arrested and convicted of theft, he was in 9th grade and never completed junior secondary school. It disappoints him, but since his release, Smart has been mostly focused on how he can expand his soap business and help his family financially.

"The 19 months I was in detention didn't just create a lot of problems for me. It affected my whole family, both mentally and financially," says Smart. After 19 months of detention, Smart was released and reunited with his family on August 29, 2023.

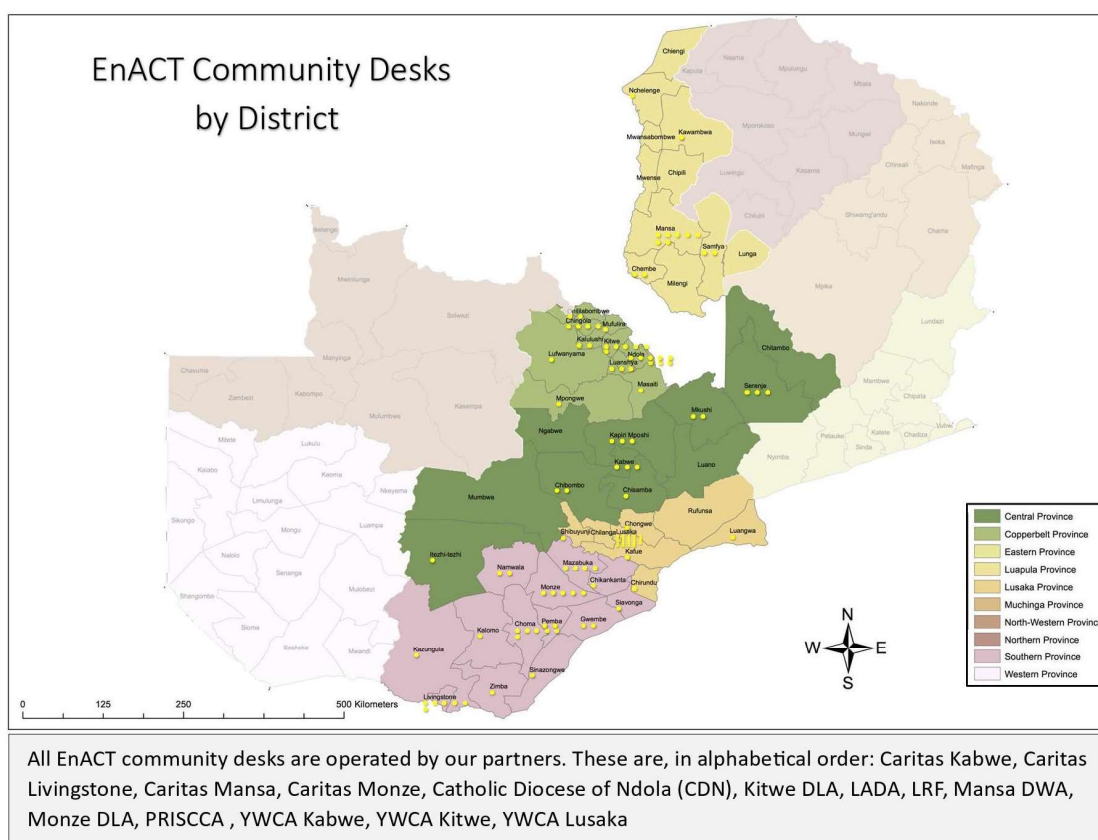


Smart K. at his home place, 2024

81 legal aid desks based in communities

In 2023, an additional 81 community-based legal aid desks were established or strengthened across 5 select provinces in Zambia i.e. Central, Copperbelt, Luapula, Lusaka and Southern provinces. 60% of these desks were already in operation but had extremely limited support or no support at all, and limited outreach to the community. The other desks were set up in areas deprived from any legal aid service provider.

The community-based legal aid desks take **legal aid services closer to vulnerable groups, especially women, children, persons with disabilities and poor people**. They empower women and other vulnerable groups to claim their rights using formal and customary justice systems. Paralegals' intervention is important as it has a positive impact on respect for human rights and inclusiveness, strengthening equal access to justice for all in communities and moving towards gender equality.



Source: GIZ, 2024.

Legal aid services are provided by 162 paralegals who are members of the community where each desk is operating from. Paralegals are qualified at level 3 or level 2 of the TEVETA-approved paralegal training scheme in Zambia. Services mainly consist of legal information, mediation, orientation and referrals. Paralegals are affiliated to various civil society organisations depending on the area, namely Catholic Diocese of Ndola, Caritas Kabwe, Livingstone, Mansa and Monze, District Land Alliance Monze and Kitwe, Law & Development Association, Legal Resources Foundation, Mansa District Women Development Association, Young Women's Christian Association Kabwe, Kitwe and Lusaka.

All community-based paralegals are placed under the supervision of legal assistants or paralegals qualified at level 1 of the TEVETA-approved paralegal training scheme. Further, the Legal Aid Board is presently developing guidelines for community paralegals supervisors, in order to assist and guide them in carrying out their supervisory duties.

In 2023, with most desks being operational from May 2023 onwards, 14'905 Zambians have received legal aid services at the 81 community-based legal aid desks. 61% of them were women and children. Out of this number, 4'644 cases (31%) were successfully resolved by community paralegals through (informal) mediation. In 2024, it is anticipated that more than 26'000 people receive legal aid through the community desks.

In addition, community-based paralegals dedicate extensive time to awareness raising. In 2023, 38'744 persons participated in such events focusing on legal education. 72% of the participants were women and children. Topics are mainly centred on human rights, women's rights, children's rights, family and property issues, gender-based violence, land matters, child justice, criminal procedure (in particular police bond and bail), disability rights and availability of legal services and legal desks.



Paralegals from Legal Resources Foundation, community awareness session in Choma district, Southern province, Zambia



Paralegals from Legal Resources Foundation, community awareness session at Livingstone market, Southern province, Zambia

Pursuing community justice – Involving the Local Courts, customary courts and community-based paralegals



Customary court in session at palace level, Chooma Chiefdom, Southern Province, Zambia

Customary courts in Zambia (called 'traditional courts') make a vital contribution in providing access to justice for the Zambian population. The customary courts in comparison to the formal courts of law are closest and easily accessed by the most vulnerable community members especially in rural areas and are the "no option" institution of civil justice in most rural communities in the country. Based on data collected at chiefdom level, customary courts continue to handle 80 to 90% of the disputes arising at community level. Cases relating to customary marriage and the family, often including disputes related to property (land), teenage pregnancies, divorce, child maintenance, make up a great part of the work of the customary courts.



Chikuwe Local Court, Eastern Province, Zambia

Similarly, the Local Courts (formal courts of Law under the Judiciary of Zambia, constituted under the Local Courts Act) make up the first level of the Judiciary. Some 505 Local Courts in the country handle more than 110,000 civil cases per year – this represents a higher caseload than all other formal courts of law combined. Local Courts are located in town but also in the communities at chiefdom level. The Local Courts in comparison to higher courts are closer and easily accessed by the vulnerable community members even in rural areas and are the backbone of civil justice in the

country. The Local Courts primarily apply customary law, subject to statutory law and the principles of the Bill of Rights and natural justice, and subject to judicial review and supervision.

Because of its dynamic nature, customary law has the potential to respect and protect constitutional rights and principles of natural justice. Between 2011 and 2016, the Judiciary and the House of Chiefs worked together to facilitate access to the Local Courts and customary courts. These courts further took measures to reconcile customary law with constitutional and human rights. This was made possible through legal capacity development for the Local Courts and customary courts, combining joint training workshops based on specific training manuals, new reporting and consultation mechanisms on casework, and the development of practice guidelines, tools and handbooks to assist courts in handling disputes. On 30 March 2015, a set of national norms and standards defining the role and conduct of customary court adjudicators handling disputes at the customary courts, was endorsed by the House of Chiefs and a call was made to rollout the training of Chiefs and customary court adjudicators to all the provinces in Zambia.

In 2023, new training manuals for Local Courts, and for Chiefs and traditional leaders as customary courts adjudicators, were prepared. A new round of capacity development workshops is now taking place in Zambia, involving 56 Local Courts, and Chiefs and traditional leaders from 37 different chiefdoms in Central, Copperbelt, Luapula, Lusaka and Southern provinces, as well as community-based paralegals. In this process, community justice actors discuss and agree on innovative collaboration approaches. For example, a number of chiefdoms establish ‘Community Justice Boards’ operating as a platform at chiefdom level where paralegals, Local Courts, traditional leaders and customary courts, the police and other relevant stakeholders such as social services and health centres, meet on a regular basis, address justice issues, coordinate interventions in their respective areas and organise collaboration and joint action to improve justice delivery to communities.

“Justice in Zambia must reach out even to the remotest parts and to the poorest of the poor in the communities. This can only be achieved if all justice providers work in a collective and coordinated manner as we are all pursuing the same goal.” Mrs. Agatha Chipende, former Chief Local Courts Officer, Directorate of Local Courts, Judiciary of Zambia

“Local Courts are our first stakeholders and traditional leaders are now willing to work with the Local Courts and their supervising officers. We are now looking forward to improving our performance so that the contribution made by traditional leaders and customary courts in Zambia will be recognised by everyone and all institutions and Government.” Chief Chikanta, Southern province, Zambia

Overall, this community justice model establishes innovative channels of constructive engagement among justice actors at the community level. It bridges the gap between the Local Courts and customary courts, to create a dynamic working relationship based on mutual respect, active cooperation and engagement which benefits rights-holders in the community. It helps reconcile customary law with the guarantees of constitutional and human rights in the country.

This work is supported by the “Enabling Access to Justice, Civil Society Participation and Transparency” (EnACT) Programme in Zambia, implemented by the Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ) with technical assistance from the Danish Institute for Human Rights (DIHR). EnACT is commissioned by the German Ministry of Economic Cooperation and Development and is co-funded by the European Union.

For more information, please contact:

The Danish Institute for Human Rights (DIHR)

Mr. Karol Limondin, Chief Adviser – kli@humanrights.dk

Mr. Charles Dinda, Senior Legal Adviser – chdi@humanrights.dk

Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ)

Ms. Barbara Walter, Team Leader Access to Justice – barbara.walter@giz.de

Mr. Kabota Chipopola, Rule of Law & Governance Advisor – kabota.chipopola@giz.de