



**Your voice. For justice.**

COUNTRY REPORT

# LEGAL AID SOUTH AFRICA

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## **SOUTH AFRICA COUNTRY REPORT: ILAG 2013**

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## **1. GENERAL OVERVIEW**

### **1.1 Type of legal system**

Starting from around the 16<sup>th</sup> and 17<sup>th</sup> centuries, South Africa was occupied by a number of European Nations notably the Portuguese, the Dutch and the English. The majority of the remnant population of people of European descent consist of the descendants of Dutch Settlers.

As a result of this, the Roman–Dutch system of law became the recognised common law of the country. There were also significant influences from the English law particularly in areas of business law, the law of evidence, as well as the adjectival law. The accusatorial system of justice is the adjudication system that is applied in the country.

Throughout the period of establishment and development of this largely European based legal system, the traditional African system of justice has always been in use, particularly in the more rural areas where systems of traditional leadership have always existed. Apart from establishing a strong framework of constitutional rights, the advent of democracy did not bring about any major changes to the legal system. However, attempts are being made to give the traditional court system formal recognition after years of neglect under apartheid.

### **1.2 Population**

According to the 2011 Census the South African population is 51.77 million, with approximately 14.45 million households. In the past few years, there has been a huge influx of immigrants from neighboring countries suffering from poor economic conditions, as well as from as far afield as West Africa, Pakistan and China. As a result the actual population of the country may be significantly higher than reported. This is of relevance to Legal Aid SA as the Legal Aid Act and the Constitution do not discriminate on the basis of country of origin or residence status when determining qualification for legal aid.

### 1.3 GDP/Economic Data

Whilst South Africa's economy continues to grow, the growth is at a slower rate than originally projected and is inadequate to address the needs of the country. South Africa needs a higher rate of growth in order to tackle poverty, unemployment and to generate revenue which is needed to support the long-term development plans of government. The implementation of the National Development Plan is expected to strengthen economic growth and increase the rate of job creation. GDP growth reached 2.5% in 2012. The South African economy is expected to grow by 2.7% in 2013, 3.5% in 2014 and 3.8% in 2015.

### 1.4 Per Capita Income Levels

The annual average household income (2011) is R146,440 (ie USD15,645). The annual income per capita (2011) is R39,245.

### 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. This happened to be the time when there was a total disregard for the human rights of citizens and more and more repressive laws were used to prop up the apartheid system.

This spawned a number of alternative providers of legal services to the poor and oppressed which ranged from community based advice offices, to law offices that specialised in human rights law, under circumstances where there was no formal recognition of these rights by the state. 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. This includes the following organisations:

### 1.5.1 Community based advice offices

These are advice offices based within communities that provide an advice service, as well as a service to refer community members to the most appropriate institutions in order to resolve whatever problems they may have. Started at the height of apartheid, these offices previously served an advice role as well as a political organising role and were operated by people who did not necessarily have a legal qualification. Most are now manned by paralegals. Because of their close proximity to the community, Legal Aid SA has programmes in place to support these advice offices with back-up legal services. Clients are also referred to Legal Aid SA from community based advice offices. Funding for these offices is primarily from international donors. However, this source of funding is declining, which is impacting 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 NGO's:

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 litigated many cases that have 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 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 an NGO specialising in matters relating to housing, informal settlements, upgrading of land tenure rights and eviction matters.

1.5.2.4 Section 27 - 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 NGO's, 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 a litigant to prepare and present their own case. In most cases, trained officials are provided to assist the litigant as far as possible. Examples of matters where clients are able to deal with their own matters without the need for legal representation include:

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

### III. Domestic Violence matters

#### 1.5.5 Ombudsman services

Another new development has been the establishment of ombudsman offices in many sectors, especially the insurance sector, to resolve specific disputes. There is also a Public Protector's office which serves as an ombud office in all disputes involving government departments.

#### 1.5.6 Pro Bono services

The various Law Societies and Bar Councils have each developed rules obliging practicing attorneys and advocates 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. Legal Aid SA is in the process of accrediting legal practitioners for the purposes of performing pro bono work with a view to allocating some of our work to private practitioners on this basis.

Practitioners who are in the full time employment of Legal Aid SA are also obliged to perform pro bono work. They cannot however perform this work on the time of Legal Aid SA.

#### 1.5.7 Short-Term Insurance Schemes

Although 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 South Africa was established by the Legal Aid 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 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

The object of Legal Aid SA is to make available legal representation at state expense where substantial injustice would otherwise result, as contemplated in the Constitution of the Republic of South Africa.

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 make provision for a person to have 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:

- I. The matter must be one that is covered by the legal aid scheme.
- II. For civil matters there must be merit in pursuing the matter.
- III. The applicant must pass the means test.

Our means test takes the following values into account:

- i. The applicant's income in criminal cases. The qualification limit is currently R5,500 per applicant.
- ii. The household income in civil cases. The qualification limit is currently R6,000 per household.
- iii. The value of immovable property owned. Clients are permitted to have immovable property to the value of less than R500,000 to qualify.
- iv. The value of movable property owned. Clients are permitted to have movable property to the value of less than R100,000 to qualify.

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

### 2.4 Scope of Legal Aid

#### 2.4.1 Criminal

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 a number of common law offences, statutory offences and offences which carry increased penal jurisdiction.

In addition to these types of offences, legal aid will only be provided if our Justice Centre Executive, in accessing the charge for which the client is accused of, will suffer substantial injustice if legal representation is refused.

#### 2.4.2 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 courts claims, etc. Where an item is not specifically excluded from our scheme, then the provision of legal aid would be available to such a client provided he or she passes our means test.

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

#### 2.4.3 General advice

Our statistics have revealed that only approximately 15% of clients who visit our offices result in civil case files being opened. In the majority of client visits all that was required was the provision of legal advice to client so that they could then attend to their problems. Many clients were also referred to other institutions that were better placed to assist clients in their matters. The provision of a general advice service is therefore an important component of our service delivery programme. Paralegals have been appointed to provide this service 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 toll free line is available to anyone in the country to call our call centre to obtain immediate legal advice. The provision of this call centre has greatly increased access to general advice services to our clients.

#### 2.4.4 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 that deal with such issues. Our Impact Litigation Unit was established in order to achieve this objective. This Unit is based at our national office in Braamfontein. 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.

#### 2.5 National Footprint

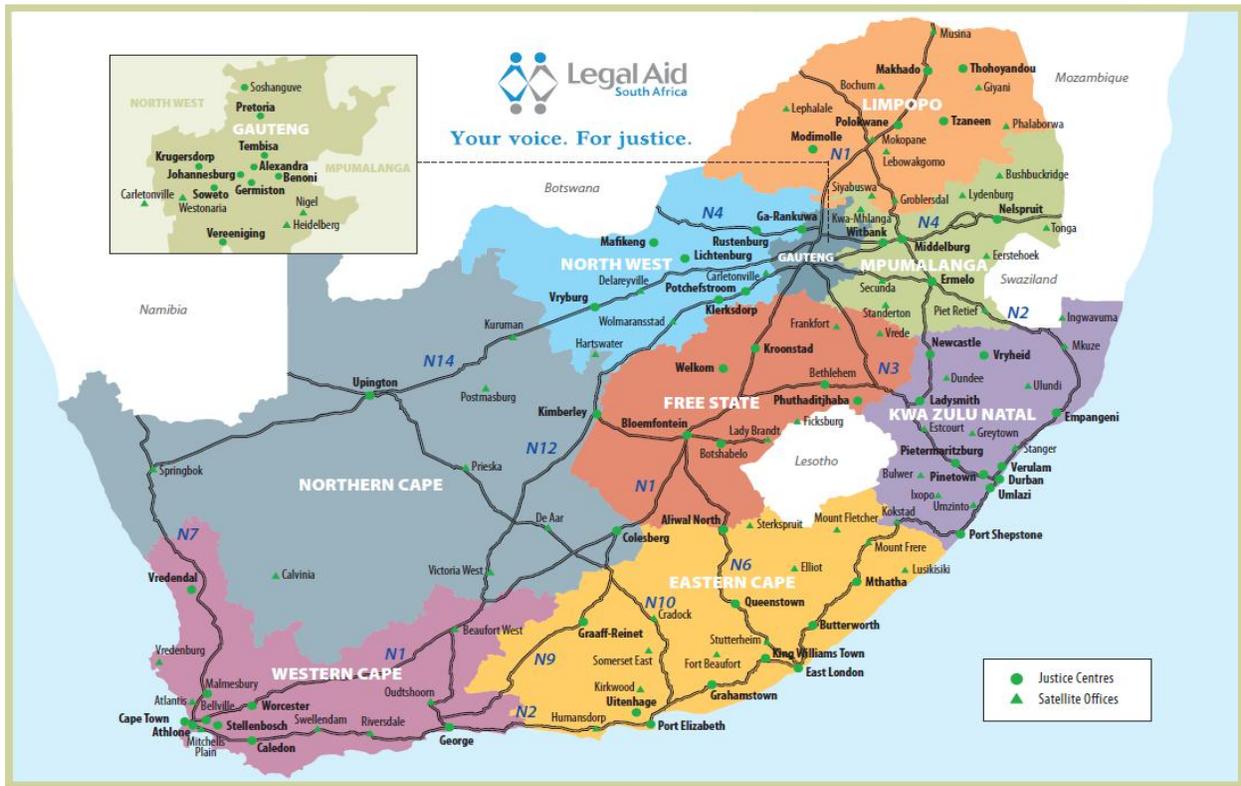
From its inception up to the early part of 2000, Legal Aid South Africa made exclusive use of the services of private legal practitioners to provide legal aid services to the poor. This system is referred to as 'judicare'. With the expansion of the organisation to provide access to legal services to a larger number of clients, the Judicare system proved unsustainable, both from a financial perspective as well as quality monitoring. 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.

This necessitated 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 cases at court.

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 12/13				
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
<b>Total</b>	<b>64</b>	<b>64</b>	<b>13</b>	<b>13</b>

The following table indicates our staff complement as at April 2013

**Table 2: Staffing**

<b>Legal Aid SA Staff Complement - FY 13/14</b>				
<b>Region</b>	<b>Legal Positions</b>	<b>Support Positions</b>	<b>Total</b>	<b>% Filled</b>
Gauteng	394	80	474	96%
KwaZulu Natal	342	71	413	94%
Eastern Cape	335	70	405	97%
Western/Northern Cape	398	83	481	96%
Limpopo/Mpumalanga	282	57	339	97%
Free State/North West	323	74	397	95%
National Office	30	178	208	88%
<b>Total</b>	<b>2104</b>	<b>613</b>	<b>2717</b>	<b>95%</b>
	77%	23%		

### **3. BUDGET**

#### **3.1 Funding model**

Legal Aid SA is funded primarily from our national fiscus. Funding allocations are provided as part of the medium term expenditure framework which covers a period of three years. During the 2012/13 financial year, Legal Aid SA received an allocation of R1.360 billion (approx US \$150m).

#### **3.2 Impact of Economic Recession on Legal Aid Services**

Like most other countries, South Africa has not escaped the impact of the economic recession. Over the past few years, our country's growth rate has slowed down and our national revenue service has been forced to lower its projections for revenue collection. This has resulted in our National Treasury effecting efficiency budget cuts on most departments. Legal Aid SA was not spared these cuts and our 2012-13 budget was cut by R34million as a result of this. In addition all departments/public entities were requested to plan for across the board budget cuts of 1% for FY 2013/14, 2% for FY 2014/15 and 3% for FY 2015/16. Legal Aid SA was required to plan for a cut of approximately R84.5million for the period 2012/13 to 2014/15.

Noting the fact that Legal Aid SA's budget was already lean, as well as the fact that the efficiency cut of R34million was absorbed by cutting on operational cost items, it was inevitable that the across the board cuts would impact directly on service delivery. We estimated that 83 practitioner positions would be affected by these budget cuts. Legal Aid SA engaged with various stakeholders, including National Treasury and the Justice Portfolio Committee of parliament to highlight the impact that these cuts would have on our ability to service the courts. We were very thankful that these engagements proved very successful because a decision was taken by National Treasury not to effect any across the board budget cuts to Legal Aid SA.

Noting the current economic situation in the country, Legal Aid SA has also limited its requests to National Treasury for the provision of additional funding to expand our national footprint, as well as our coverage of courts. We have been informed that no new funding will be allocated for the next MTEF period. We will therefore have no option but to continue to absorb an ever increasing demand for legal services with our current 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 improving greatly on 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 on a Judicare basis. 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 Partners

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 Univesity 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 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 offering 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 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 and for us to call them 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 2012/13 financial year 44,247 telephonic consultations were provided by our call centre agents. This constituted approximately 15% 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, 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 have been developed include accessing social security grants and pensions, application for maintenance for children, instituting small claims court claims and application for school fee exemptions.

### 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, as well as 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 in community radio stations to educate the community on 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.

### 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 that may not enjoy legal representation and to offer our services to them.

### 6.4 Mediation Services

Legal Aid SA has explored means to reduce the high amount of litigation by making use of mediation and other forms of alternative dispute resolution.

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. ADR is extensively used in civil cases especially in large commercial cases, with business 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 however commenced with a pilot project to study the use of mediation services in civil matters.

### 6.5 ICCV linkage

An office of the Inspecting Judge of Correctional Centres has been established in South Africa, to monitor conditions in correctional centres and to attend to the complaints of

inmates. As part of the duties of this office, Independent Correctional Centre Visitors (ICCV) have been 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 inmates requiring legal representation are obtained in this way and further assistance is then given to the inmates.

## 6.6 Pro Bono

Legal Aid SA is in the process of concluding agreements with the various Law Societies and Bar Councils to establish Legal Aid SA as a referral institution for pro bono matters to members of these bodies.

In terms of the Pro Bono agreement, attorneys and advocates will be accredited with Legal Aid SA and proof of their completion of their pro bono obligations will be obtainable from Legal Aid SA.

## 7 **QUALITY AND PRODUCTIVITY MONITORING**

Because of the inherent criticisms on 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:

- i. Increased supervisory capacity to support practitioners
- ii. Extensive legal training and development programme implemented

- iii. Mentorship, coaching and support programme in place
- iv. Dedicated day per week set aside by all practitioners for consultation and preparation.
- v. Online research and discussion forums support for practitioners.
- vi. Candidate attorney specific training programmes

## 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:

- i. Quality assessment reviews by JC legal managers
- ii. Peer reviews
- iii. Stakeholder feedback
- iv. Performance management system
- v. Complaints monitoring
- vi. Client satisfaction surveys
- vii. Maintaining professionalism
- viii. Business intelligence information.

As an additional measure, we have established a Legal Quality Assurance Unit that is based in our Internal Audit Department, which conducts its own independent assessment 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. Legal Aid SA therefore does not assess practitioner performance on the number of cases taken on or finalised. Therefore practitioners 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 productivity of a Justice Centre. This includes:

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

## **8. DELIVERY STATISTICS – FY 12-13**

Legal Aid SA provided representation in 442,972 matters during 2012/13. The bulk of our representation (87%) was in criminal matters whilst only 13% 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.

<b>New Matters By Court Type - FY 2012/13</b>							
<b>Delivery Systems</b>	<b>Criminal</b>			<b>Total</b>	<b>Civil</b>	<b>YTD Total</b>	<b>% of Total</b>
	<b>DC</b>	<b>RC</b>	<b>HC</b>				
<b>Justice centre</b>	313,466	56,160	3,479	373,105	51,731	424,836	96%
<b>Judicare</b>	4,834	6,633	1,439	12,906	1,319	14,225	3%
<b>Co-ops</b>	500	-	-	,500	2,706	3,206	1%
<b>Agency Agreements</b>	698	6	-	,704	1	,705	0%
<b>Total</b>	<b>319,498</b>	<b>62,799</b>	<b>4,918</b>	<b>387,215</b>	<b>55,757</b>	<b>442,972</b>	<b>100%</b>
<b>% of Total Matters</b>	<b>87%</b>				<b>13%</b>	<b>100%</b>	
<b>% of Criminal Total</b>	<b>83%</b>	<b>16%</b>	<b>1%</b>	<b>100%</b>			

## **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 following countries were hosted in the 2012/13 financial year: Zambia, China, Nepal, Bangladesh, Uganda, Myanmar, Kenya, India, Zimbabwe, Indonesia, 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.

Legal Aid SA also participates in all international legal fora to gain perspective on what is international best practice, and to share our insights based on past experience.