



A RESEARCH REPORT ON THE **LEGAL
RECOGNITION OF PARALEGALS IN
AFRICA: LESSONS, CHALLENGES
AND GOOD PRACTICES**

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ACRONYMS AND ABBREVIATIONS

ACE-AJ	African Centre of Excellence for Access to Justice
ADR	Alternative Dispute Resolution
CBPs	Community-based paralegals
CFJJ	Centro de Formação Jurídica e Judiciária
CHRI	Commonwealth Human Rights Initiative
CNDH	Comissão Nacional dos Direitos Humanos
CSO	Civil society organisation
DIHR	Danish Institute for Human Rights
DNAJ	Direcção Nacional da Administração da Justiça
DOI	Dullah Omar Institute for Constitutional Law, Governance and Human Rights
FGD	Focus group discussions
IAJ	Instituto de Acesso à Justiça da Ordem dos Advogados de Moçambique
IPAJ	Instituto do Patrocínio e Assistência Jurídica
IPMA	International Paralegal Management Association
NGO	Non-governmental organisations
NLAP	National Legal Aid Policy
NOPRIN	Network on Police Reform
PAN	Paralegal Alliance Network
PRAWA	Prisoners' Rehabilitation and Welfare Action
TEVETA	Technical Education, Vocational and Entrepreneurship Training Authority
TAC	Treatment Action Campaign
TANLAP	Tanzania Network of Legal Aid Providers
WPI	Women's ProBono Initiative
WPR	World Population Review

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EXECUTIVE SUMMARY

Paralegals play a critical role in providing legal support and ensuring access to justice for the community, work which they do in the face of numerous challenges. Some of the factors that inhibit access to justice are poverty, illiteracy, the bureaucratic nature of legal systems, and delays in the administration of justice. This executive summary outlines the methodology, findings, and recommendations of the study.

1.1 Introduction

This study aims to document the role, functions, challenges and regulation of paralegals in Ghana, Nigeria, Zambia, Tanzania, Mozambique and Uganda. It has been conducted in conjunction with the ACE-AJ, and it documents good practices that can be replicated in other African countries.

At its core, the study evaluates the legal recognition of paralegals or community-based paralegals (CBPs) in the selected African countries. Drawing on lessons, challenges and good practices, this study seeks to

- understand the role and challenges in the work of paralegals/CBPs in six selected African countries;
- document and share good practices concerning paralegals in the selected countries;
- evaluate the effect of recognition and the lack thereof in the selected countries; and
- advocate for states to provide better support for, and political commitment to, the work of paralegals/CBPs across Africa.

Different countries understand the nature and function of CBPs differently, which is why this study considers various definitions of CBPs in particular and paralegals in general as provided by academics, the World Bank, civil society organisations (CSOs), and regional and international agencies. It also takes stock of the challenges paralegals and CBPs face in the execution of their work. These include lack of formal recognition and/or regulation of paralegals, lack of resources, and overburdened legal aid schemes in both the public and private sector. Although CBPs provide significant benefits to communities across Africa, there is no universal con-



sensus on their statutory recognition. For instance, while there is statutory recognition in Tanzania and Zambia, the regimes are different in Uganda, Nigeria, Ghana and Mozambique.

International law such as the 2012 UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems has set minimum standards for the right to legal aid in criminal justice systems and given practical guidance on how to ensure access to effective criminal legal aid services. At the regional level, several norm-setting documents – such as the African Commission’s 1992 Tunis Resolution, the 1999 Dakar Declaration and Recommendations, and the 2002 Ouagadougou Declaration – offer instructive recommendations on the use and role of CBPs.

The study has five research areas:

- how paralegals/CBPs contribute to the realisation of access to justice for vulnerable and marginalised groups;
- the challenges facing paralegals/CBPs in Africa;
- the necessity for the recognition and regulation of paralegals/CBPs;
- the benefits and burdens of recognising and regulating paralegals/CBPs; and
- ways in which the work of paralegals/CBPs can be enhanced.

1.2 Methodology

The study employed a hybrid methodology combining desktop research with a qualitative research approach. The desktop research entailed analysing available laws, policies and literature on Community Based Paralegals. Qualitative research engaged focus group discussions and interviews. The methodology section explained the research approach, the research setting, population and sampling, data collection, analysis, verification and ethical considerations.

Data was collected using semi-structured interviews in focus group discussions (FGDs) and key-stakeholder interviews. Six organisations in the selected countries were used as data sources: the Paralegals Alliance Network (PAN) of Zambia; Research for Mozambique (REFORMAR) of Mozambique; Prisoners’ Rehabilitation and Welfare Action (PRAWA) of Nigeria; the Commonwealth Human Rights Initiative (CHRI) of Ghana; the Tanzanian Association of National Legal Aid Providers (TANLAP) of Tanzania;

and the Women’s ProBono Initiative (WPI) of Uganda. In total, data was collected from 100 participants across the six countries.

Due to Covid-19 restrictions, research was conducted using online or virtual platforms. In exceptional situations, face-to-face interviews and FGDs were held. Mozambique was the only Portuguese-speaking country in this study. Questionnaires and supporting documents were translated into Portuguese, interviews and FGDs were conducted in this same language, and data was translated into English and shared with the research team.

Ethical clearance was obtained from the University of the Western Cape’s Humanities and Social Sciences Research Ethics Committee. The researcher ensured that participants knew what was expected of them in the course of the study. Due to the Covid-19 pandemic, the researcher was not able to visit any of the organisations providing support services to marginalised groups. Originally, two FGDs were planned for each country; however, during the ethical clearance stage, we were advised to consider doing one focus group discussion per country due to Covid-related challenges. The analysis of the data followed the Braun and Clarke’s (2007) mode of data analysis. This involved the examination, categorisation, tabulation, and identification of themes across the study.

1.3 Findings

The study’s findings fell into six major themes: modes of dispute resolution in Africa; the role of CBPs in the realisation of access to justice; challenges facing CBPs; the necessity of the recognition and regulation of CBPs; the benefits of the recognition and regulation of CBPs; and recommendations on the enhancement of CBPs.

In regard to dispute resolution, the six countries identified various modes of solving disputes as well as institutions that were used (both formally and informally) in the resolution of disputes. The findings show that different meanings are attached to the role of the CBPs. Challenges facing paralegals were also identified. These included lack of acceptance, resistance from the community, lack of adequate funding, as well as lack of recognition and regulation – and the dangers that come with this.

1.4 Recommendations

Recommendations were made to various stakeholders, among them African Union (AU) organs, governments, and CSOs.

Avoid stifling the role of CBPs: The overriding recommendation was to avoid stifling the role of CBPs due to issues of recognition and regulation, especially where CBPs lack the requisite qualifications to qualify as paralegals.

Financing the work of CBPs: Governments should recognise, regulate and support the work of the paralegals, especially through financial resources. These resources are critical to the work of CBPs.

Recognition of CBPs should be based on experience: Governments are urged to consider the recognition of CBPs based on their experience in offering legal aid over a minimum period. This was a good practice identified by those CSOs that provide forms of recognition for paralegals working under their stewardship.

Government-NGO/CSO partnerships: Governments should encourage organisations which supervise CBPs to adopt viable forms of recognition and regulation.

Use of both formal and informal CBPs: Continued realignment both formal and informal modes of CBPs was recommended. This would allow for continued use of both kinds of paralegals, taking into account the various advantages they bring to the table.

Dissemination of findings: The study recommended the use of dissemination to engage all stakeholders in various circumstances to ensure the desired meaning of CBPs is known and appreciated.

A hybrid engagement of challenges: Concerted and deliberate efforts by stakeholders should be taken to unpack challenges and use both objective and subjective engagements to tackle them. These efforts should be informed by conceptual and empirical research into the contexts of the communities and the paralegals therein.



2

INTRODUCTION TO THE STUDY

Paralegals play a critical role in providing legal support and ensuring access to justice for the community. This is informed by the challenges in accessing justice across communities. Some of the factors that inhibit access to justice include poverty, illiteracy, the bureaucratic nature of legal systems, and delays in the administration of justice (Bows, 2009).

2.1 Defining paralegals

Community-based paralegals are defined in various ways. Some scholars refer to them as non-lawyers who use their knowledge of the law to provide legal advice and assistance to the community in which they live (Rinaldi (2011)). This definition describes a CBP, whose qualities are handed down by a non-governmental organisation (NGO) that offers training and subsequent engagements in the communities. It fails, however, to deal with the question of whether a person who is not trained by NGOs or does not offer advice in his or her community is a paralegal. To this end, other definitions are key to arriving at a normative and working definition for this report.

According to the World Bank, a paralegal has to meet three criterion. First, he or she has to be trusted by the community; secondly, he or she has to be actively involved in community organisations or affairs; and, thirdly, he or she should have some organisational, advocacy or legal aid experience (Rinaldi, 2011). This definition requires that a paralegal's work is informed by his connection to the community and some experience in his or her activities. However, the definition raises some questions in its application. For instance, it is not clear whether the criteria of trust and active involvement in the activities of the community are determined on the basis of an objective or subjective standard, since these standards are not spelt out adequately.

The Danish Institute for Human Rights (DIHR) defines a paralegal as a person who is without a degree but possesses relevant skills and training to provide some legal services to individuals and groups in need of legal aid (DIHR, 2011). Notwithstanding the issue of expertise



or experience, a paralegal may be a volunteer or be paid, and work either as an individual or under the state or a non-state actor. It suffices to note that some experience, qualifications or both seem to be criterial to defining CBPs. The DHIR definition entails that skill and training are components of what makes someone a paralegal. While it does not speak directly to whom a community paralegal is, the definition indicates that the key role of the paralegal is to dispense legal advice to a person to enable him or her to make informed decisions.

It is clear from the above analysis that there is no universal definition of a paralegal. According to Dereymaeker, most African jurisdictions use the term 'paralegals' synonymously with 'community-based paralegals' or 'community paralegals' to refer to individuals who do not have a law degree but have skills and knowledge of the law that enable them to provide some form of legal aid and assistance to members of a community they are part of, or know well, under the supervision of a legal practitioner (Dereymaeker, 2016). This study adopts this definition, subject to the qualification that in the study is understood that CBPs play a role in their communities on the basis of their experience; indeed, the results of the study point to the need to avoid differentiating between a paralegal and a CBP. Hence, a paralegal refers to an individual who possesses expertise or experience, or both, that enables him or her to provide some form of legal aid to members of a community of which he or she is a part, under the supervision of a legal aid service provider. This definition is aligned with the Kigali Declaration, which describes paralegals as indigenous or home-grown community justice institutions (Kigali Declaration, 2017).

There are two types of paralegals in Africa. First, there are those who work in formal justice systems as clerks in courts, law firms and other institutions associated with the provision of justice services. Secondly, and critically, others work in communities as volunteers under the supervision of a public or private legal service provider; this type includes paralegals in informal justice systems linked to traditional and indigenous institutions of dispute resolution, such as traditional chiefs and leaders and local administrative institutions. One may argue that this wide scope of application presents an ambiguity.

In addition – other aspects such as trust – activities that (s)he is involved in are subjective notions that may differ from one country to another, and one community to another, as well as one region to another. As will be showed, in some countries, paralegals are training with the objective that they will become lawyers, while in others, their communities are informed by where they work such as in prisons, court, and law firms. The IPMA adds insight to this discussion in that it defines a paralegal as an individual who is qualified by education, training or work experience, who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity, and who performs delegated substantive legal work for which a lawyer is responsible (IPMA, 2011).

From the foregoing, what is important is that, irrespective of the name by which they are called or the function they serve, paralegals play a crucial role in the realisation of access to justice for vulnerable and marginalised groups.

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Community paralegals” refers to individuals who do not have a law degree but have skills and knowledge of the law that enables them to provide some form of legal aid and assistance to members of a community they are part of or know well, under the supervision of a legal practitioner’

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2.2 Current challenges

The overriding challenge in all the countries under study is the lack of a shared definition of ‘paralegals’. This report again adopts the definition put forward by Dereymaeker (2016), who refers to them as individuals who do not have formal legal training yet provide various legal services such as legal aid, assistance, advice, education and legal information. This is evident in the critical role that paralegals play in alternative dispute resolutions (ADR).

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‘Paralegals continue to face serious challenges in the execution of their indubitable roles ... no formal regulation or recognition ... issues of insufficient funding and inadequate training. Further, the legal profession remains sceptical about the value they add’

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Paralegals continue to face serious challenges in the execution of their invaluable work. In some countries, there is no formal regulation or recognition. In others, they contend with insufficient funding and inadequate training. Furthermore, the legal profession remains sceptical about the value they add. This highlights the need for mutually beneficial collaboration between the community paralegal sector, the formal legal profession, and the state.

The vast majority of Africans face challenges in accessing justice through the formal court system, which has spurred the growth of alternative methods of accessing justice. As a result, states have collaborated with various actors to provide legal aid for marginalised and vulnerable groups. To this end, accused persons who are unable to afford legal

services have benefitted from legal aid. The use of legal aid has given the poor access to justice (Ad-eyemi, 2007). For instance, South Africa’s Legal Aid Act of 1969 provides for legal aid services to any indigents accused who would suffer substantial harm from lack of legal representation (McQuoid-Mason, 2007). It is worth noting that Legal Aid South Africa manages a larger budget than its counterparts in the selected countries in Africa (McQuoid-Mason, 2007). This highlights the need for African governments to commit more resources to legal aid schemes.

In response to overburdened legal aid schemes, or, in cases, the lack thereof, various complementary initiatives have been adopted. First, NGOs have campaigned for particular rights. An example is the Treatment Action Campaign (TAC), which advocates for the right to health of people living with HIV in South Africa. In Uganda, there is currently no national legal aid body. There is a need for legal aid to develop organically in the legal fraternity and the academic institutions. For instance, the Uganda Law Society (ULS) started an initiative of providing legal aid to the indigent by setting up an organisation that was distinct from the Law Society. As such, the Legal Aid Project (LAP) of the ULS operates independently. Also, it presents its reports to the managing board of the ULS. Another example is an initiative by the Law Development Centre (LDC) in Kampala, Uganda, which set up a legal aid project. It is a practice that at the beginning of every academic year, lawyers who are studying for the bar course or articles visit remand homes and prisons to identify cases for defending in courts of law.

Secondly, some countries have embraced the work of CBPs to bridge the gap between marginalised, vulnerable groups and formal legal institutions. This is done through advocacy and by educating the population on the law.

Thirdly, formal institutions run law clinics that address issues ranging from civil to matrimonial causes, child welfare, contractual, and even criminal matters. These clinics provide services for indigent people and assist them in seeking redress for violations of their rights.

The evolution of CBPs in Africa can be deduced from the various country experiences. They present

a similar trend, such as the use of community or traditional modes of justice, informed by the evolving use of CBPs to fill the gap that the main-stream lawyers or legal system do not cover. In South Africa, Community Advice Officers (CAOs) were based in communities and offered various complementary services to clients (Dugard & Drage, 2013). The inability of using lawyers for all legal problems on account of fees and other critical aspects led to the support of the CBPs movements in the Republic. They have since evolved to bridge the gap on access to justice between the state and society (Dugard & Drage, 2013).

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‘CBPs translate the law into “accessible and tangible benefits” that help clients resolve their problems’

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In Kenya, the rise of CBPs has been informed by various historical and administrative milestones. First, during colonial rule, the British excluded Kenyans from legal practice in order to avoid the emergence of enlightened persons who would question their mode of administration (Ojwang, 2010). This led to the amendment of the laws for Africans to study law at universities (Ghai & Cottrell, 2014). This turned out to be problematic as the evolving breed of African lawyers were disconnected from the societal problems where they were needed most. Kenyan communities embraced village forums (called barazas) to attempt to solve legal challenges. These have since been improved to engage the works of CBPs, to cover gaps in the legal profession such as the promotion of legal awareness, rights promotion, and conflict resolution (Maru & Gauri, 2018).

2.3 Benefits

CBPs provide enormous benefits in terms of consolidating democracy across Africa. As an essential component of justice and social security systems, CBPs translate the law into ‘accessible and tangible benefits’ that help clients resolve their problems.

The scope of the operation of paralegals is beyond the capacity, locality, or comfort of the legal profession (Dugard & Drage, 2013). Besides, CBPs operate fluidly between modernity and tradition and use various modes of dispute resolution in the communities where they are involved. As such, CBPs continue to link the country and society in access to legal services (Dugard & Drage, 2013).

In some countries, CBPs assist in civil or criminal matters, and may volunteer for or be paid minimal fees to provide services. They aim at achieving practical remedies to facilitate access to justice for the poor by relying on education, mediation, organisation, advocacy, monitoring and, with the assistance of lawyers, litigation (Mauru & Gauri, 2013).

2.4 The need for recognition and regulation

The statutory recognition of paralegals is not uniform across Africa. Only a few countries recognise paralegals as legal aid providers. For instance, Tanzania enacted the Legal Aid Act 1 in 2017 that recognised paralegals. This Act regulates and coordinates the provision of legal aid services to indigent persons, recognises paralegals, and provides for related matters. Concerning paralegals, the relevant section provides:

- (1) A paralegal shall be required to possess any of the following: (a) any bachelor degree in any discipline from an accredited institution, save for a bachelor degree in laws; (b) any diploma or certificate from an accredited institution; (c) any certificate of secondary education.
- (2) In addition to the requirement under subsection (1), a paralegal shall undergo necessary training as may be prescribed in the regulations.
- (3) Notwithstanding the generality of subsections (1) and (2), any person who has been a paralegal for at least two years and has undergone training under the current arrangement prior to the commencement of this Act, shall qualify as a paralegal for the purpose of this Act (Legal Aid Act, 2017, sec 9).

As such, although Tanzania’s Legal Aid Act provides for the recognition of the paralegals through training, experience is also important. From the above quotation, it is clear that a prospective paralegal should have a degree, a diploma or a certificate. The point of departure is the paralegal has experience of at least two years in addition to requisite train-

ing before the commencement of the Act. In other words, the statutory recognition and regulation of a paralegal is not a magic wand that makes challenges disappear.

However, a question that is worth engaging is the issue of government financing of the work of CBPs. To this end, a look at the Act shows that the government provides financing for the work of the Legal Aid Board under part 6 of the Act. It is, however, silent on the specifics as regards the work of CBPs. Furthermore, the recognition of a CBP is based on the precedent that (s)he has to be attached to a legal aid service provider. In the interim, the attempts to recognise and regulate paralegals without a corresponding clear provision of financing is a self-defeating venture.

In Zambia, the National Legal Aid Policy (NLAP) provides an enabling framework for the recognition and regulation of the work of paralegals. It recognises and regulates paralegals. It is incorrect to assume in the interim that recognition and regulation will ease the work of CBPs due to the legislative disconnect between recognition and regulation on the one hand and stifling that may arise on the other hand. This is very instructive in easing the recognition of the paralegals in terms of both a varied array of qualifications and experience.

The lack of statutory recognition means that paralegals do not yet have a relationship with the state where there are identifiable ways of operations of paralegals in the context of their roles. In some countries, such as Uganda, Ghana and Nigeria many organisations working with paralegals have attempted to self-regulate by setting up networks or alliances of paralegals. However, these networks or

alliances usually do not include all paralegal organisations, and only last while there is capacity and funding to operate them. Some countries have regulatory frameworks for legal aid, but only a few include paralegals in these frameworks because only a few countries have adopted legal aid legislation inclusive of paralegals (Dereymaeker, 2016). For instance, in Nigeria, various organisations like PRAWA, and JEI train paralegals, offer them certificates that facilitate their provision of legal services to both the urban and rural population (PRAWA, 2020; JEI, 2020).

In other countries like Uganda, the term paralegal connotes a different context. While legal training institutions like the Law Development Centre provide courses for paralegals, this qualification amounts to a diploma in Law, which is often used to pursue a law degree. Consequently, the training is not geared towards the provision of legal services, but rather the ease with which persons subsequently join the legal field.

Scholarly arguments posit that the regulation of paralegals would serve several purposes. It would set standard training programmes; set criteria to enter the paralegal profession; and set up registration or accreditation frameworks of paralegals. Also, regulation would lead to the adoption of codes of conduct; determine which services paralegals can provide; and grant paralegals the right to visit detainees or appear in court. It would involve mechanisms for monitoring or evaluation; provide for accountability mechanisms; and ensure the sustainability of the paralegal profession through financial support. It would also guarantee the independence of paralegals in holding the state accountable (Dereymaeker, 2016).

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legal aid services’

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2.5 The position in international law

The importance of paralegals in realising access to justice for the poor has been recognised by non-binding international and regional instruments. For instance, in 2012 the United Nations General Assembly adopted the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (UNGA, 2012), the first international instrument on the right to legal aid. The UN Principles and Guidelines established minimum standards for the right to legal aid in criminal justice systems and provide practical guidance on how to ensure access to effective criminal legal aid services.

The Guidelines contain useful provisions on access to justice. These relate to, among other things, the recognition of legal aid as an essential element of access to justice, the responsibility of the state in providing legal aid for vulnerable groups, the need to provide legal aid to children, and the need for research and data collection to improve access to justice (UNGA 2012).

At the regional level, several norm-setting documents have been adopted on the role of paralegals. For instance, the African Commission on Human and Peoples' Rights adopted the Resolution on the Right to Recourse and Fair Trial in Africa (Tunis Resolution, 1992), which outlines steps that should be taken to guarantee a fair trial and access to justice for persons charged with criminal offences. The Commission notes that such persons should be entitled to the free services of an interpreter if they do not understand the language of the court.

Similarly, in its Resolution on the Right to a Fair Trial and Legal Assistance in Africa (the Dakar Declaration and Recommendations), the Commission urges states to provide accused persons with legal assistance to ensure a fair trial. The Commission recommends that state parties and bar associations consider innovative ways – including use of paralegals – of ensuring access to justice for vulnerable and marginalised groups. In addition, the Ouagadou-

gou Declaration on Accelerating Prison and Penal Reform in Africa and Plan of Action (2002) recommends increased use of paralegals in the criminal process so as to provide legal literacy, assistance, and advice at a first aid level.

The Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System in Africa and Plan of Action (2004) provides that access to legal aid is crucial for persons accused of criminal acts. Legal aid is defined broadly to mean legal advice, assistance, representation, education, and mechanisms for alternative dispute resolution; to include a wide range of stakeholders, such as non-governmental organisations, CSOs, religious and non-religious charitable organisations, professional bodies and associations, and academic institutions. The Declaration recognises paralegals as legal aid providers, alongside lawyers and legal assistants.

2.6 The purpose of this study

The study aims at documenting the role, functions, challenges and regulation of paralegals. This project was conducted in conjunction with the African Centre of Excellence for Access to Justice, and it documents best practices that can be replicated in African countries.

The study seeks to evaluate the legal recognition of paralegals/CBPs in selected African countries – Ghana, Nigeria, Zambia, Tanzania, Mozambique and Uganda. Drawing on the lessons, challenges and good practices that accrue therefrom, the purpose of the study is fourfold:

- to understand the role and challenges in the work of paralegals/CBPs in six selected African countries;
- to document good practices concerning paralegals in the selected countries;
- to evaluate the effect of recognition and the lack thereof in the selected countries; and
- to advocate for better support and political commitment by states for the work of paralegals/CBPs across Africa.

3

RESEARCH AREAS

This study identifies gaps in access to justice and looks at how paralegals could be used to bridge the gap between justice, on the one hand, and the indigent and marginalised people who need it, on the other. The greatest challenges lie in the inconsistent recognition and regulation of their activities by the state. This is exacerbated by the fact that international and regional laws recognise the role of paralegals, which has led to a parallel regime concerning the recognition and regulation of paralegals. While recognition and regulation exist in some states, they are lacking in others, resulting in domestic jurisdictions having differing approaches to the work of paralegals. This situation is worth researching as it affords an opportunity for identifying the lessons, challenges and good practices that can be gleaned from each of the selected countries. If such research is not undertaken, inconsistent operationalisation of paralegals across Africa will continue unabated. Accordingly, this study contributes to knowledge on the problems and recommends ways to learn from the best practices across the selected countries under review.

The study has five research areas: 1) how paralegals/CBPs contribute to the realisation of access to justice for vulnerable and marginalised groups; 2) the challenges facing paralegals/CBPs in Africa; 3) the necessity of the recognition and regulation of paralegals/CBPs; 4) the benefits/concerns around recognition and regulation of paralegals/CBPs; and 5) how the work of paralegals/CBPs can be enhanced.



4

METHODOLOGY

The research employed a hybrid methodology combining desktop study and qualitative research. In the desktop study, primary and secondary information, focus group discussions and interviews were analysed. The Qualitative research engaged focus group discussions and interviews approach, setting, population and sampling, data collection, analysis, verification and ethical considerations.

4.1 Research approach

The research approach was exploratory and utilised qualitative data. This gave the researcher the flexibility to probe participants' responses (Dlukulu, 2011).

4.2 Research setting

A research setting refers to the geographical area where a study is carried out. The area can be described in terms of its location, population size, settlement patterns, and other features relevant to the study (Banerjee & Chaudhury; 2010). In this study, the research setting was six African countries: Uganda, Tanzania, Mozambique, Zambia, Nigeria and Ghana.

4.2.1 Uganda

Uganda is a landlocked country in east Africa. It has a population of 45 million people and is bordered by Kenya to the east, the Democratic Republic of Congo to the west, South Sudan to the north, and Rwanda and Tanzania to the south (WPR Uganda, 2020). The capital city is Kampala, which is located in the central region and has a population of three million. The country does not have a law that recognises or regulates paralegals, even though they play a key role in access to justice in the country (ULII, 2020).

Data collection in Uganda was done by the WPI. The WPI's mission is to advance access to justice for women and girls through awareness-raising, legal representation, research, and knowledge-sharing. The WPI strives to ensure that the most vul-

nerable women in Ugandan communities can speak out against injustice, which it does through direct legal representation of individuals, impact litigation on behalf of vulnerable groups, and community mediation mechanisms. It also advocates for legal and policy reform. The data was collected using one FGD and five stakeholder interviews. All five interviews involved face-to-face conversations held at a location identified by the WPI.

4.2.2 Tanzania

Tanzania, located in east Africa and with a population of 57 million, is bordered by Kenya and Uganda to the north, the Democratic Republic of Congo to the West, the Indian Ocean to the east, and Malawi to the South (WPR Tanzania, 2020). The capital city is Dodoma, which has a population of about 180,000. The country has a law that recognises or regulates paralegals.

TANLAP was used as the umbrella organisation for collection of data. TANLAP partnered with the Legal Services Facility (LSF), based in Dar es Salaam Tanzania, to collect the data. Whereas TANLAP is a network of legal aid providers, LSF is the basket fund for legal aid in Tanzania. The data was collected using one FGD and five stakeholder interviews. All five interviews were face-to-face conversations, barring one which was conducted via Zoom with an officer from the Ministry of Constitutional and Legal Affairs. Participants were invited from different regions of Tanzania to provide a range of experiences and perspectives.

4.2.3 Zambia

Zambia, located in southern Africa, has a population of 18 million people; it is bordered by the Democratic Republic of the Congo to the north, Tanzania to the northeast, Malawi to the east, Mozambique to the southeast, Zimbabwe and Botswana to the south, Namibia to the southwest, and Angola to the west. The capital city is Lusaka, with a population of about two million people. As in Tanzania, Zambia's paralegals are regulated by a national law.

Data collection was conducted by the Paralegals Alliance Network (PAN) by means of FGDs and a qualitative data questionnaire targeting five stakeholders conversant with paralegal work in Zambia. The study was conducted between 21 December 2020 and 7 January 2021 in Lusaka, Monze, Chipata and Mpika. A total of 12 individuals working as paralegals and paralegal coordinators from ten CSOs participated in the FGD, while seven individuals from six institutions took part in the stakeholder interviews.

4.2.4 Nigeria

Nigeria, located in west Africa, has a population of more than 250 million, and is bordered by Niger to the north, Togo to the east, the Gulf of Guinea to the south, and Cameroon to the west. The capital city is Lagos, with a population of about 20 million people. As with Uganda and Ghana, there is no formal regulation of paralegals under national law.

Data collection was done by the PRAWA by means of FGDs and interviews targeting five stakeholders knowledgeable about paralegals in Nigeria. The study was conducted between March and April 2021 in Lagos. A total of 18 individuals working as paralegals in various organisations participated in the FGD, while five individuals from five institutions took part in the stakeholder interviews. These institutions included the Legal Aid Council, the Nigeria Bar Association and a CSO called NOPRIN.

4.2.5 Ghana

Ghana is in west Africa and has a population of more than 32 million. It is bordered by Burkina Faso to the north, Togo to the east, the Gulf of Guinea and the Atlantic Ocean to the south, and Cote D'Ivoire to the west. The capital city is Accra, which has a population of 260,000. As in Uganda and Nigeria, there is no formal regulation of paralegals under national law.

Data collection was done by the Commonwealth Human Right Initiative through FGDs and interviews targeting five stakeholders who knew about paralegal research in Ghana. The study was conducted in March 2021 in Accra. A total of ten individuals participated in the FGD, while four individuals from four institutions took part in the stakeholder interviews.

4.2.6 Mozambique

Mozambique is in southern Africa and has a population of 30 million. It is bordered by Malawi and Tanzania to the north, the Indian Ocean to the east, Zimbabwe to the west, and South Africa to the South. The capital city is Maputo, with a population of one million. As in Uganda and Nigeria, there is no formal regulation of paralegals under national law.

Data collection was conducted by REFORMAR, a research agency in Maputo. REFORMAR conducted FGDs as well as interviews with stakeholders. It conducted 11 FGDs, along with interviews targeting five stakeholders who had insight into paralegal research in Mozambique. The study was conducted in June 2021 in Maputo.

These countries were selected because they give a snippet view of sub-Saharan Africa. Nigeria and Ghana represent West Africa, Uganda and Tanzania represent East Africa, and Zambia and Mozambique represent Southern Africa. These countries were also selected because they have various ways of engaging paralegals. Whereas Zambia and Tanzania grant formal national recognition to paralegals, Nigeria and Ghana use paralegal associations to regulate paralegals informally. Uganda, by contrast, has a law school for training paralegals, yet the qualification is used to employ graduates as law clerks in law firms as well as provide a springboard to studying the law degree at the various universities across the country. As for Mozambique, the term 'paralegal' raises some concern as it can be used to refer to legal technicians, public defenders and trainee lawyers; nevertheless, paralegals play an important role in urban and rural communities. There is no formal recognition by the state, but the Ministry of Justice, Constitutional and Religious Affairs has made efforts to recognise provincial associations of paralegals.

4.3 Population and sampling

A population is the larger general group from which a sample is drawn for the purposes of a study (Neuman, 2016). In turn, a sample is a smaller group selected from the population for purposes of data collection (Rubin & Babbie, 2011). In the light of this study's focus on the role, functions, challenges and regulation of paralegals, a purposive sampling method was used. A total of 68 individuals took part in six FGDs across the six countries: 12 from Zam-

bia, 11 from Mozambique, ten from Uganda, 12 from Tanzania, 13 from Nigeria and ten from Ghana. In regard to the stakeholder interviews, 32 individuals took part. They included six participants from Zambia, five from Uganda, four from Tanzania, five from Nigeria, five from Mozambique, and six from Ghana. The participants were representative of the population of users and benefactors of the services of CBPs across the five countries. As such, their views, to a great extent, captured the views of the various individuals who could not be part of the study.

4.4 Data collection

Data collection is a process of acquiring information through unstructured or semi-structured interviews, FGDs, observations, documents and visual material (Creswell, 2007). This study used semi-structured interviews through FGDs, and one-on-one interviews to collect data. Two semi-structured interview guides were prepared as the data collection instrument. The research used open-ended questions to allow the participants to showcase their experiences in detail (De Vos, et al., 2011). (See appendices A, B, C and D.)

Initially, in response to Covid-19, the researcher had a back-up plan to collect data using virtual methods. In view of restrictions on international travel, internal movement and limitations on meetings, the study was ready to use online or virtual platforms to conduct the research. Fortunately, the researcher was able to draw on the assistance of in-country organisations to collect the data. Domestic safety precautions were adhered to during this process.

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‘This study used semi-structured interviews through focus group discussions, and one-on-one interviews to collect data’

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‘The key research participants were identified through the assistance and network of the ACE-AJ’

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4.4.1 Identification of participants

Key research participants were identified through the assistance of the ACE-AJ. In each country, ACE-AJ contacted a local partner who assisted in recruiting participants for the FGDs. These local partners also identified the relevant stakeholders who were to be interviewed. The participants in the research included paralegals, members of community-based organisations, the judiciary, and bar associations.

The participants were from the six selected countries of Ghana, Nigeria, Tanzania, Uganda, Mozambique, and Zambia. The organisations that the DOI engaged included PRAWA from Nigeria and TANLAP from Tanzania. Others were the WPI from Uganda, PAN from Zambia, the CHRI from Ghana, and REFORMAR from Mozambique.

These organisations played various roles in collaboration with the DOI. On the strength of their work in the community, they identified participants for the study. They explained the nature of the research, the research questions, and the expected input from the participants to the study. They also ensured that participants signed consent forms, and oversaw the return or email of the same to the DOI. Covid-19 travel restrictions made in-country organisations pivotal in collecting data.

4.4.2 Preparation of participants

The in-country organisations and researchers prepared the potential participants for both the FGDs and general interviews. This was done after being granted permission by the Human Social Sciences Research Ethics Committee of the University of the Western Cape. Also, where there were national boards or organisations that required permission,

the researcher was expected to liaise with the national or local organisations to ensure that permission was obtained.

In the course of the meetings, the purpose of the study was explained to the participants, and the appropriate venues were identified for the interviews. (See Appendix A.) According to Hancock and Algozzine (2006), interviews are important in obtaining information from participants. As such, the researcher will opt for quiet settings free from distractions to avoid losing valuable information.

4.4.3 Interviews and Focus Group Discussions

The participants were asked simple, open-ended questions, one at a time, allowing them time to respond. All the interviews were concluded within 45 to 60 minutes.

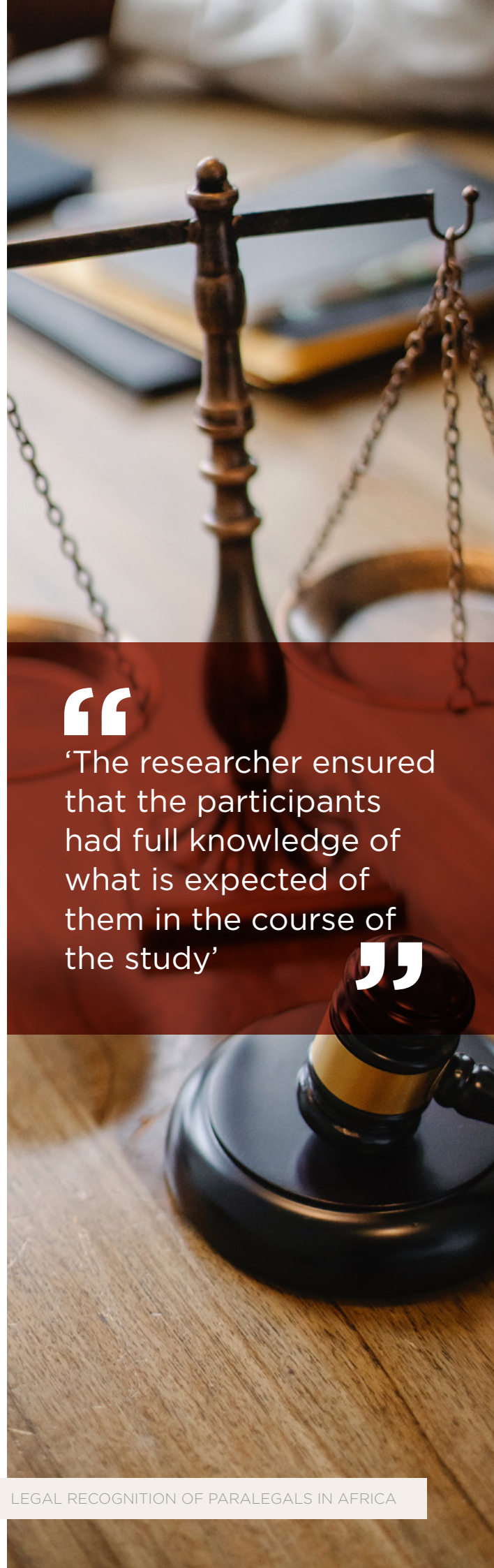
In each country, FGDs of 10-12 participants were carried out. The discussion targeted CSOs, actors in access-to-justice sectors such as legal practitioners, legal aid representatives, ministry/department of justice officials, and academics and other stakeholders. Semi-structured interviews were conducted with five key stakeholders such as bar associations, national human rights institutions and policy-makers. Audio recordings were used for efficient collection of verbatim information (see De Vos, et al., 2011). Participants were interviewed until no additional data was forthcoming (see Guest, Bunce & Johnson, 2006).

4.5 Data analysis

Data analysis refers to the process of changing of the collected data into findings through examination, categorisation, tabulation, and testing of the qualitative evidence against the initial propositions of a study (see De Vos, et al., 2011). The researcher transcribed all the individual interviews using Creswell's (2007) thematic data analysis. This technique involved taking steps that recognised, examined, and reported patterns within data (Braun & Clarke, 2006).

4.6 Ethical considerations

The researcher obtained ethical clearance from the University of the Western Cape's Humanities and Social Sciences Research Ethics Committee (see Appendix A). The researcher ensured that the participants had full knowledge of what is expected of them in the course of the study. All the participants signed a consent form (see Appendices B and C). The researcher ensured that partner organisations in the selected countries established if



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‘The researcher ensured that the participants had full knowledge of what is expected of them in the course of the study’

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there were a need for further ethical clearance from their research-monitoring bodies.

In view of the Covid-19 pandemic, the researchers were not able to visit any of the organisations providing support services to marginalised groups.

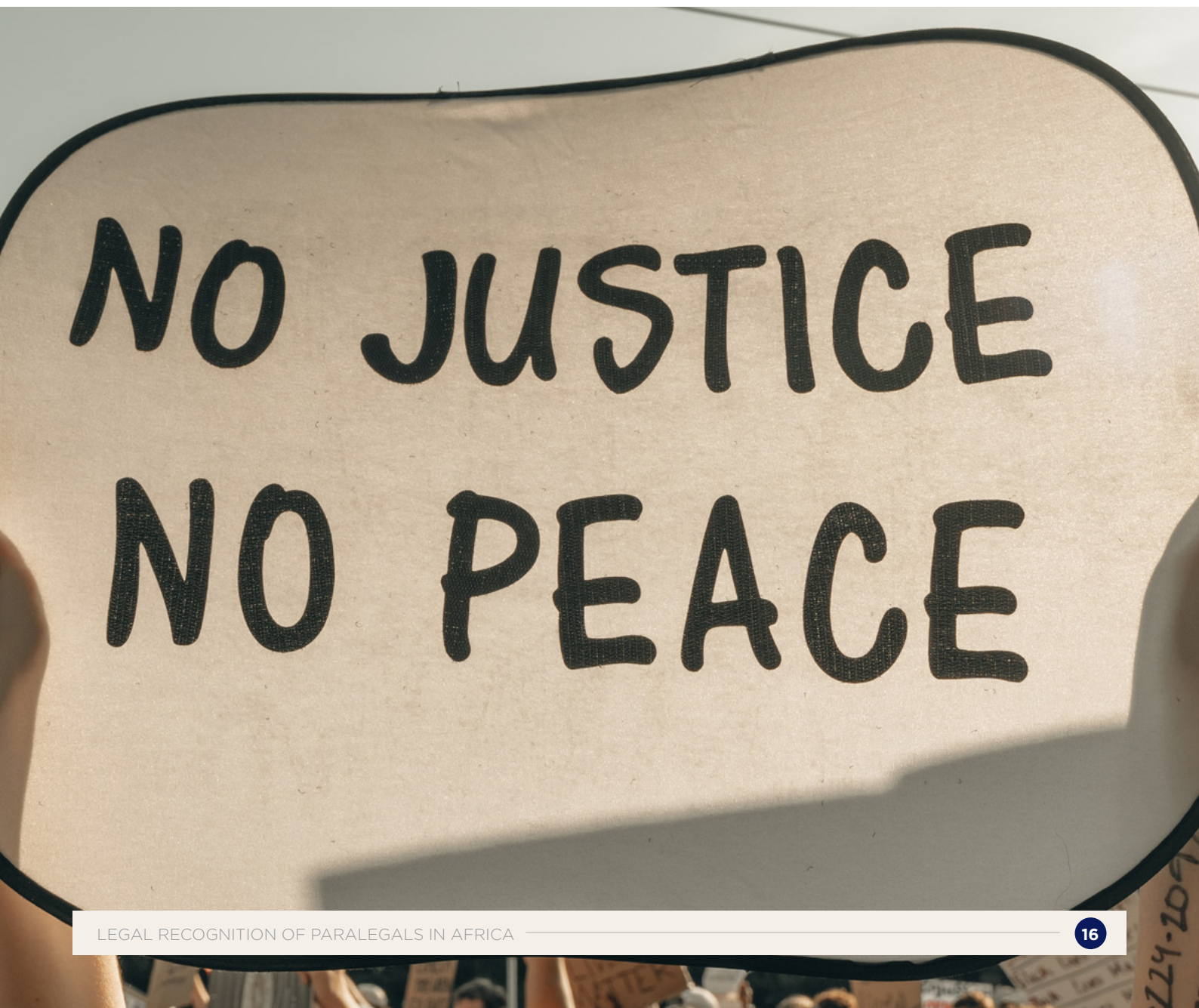
Also, the researchers were not able to generate field notes from erstwhile field research.

4.7 Limitations of the study

The primary limitation of the study was its small sample size, namely only six African countries. This was informed by the outbreak of the pandemic and the subsequent restrictions as well as the logistical reasons for the small sample size. To ensure quality, the study used purposive sampling to draw on participants who were representative of the larger pop-

ulation in terms of the delivery of paralegal services in the various countries. While the study cannot be generalised to Africa as a whole, it gives insight for further studies that can be done.

The study was limited to the question of the legal recognition of paralegals, their lessons, challenges and good practices. Other critical aspects such as the context of justice, access to justice, and legal aid in the grand scheme of things were by default not engaged. Furthermore, the study was also limited to the online modes of data collection by the principal researcher. The stakeholders in the various countries took on the role of the principal researcher and used the instruments of data collection to collect the data from the participants. As indicated earlier, the principal researcher could not travel to the various countries to collect data.



5

PRESENTATION AND DISCUSSION OF THE FINDINGS

5.1. Introduction

The participants were categorised in two groups, the FGDs and individual interviews. Concerning the FGDs, Zambia and Tanzania each had 12 participants, Mozambique had 11, Uganda ten, Nigeria 13, and Ghana ten. In total, 68 people took part in the FGDs. Concerning the individual interviews, Uganda, Mozambique, and Tanzania each presented five participants and Zambia, six. Nigeria presented five participants, and Ghana, six. This amounted to 32 participants.

5.2. Demographics of the participants

This section examines the participants according to gender, mode of data collection, data collection and gender, the designation of participants according to FDGs, individual interviews, geographical regions, and gender, occupation and experience.

5.2.1 Participants according to gender

The study in the six countries of Zambia, Tanzania, Nigeria, Ghana, Mozambique and Uganda involved one hundred (100) participants who took part in both the FGDs and the individual interviews with the stakeholders.

Name of Country	Male	Female	Total
Zambia	7	11	18
Uganda	7	8	15
Tanzania	5	12	17
Nigeria	7	11	18
Ghana	8	8	16
Mozambique	7	9	16
Total	41	59	100

Table 1: Participants according to gender

5.2.2 Participants according to mode of data collection

Participants	Country	Total
FGDs	Zambia	12
	Uganda	10
	Tanzania	12
	Nigeria	13
	Ghana	10
	Mozambique	11
Interviews	Zambia	6
	Uganda	5
	Tanzania	5
	Nigeria	5
	Ghana	6
	Mozambique	5
Total		100

Table 2: Participants according to mode of data collection

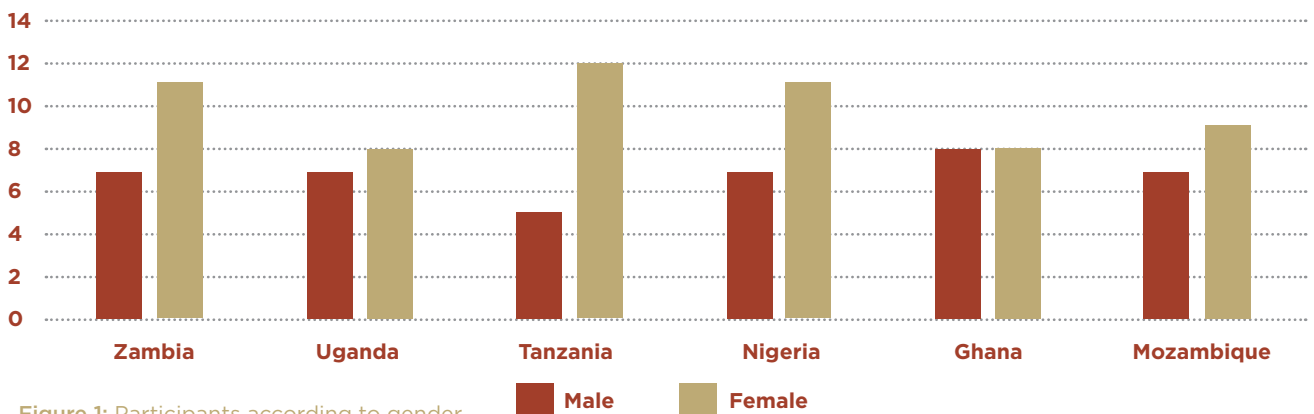


Figure 1: Participants according to gender

5.2.3 Participants according to mode of data collection and gender

The study presented a slightly higher number of women than men, with 59 women compared 41 men. Gender was balanced across the six countries. For the FGDs, Zambia, Tanzania and Mozambique each had four male participants; while Uganda had three men, Nigeria and Ghana had five. As regards women, Zambia, Nigeria and Tanzania had eight female participants, while Uganda and Mozambique had seven.

Individual interviews presented different numbers, with Uganda having four males and Zambia, Ghana and Mozambique, three. Tanzania and Nigeria had one and two males, respectively. In regard to females, Tanzania had four, Zambia, Nigeria and Ghana had three, Mozambique had two, Uganda, one.

Participants	Country	Male	Female	Total
FGDs	Zambia	4	8	12
	Uganda	3	7	10
	Tanzania	4	8	12
	Nigeria	5	8	13
	Ghana	5	5	10
	Mozambique	4	7	11
Interviews	Zambia	3	3	6
	Uganda	4	1	5
	Tanzania	1	4	5
	Nigeria	2	3	5
	Ghana	3	3	6
	Mozambique	3	2	5
Total		41	59	100

Table 3: Participants according to mode of data collection and gender

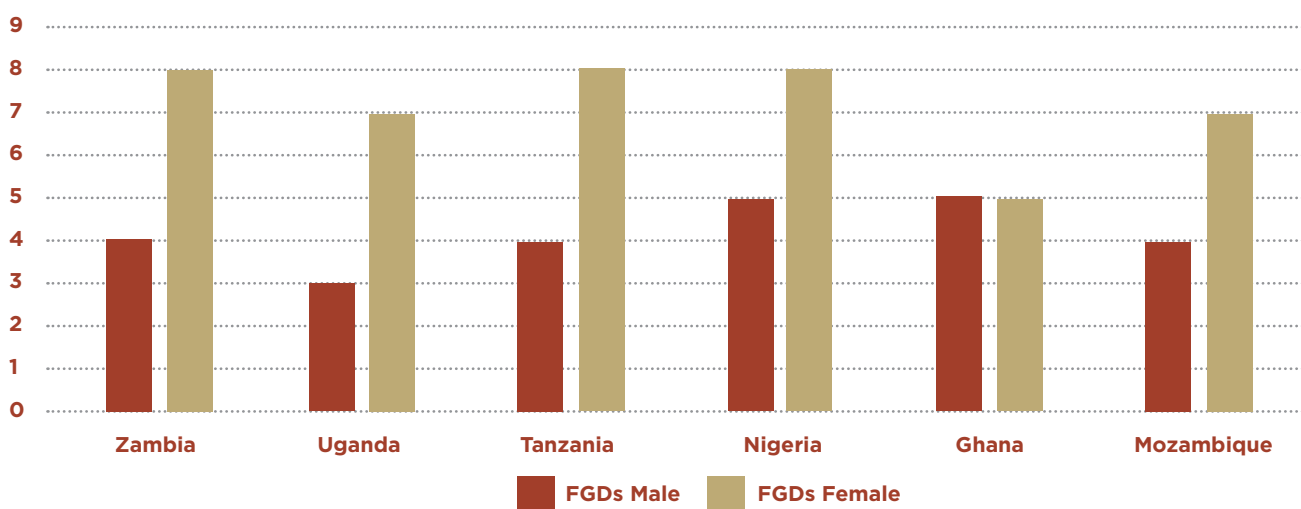


Figure 2: Participants according to FGDs

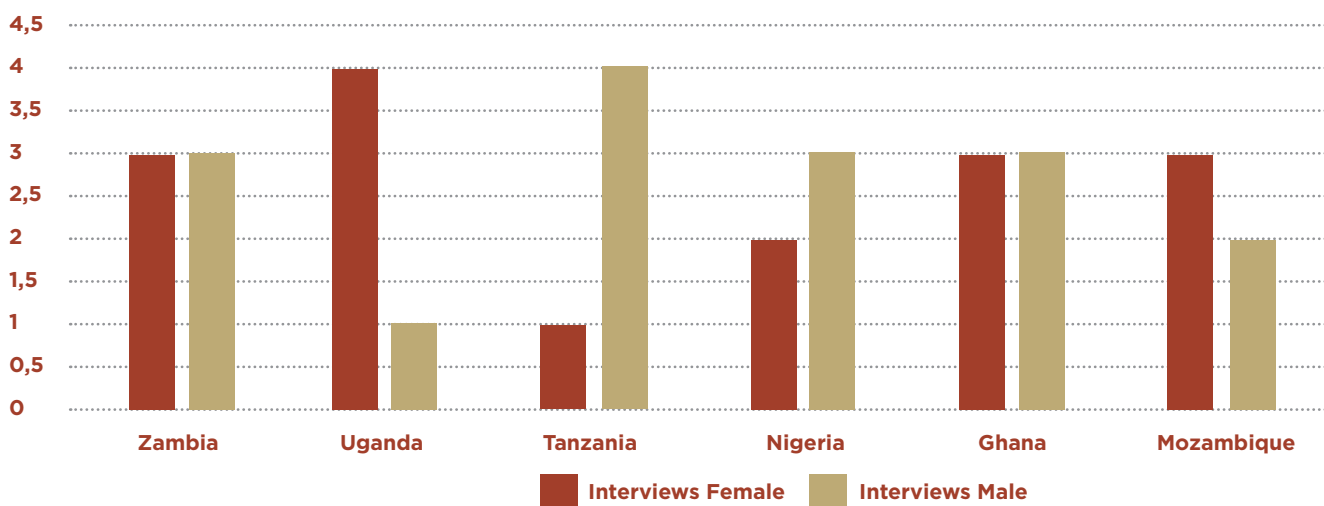


Figure 3: Participants according to stakeholder interviews

5.2.4 The FDG participants according to designation/work

The six countries presented various characteristics of participants according to the profession and experience concerning the work of paralegals. In the context of FDGs, the 12 participants from Zambia included paralegals and paralegal coordinators from 11 NGOs/CSOs. Uganda's participants for the FDGs included two paralegals, five lawyers, two officers/coordinators, and one beneficiary. The col-

lection of data from the FDGs in Tanzania included three paralegals, seven lawyers, one beneficiary and one coordinator/officer. This was an indication that participants hailed from different walks of life. Nigeria's participants were drawn from the Legal Aid Council, paralegals, the Nigeria Bar Association, and NOPRIN. The 11 participants from Mozambique were from CSOs (5) and government (1), in addition to which there three advocates and one participant from a paralegal organisation.

Country	Uganda	Tanzania	Zambia	Nigeria	Ghana	Mozambique
Paralegal/legal aid	2		12		5	1
Govt officer/coordinator	2	1		2		1
Advocate/lawyer	5	7		2		3
Beneficiary	1	1				
CSOs				4	5	6
Total	10	12	12	13	10	11

Table 4: FDG Participants according to designation or work area

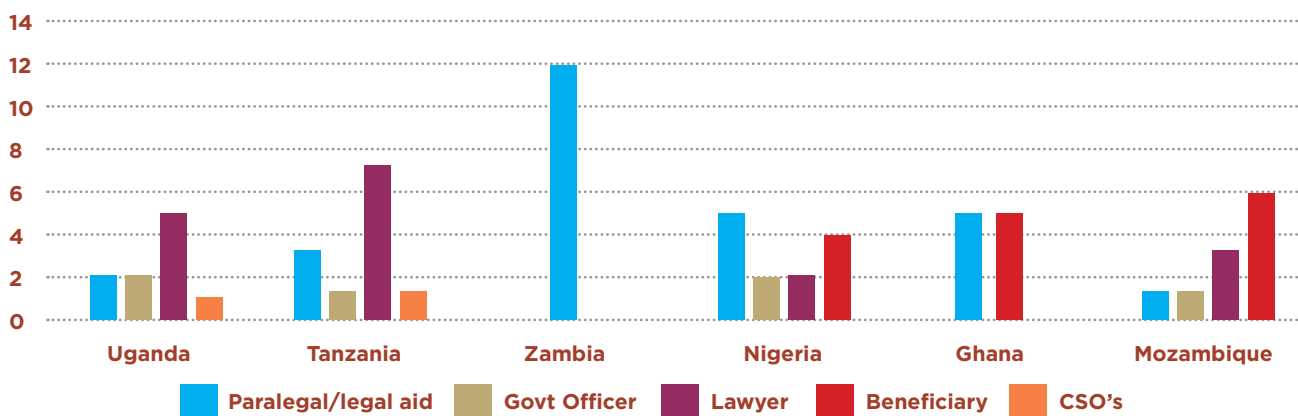


Figure 4: FDG Participants according to designation or work area

5.2.5 Interviewed participants according to designation or work area

In the case of the individual interviews, the participants were predominantly from government offices (civil service), private practice, the judiciary, parliament, NGOs/CSOs and academia.

The six stakeholder participants from Zambia included two from the civil service, one from private practice representing a bar association (the Law Association of Zambia), one from the judiciary, and two from civil society. The interviewed participants from Tanzania included two from the civil service, two from private practice, and one from Parliament.

Nigeria presented five stakeholders, each drawn respectively from the Legal Aid Council (civil service),

Law Council Coordination Office, FIDA, Nigeria Bar Association (private practice), and NOPRIN. Ghana's representatives were from the bar association, private practice and government. Mozambique's stakeholder interviews included five participants who were from, respectively, a national human rights institution (Comissão Nacional dos Direitos Humanos - CNDH), the Judicial Training Centre (Centro de Formação Jurídica e Judiciária - CFJJ), the Legal Aid Institute (Instituto do Patrocínio e Assistência Jurídica - IPAJ), the Ministry of Justice (Direcção Nacional da Administração da Justiça - DNAJ), and the Legal Aid Institute of the National Bar Association (Instituto de Acesso à Justiça da Ordem dos Advogados de Moçambique - IAJ/OAM).

Country	Uganda	Tanzania	Zambia	Nigeria	Ghana	Mozambique
Civil service	1	2	2	2	1	2
Private practice		2			1	
Bar assoc'n			1	1	1	1
Judiciary			1		1	
Training Inst.					1	1
Parliament	1	1				
Legal aid						1
Civil society	2		2	2	1	
Academia	1					
Total	5	5	6	5	6	5

Table 4: Interviewed Participants according to designation/work

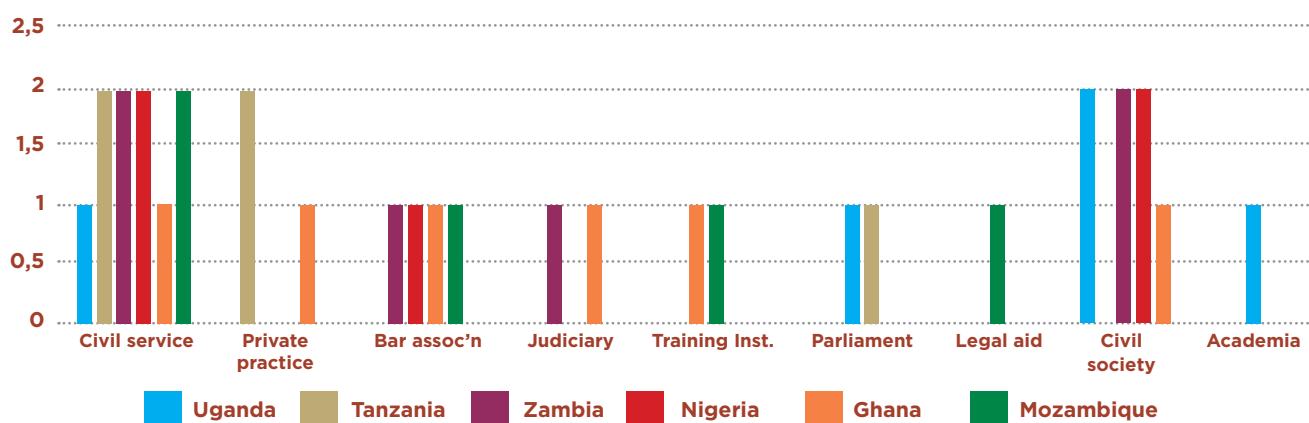


Figure 5: Interviewed participants according to designation or work area

5.2.6 Participants according to geographical region

The countries had different geographical contexts that were reflected in both the rural and urban-based areas. Zambia drew on participants from paralegal organisations in Muchinga, eastern, southern and Lusaka provinces. Tanzania drew on participants from Arusha, Dodoma and DSM (Dar es Salaam) regions. All the participants from Uganda were from the Central Region. Nigeria drew on participants from Lagos State, while Ghana engaged participants from Accra. All participants (CSOs) from Mozambique were based in Maputo, but many had interventions and initiatives across the country.

5.2.7 Participants according to gender, occupation and experience

The respondents from Zambia who took part in the FGD were all paralegals. As regards the stakeholder interviews, they had experience ranging from nine to 12 years.

Participant	Sex	Occupation	Experience
1	F	Paralegal	N/A
2	F	Paralegal	N/A
3	F	Paralegal	N/A
4	F	Paralegal	N/A
5	M	Paralegal	N/A
6	M	Paralegal	N/A
7	M	Paralegal	N/A
8	M	Paralegal	N/A
9	M	Paralegal	N/A
10	M	Paralegal	N/A
11	M	Paralegal	N/A
12	M	Paralegal	N/A
13	M	Civil service	12
14	M	Civil service	12
15	F	Judiciary	26
16	F	Civil society	15
17	M	Civil service	10
18	F	Civil society	9

Table 6: Zambia: Participants according to gender, occupation and experience

As indicated earlier, the respondents from Tanzania who took part in the FGD included paralegals, advocates, an officer and a beneficiary. As regards the stakeholder interviews, the stakeholders had experience ranging from nine to 26 years.

Participant	Sex	Occupation	Experience
1	F	Paralegal	N/A
2	F	Advocate/lawyer	N/A
3	M	Advocate/lawyer	N/A
4	F	Advocate/lawyer	N/A
5	M	Advocate/lawyer	N/A
6	F	Advocate/lawyer	N/A
7	M	Advocate/lawyer	N/A
8	F	Officer/Coordinator	N/A
9	F	Advocate/lawyer	N/A
10	M	Paralegal	N/A
11	F	Paralegal	N/A
12	F	Beneficiary	N/A
13	F	Private practice
14	F	Parliament
15	F	Civil service
16	M	Private practice
17	F	Civil service

Table 7: Tanzania: Participants according to gender, occupation and experience

The respondents from Uganda who took part in the FGD included paralegals, advocates, an officer and a beneficiary. As regards the stakeholder interviews, the stakeholders had experience ranging from 5 to 17 years.

Participant	Sex	Occupation	Experience
1	F	Paralegal	N/A
2	F	Advocate/lawyer	N/A
3	M	Advocate/lawyer	N/A
4	F	Advocate/lawyer	N/A
5	M	Advocate/lawyer	N/A
6	F	Advocate/lawyer	N/A
7	M	Advocate/lawyer	N/A
8	F	Officer/Coordinator	N/A
9	F	Advocate/lawyer	N/A
10	M	Paralegal	N/A
11	M	Civil society	10
12	M	Civil service	5
13	M	Academia	8
14	F	Civil service	5
15	F	Parliament	17

Table 8: Uganda: Participants according to gender, occupation and experience





The respondents from Nigeria who took part in the FGD were all paralegals. As regards the stakeholder interviews, they had experience ranging from nine to 12 years.

Participant	Sex	Occupation	Experience
1	F	N/A	N/A
2	F	N/A	N/A
3	F	N/A	N/A
4	F	N/A	N/A
5	F	N/A	N/A
6	F	N/A	N/A
7	F	N/A	N/A
8	F	N/A	N/A
9	M	N/A	N/A
10	M	N/A	N/A
11	M	N/A	N/A
12	M	N/A	N/A
13	M	N/A	N/A
14	M	Civil service	2
15	F	Civil service	16
16	F	Private Practice	9
17	M	Civil society	2
18	F	Private Practice	9

Table 9: Nigeria: Participants according to gender, occupation and experience

Nigeria presented five stakeholders: they hailed from the Legal Aid Council (civil service), the paralegal sector, the Nigeria Bar Association (private practice) and a CSO called NOPRIN.

The respondents from Ghana who took part in the FGD were all paralegals. As regards the stakeholder interviews, they had experience ranging from nine to 12 years.

Participant	Sex	Occupation	Experience
1	F	Paralegal	N/A
2	F	Paralegal	N/A
3	F	Paralegal	N/A
4	F	Paralegal	N/A
5	M	Paralegal	N/A
6	M	Paralegal	N/A
7	M	Paralegal	N/A
8	M	Paralegal	N/A
9	M	Paralegal	N/A
10	M	Paralegal	N/A
11	M	Paralegal	N/A
12	M	Paralegal	N/A
13	M	Civil service	12
14	M	Civil service	12
15	F	Judiciary	26
16	F	Civil society	15
17	M	Civil service	10
18	F	Civil society	9

Table 10: Ghana: Participants according to gender, occupation and experience

The FGD participants from Mozambique were from diverse backgrounds. As indicated, the 11 participants came from the following institutions: six were from CSOs, three were from the bar association, and one each were from a university legal aid clinic and

a paralegal-based organisation. For the stakeholder interviews, the participants were from the civil service, bar association, and training and legal aid institutes. As regards the stakeholder interviews, they had vast experience ranging from four to 25 years.

Participant	Sex	Occupation	Experience
1	F	Civil society	N/A
2	F	Civil society	N/A
3	F	Civil society	N/A
4	F	Civil society	N/A
5	F	Advocate	N/A
6	M	Civil society	N/A
7	F	Civil society	N/A
8	F	Advocate	N/A
9	M	Advocate	N/A
10	M	Paralegal organisation	N/A
11	F	Legal aid	N/A
12	M	Civil service	8
13	F	Bar associations	7
14	F	Civil service (Min. of Justice)	4
15	F	Legal Training Centre	17
17	F	Legal Aid Institute	25

Table 11: Mozambique: Participants according to gender, occupation and experience

5.3 Presentation and discussion

The results of the study are presented as they emerged from the analysed data of the transcribed, semi-structured interviews, observations and field-notes. Meaning was assigned to the data by the researcher's interpretation of it. The quotes guided the reader towards the results that arose from the data. This led to the identification of themes that reflect the participants' understanding of lessons, challenges, and good practices (see Creswell, 2009). The researcher integrated the findings with the available literature to substantiate the data analysis. The main themes that were identified in the study included:

- modes of dispute resolution in Africa;
- the role of CBPs in the realisation of access to justice;
- challenges facing CBPs;
- the necessity of the recognition and regulation of CBPs;
- the benefits of the recognition and regulation of CBPs; and
- recommendations for the enhancement of CBPs.

Themes	Occupation
Theme 1: Modes of dispute resolution in Africa	Sub-theme 1.1: Modes of solving disputes in society Sub-theme 1.2: Institutions for settling disputes in society
Theme 2: Role of CBPs in the realisation of access to justice	Sub-theme 2.1: Meaning of the term 'paralegal' Sub-theme 2.2: Meaning of the term 'community-based paralegal' Sub-theme 2.3: Role of 'community-based paralegals'
Theme 3: Challenges facing CBPs	
Theme 4: The necessity of the recognition and regulation of CBPs	Sub-theme 4.1: Recognition of paralegals Sub-theme 4.2: Regulation of paralegals Sub-theme 4.3: Financial support to paralegals Sub-theme 4.4: Good practices on paralegals
Theme 5: Recommendations towards the enhancement of CBPs	

Table 9: Emerging themes and sub-themes

The next section discusses the different themes with their accompanying sub-themes, supported by direct quotations from the participants. The identified themes, sub-themes and quotes from the interviews will be compared and linked to existing literature and the theory applicable to this study. .

5.3.1 Theme 1: Dispute resolution in the communities.

The first theme was informed by the need to understand contemporary ways of solving disputes. It sought to establish how the participants had various meanings attached to the solution of disputes in their communities. The participants' perceptions also informed their understanding of modes of solving disputes. Two sub-themes were identified in this theme: modes of solving disputes in societies and institutions of solving disputes in society.

“
‘The participants’ various perceptions also informed their understanding of modes of solving disputes, and the various institutions for solving disputes’
”

5.3.1.1 Sub-theme 1.1: Modes of solving disputes in communities

Analysis of the FGDs shows that the various groups gave various examples of solving disputes. The FGD from Uganda referred to these modes to include:

Alternative Dispute Resolution and Mediation. (FGD_UG)

The FGD from Zambia echoed the use of mediation, which entails calling parties to a dispute for a meeting where a paralegal or a community leader mediates. Examples of community leaders were given to include village heads or chiefs in rural areas. As for the urban areas, the community leaders included religious leaders, the police and ward development committees.

The FGD for Zambia referred to the various forms of disputes that are settled through negotiation. These include family disputes mediated by the police victim support unit and labour disputes mediated by the labour office and paralegals. The FGD took note of other forms of dispute resolution, such as reconciliation, negotiation and mediation in criminal matters.

The FGDs for Nigeria and Ghana reiterated these ideas, noting that disputes are resolved through mediation, conciliation, arbitration, negotiation or traditional litigation. This is an affirmation that, aside from formal means of resolving disputes, African countries have various informal ways of doing so.

In Mozambique, there was critical discussion of modes of solving disputes. The FGD stated that

[t]here are several ways to resolve conflicts, depending on where the case is presented in the first instance. There are situations where people turn to community leaders and in other cases they turn to community-based associations. However, there are situations in which people turn to the competent institutions where they exist. We, as an association, can act as a first instance directly and or to make the appropriate referral to the formal instances.

This position was further streamlined where the participants stated that

[p]eople prefer out-of-court settlements when dealing with civil cases, particularly those involving minors (matters of alimony). When it comes to victims of domestic violence, they provide assistance until the trial including psychological assistance.

In terms of the position of the community, the participants stated that

[o]ne of the main principles of the community is respect for its peoples and their values until they are not harmed. People often resort to community courts. In cases where there is no consensus among parties, we as an organisation help to refer cases to formal institutions – to prosecutors and formal courts. In cases of domestic violence, extra-judicial forms are not an option and we can only refer to formal institutions.

Regarding the procedure on the use of the forms of solving issues, the Mozambican FGD stated:

The conflicts that we are helping with the most are land conflicts. We empower peasants within communities, and they become advocacy agents. The first instance where the conflict is presented is the community leaders, but they do not always bring effective solutions for lack of in-depth knowledge about land law. So the lawyers and paralegals advise, as their training was specialised on land rights.

5.3.1.2 Sub-theme 1.2: Institutions for solving disputes in Society

In regard to the institutions that have the liberty to solve disputes, the FGD from Uganda reiterated that [t]his depends on the gravity of the case at hand, but these include the Local Council Courts LCI, LCII, LCIII. Others include the local government, the police and the religious institutions.

A similar position was indicated by the FGD from Nigeria, which stated that an institution will settle a dispute depending on its nature. In the wider scheme of things, these institutions are informed by the nature of the dispute; persons or institutions include community and religious leaders, heads of family settings, and the parties to the dispute. The participants added that the magistrates courts, the customary courts, the High court and then law enforcement agencies were also instructive in dispute resolutions.

The FGD from Zambia reiterated that the institutions include the police, religious institutions, counselling centres and paralegals. The counselling centres include both CSOs and government departments such the Ministry of Health and the Zambian police service. Other institutions include political parties, local authorities, formal and traditional courts, as well as CSOs.

Mozambican participants referred to formal justice institutions such as courts, the police and community courts. It was also clear that the formal courts were seen as a formal way of conflict resolution. Given that in Mozambique paralegals are not formally

recognised or institutionalised, many participants did not see them as 'institutions'. However, several respondents said that the first instance before the court would be an 'extra-judicial form of conflict resolution', as was noted in the previous sub-theme.

The FGD referred to the use of 'community courts as well as formal courts, prosecution and police'. Furthermore, it added that

[w]hen extrajudicial means are not possible and or have already been used but without resolution, the case is sent to formal instances – courts. However, many times the judge does not know the subject matter in depth or does not have the necessary knowledge of the complexities in land disputes. We would therefore like and are advocating for the creation of Land Courts and judges who would be specialised and who would deal only with these types of cases.

Mwenda (2006) notes that the use of both formal and informal justice systems, and the use of ADR methods in solving problems.

The point of departure is in the limited articulation of other forms of dispute resolution by the participants. In a larger perspective, this is in line with the existence of both formal and informal methods of conflict resolution (Muigua, 2017). In this regard, the parties have an understanding of other forms and institutions of dispute resolution.

It is evident that all the selected countries have at least a basis for solving disputes in communities. This includes formal and informal platforms. With the formal platforms being identified as part of the court system, informal platforms include traditional leaders and local courts. The challenge lies in the continued realignment of these platforms to enhance the work of CBPs.

5.3.2 Theme 2: Role of CBPs in the realisation of access to justice

The second theme was linked to the first research question regarding whether paralegals/CBPs contribute to the realisation of access to justice for vulnerable and marginalised groups. The researcher asked several questions in this regard. Responses

were unpacked in three sub-themes: the meaning of the term 'paralegal', the meaning of community paralegal, and the role of CBPs.

5.3.2.1 Sub-theme 2.1: Meaning of the term 'paralegal'

Questions about the meaning of the term 'paralegal' elicited various perspectives from the participants. The Uganda FGD referred to paralegals as

[p]ersons that have attained at least a minimum diploma in law from the Law Development Centre, or an ordinary person with some knowledge of the law.

It hastened to add that a paralegal referred to persons

[t]rained in the law from LDC [Law Development Centre] They are usually recommended by local leaders and after studying, they are bound to work for the organisation for two years.

This perspective from Uganda is based on the qualification that one obtains after finishing a particular course at the Law Development Centre.

The point of departure is in the perspective offered by the Zambian group. The Zambian FGD defined a paralegal in terms of three attributes:

Anyone with the capacity to help resolve disputes in the community.

Any person with basic knowledge in law.

A person that does not have the qualifications of a lawyer but can at least advise someone on cases involving ... for instance where to report a case of assault or harassment.

A person trained in basic law is able to mediate, reconcile and refer cases beyond his office to experts or relevant offices.

It also referred to the paralegal as

[a] person that offers basic legal advice for free to members of the community or a person who has been trained appropriately as a paralegal in line with the TEVETA guidelines and the provisions of the National Legal Aid Policy.

These definitions project a different perspective on paralegals. However, respondents fell short of indicating why these definitions exist. The Nigerian Legal Aid defines a 'paralegal' as

[a]ny person [who], although not admitted to the practice of law in Nigeria, performs substantially legal tasks under the direction and supervision of a legal practitioner.

The participants from Ghana described paralegals as persons who complement the work of lawyers:

Paralegals are persons who complement the work of lawyers for persons who cannot afford lawyers both intentionally and unintentionally. Some people who often do this work include opinion leaders, community leaders, chiefs and others. They often have relations in the community which add weight to their body.

The definitions from both Ghana and Nigeria have an element in common: the CBPs are closer to the people in the rural area than the lawyers. They provide a lot of assistance to the community. They enlighten and sensitise people about their rights and responsibilities; they assist lawyers in filing applications in court. Furthermore, they ensure that court processes are effected through proof of service of the court process. They also advise and educate the families of an accused on what to expect in court and help them understand the court system and process.

In a similar way but via different wording, Mozambican participants presented the following understanding of the term 'paralegals'. The FGD stated that the term refers to

[a] person with legal skills but not a law graduate who can support the community. He is an 'extended arm' of lawyers to support communities.

He is someone with basic training in law and conflict management. The term in Mozambique is more oriented towards the community component. They assist lawyers.

There was an indication that a paralegal

[i]s not necessarily a person trained in law, but is a first contact that helps communities and makes referrals to competent institutions ...

This was qualified by the position that a

[p]aralegal is someone who has the basics of law and legal matters, but does not need to be licensed as such, in order to assist lawyers, or communities and people seeking support, or make referrals to relevant institutions. The basic training helps them understand how to do that.

The Mozambican experience is that a paralegal is not formally trained in law but has the necessary knowledge to practice some law activities. He or she may have basic knowledge of legal matters.

The different meanings ascribed to paralegals in the six countries are an indication of the lack of consensus on the definition of the term. While there is no universally agreed definition of paralegals, certain characteristics are associated with them nonetheless.

5.3.2.2 Sub-theme 2.2: Meaning of community-based paralegals

The participants made a distinction between paralegals and CBPs. The FGD from Zambia referred to CBPs as persons who are no different from paralegals, the difference being in the fact that the CBPs may be trained, however short the period. Participants said that CBPs are

[d]eliberately put in communities to serve as an entry-point for those in need of legal aid. They are usually placed to facilitate sensitisation meetings. Community-based paralegals are there to mobilise the masses on their rights. Their job is mainly to refer clients to people that have been properly trained to handle complex legal issues. Community-based paralegals may have little or no knowledge of the law compared to other paralegals that have undergone extensive training. Community paralegals are based in communities, while other paralegals are placed in places like prisons, police stations, and some work at law firms.



This position is that both groups offer some kind of legal aid, with the other paralegals having slightly more advanced training than CBPs. It attests to the position stated by FGD from Uganda that paralegals need to have some academic qualification.

The FGD from Uganda stated that CBPs are [t]rained personalities in communities in specific areas such as criminal procedure, contracts law among others for sensitisation purposes. They must not necessarily attain the diploma in law from the Law Development Center.

This is in tandem with the need to have some form of deliberate or specific training, regardless of the extent of the training. What is more, the FGD alluded to a law which states that the details are provided for

[u]nder the Advocates (Legal Aid to Indigent Persons) Regulations, 2007 [on] who qualifies to be a paralegal. It defines 'paralegal' as a person who holds a qualification in law, other than a degree in law, recognised by the Law Council.

This is an indication that the FDGs offer some kind of legal aid, with some form of training compared to the CBPs. They attest to the position stated by FGD from Uganda.

A similar position is related to by the FGD concerning the NLAP thus:

A paralegal is a paralegal regardless of the community they are operating from. The level of training is what distinguishes one paralegal officer from the other. In the NLAP, a person who can be referred to as a community-based paralegal is one that has received a four-week training in paralegal work and is said to be a level three (3), paralegals. Then there is level two (2) with a minimum of six months training and level one (1) with a minimum of 12 months training.

As such, while a paralegal need not have training, the community paralegal is expected to undergo at least six months' training.

Various definitions underscore the meaning of CBPs. Some scholars refer to them as non-lawyers who use their knowledge of the law to provide legal advice and assistance to the community in which they live (Rinaldi (2011)). This definition qualifies a CBP, whose qualities are informed by NGO training, and indicates that the area of influence has to be a community. It fails, however, to offer insights as to whether a person who is not trained by NGOs or who does not offer advice in his community is not a paralegal. To this end, other definitions are key to arriving at a normative and working definition for this report.

A participant from Nigeria distinguished the foregoing position and stated:

The way they work, the line of difference is so thin, meaning, paralegals work mostly with lawyers or the law environment and because of that they have come to acquire some form of knowledge, although not formally, and because of their knowledge, they are able help some communities. In some communities where there are not much lawyers, people even see them as lawyers; paralegals could advise what are the fundamental human rights. When any part of the fundamental human rights is being breached, they know because there is a form of knowledge - that is why they are able offer advice, guidance; even when a lawyer has to be brought in, they are able to direct pro bono lawyers due their funding. The line is clear, what they do in the environment, they are able to do it in the community.

In contrast with CBPs, another participant stated:

Community-based paralegals, as the name implies, means that they are in the community, and we have various communities and that means they are familiar with the norms and customs of that community; and with their background of legal knowledge, this norm is violating the constitutional right of a person. What they do is basically they mobilise, sensitise people in the community to educate them on their rights (FGD, Nigeria).

In Mozambique, the FGD had different perspectives on the meaning of CBPs. These views are expressed below:

Community paralegals do not have training in law but receive minimal or short-term training in legal matters.

Another indicated:

I understand that there is no difference. A CBP within the Human Rights League would assist the lawyer to refer the cases to formal instances.

Another stated:

I am in a little bit of doubt to compare a paralegal with the community activist and paralegal; however, to my understanding, the community paralegal does not need training in law as such, but must be a person able to know how to follow up and address the problems that occur at the level of communities. I agree with other participants that we have problems in the use of terms and not everyone agrees on the same definitions. This should be discussed and agreed upon.

Another referred to CBPs as 'community courts' and stated:

Community courts can be recognised as community paralegals because within community courts people in the first instance receive cases and then refer them to formal courts.

It was apparent that this participant conflated community courts with community paralegals. This was rectified when another participant stated:

In Mozambique, the term 'paralegal' itself is more geared towards working with communities, that is, when we say 'paralegals', we mean 'community paralegals'.

This is in line with the findings across all the countries about the meaning of CBPs. It also speaks to the literature, which shows that the term has various definitions. As earlier indicated, the DIHR defines a

paralegal as a person without a degree but possessing the skills and training to provide some legal services to individuals and groups in need of legal aid (DIHR, 2011). A paralegal may be a volunteer or be paid, and may be working as an individual or under the state or a non-state actor.

Various definitions suggest that the term 'paralegals' is synonymous with 'community-based paralegals' or 'community paralegals', that is, individuals who do not have a law degree but have skills and knowledge of the law that enables them to provide some form of legal aid and assistance to members of a community that they are part of or know well, under the supervision of a legal practitioner (De-reymaeker, 2016). This speaks to the paralegal's attachment to the community, the activities he or she carries out in terms of legal aid and assistance, and the existence of supervision. This definition does create a distinction between paralegals and CBPs.

The IPMA defines a paralegal as an individual who is qualified by education, training or work experience; employed or retained by a lawyer, law office, corporation, governmental agency or other entity; and performs specifically delegated substantive legal work for which a lawyer is responsible (IPMA, 2011). This is a wide definition that lays down the requirements that qualify the paralegal in terms of experience, education, the nature of the organisation and the nature of duties. It is added that this definition does not speak to the differences between a paralegal and a CBP.

5.3.2.3 Sub-theme 2.3: The role of community-based paralegals

The various groups projected an understanding of the role of paralegals.

The FGD from Uganda states that a paralegal

(a)cts a first aider as far as justice and law is concerned, follows up files for instance at police stations, courts among others, [d]o linkages to cases that include connecting accused persons to lawyers (FGD UG).

In other roles, he or she

[t]rains suspects and inmates, [o]ffers counselling and psychosocial support to persons in conflict with the law, [a]ssists in plea bargaining services by educating the suspects/accused on the options available as well as working hand in hand with the State Attorneys handling the matter [and] [s]ensitisation of communities (FGD UG).

The FGD from Zambia held a similar position, saying that paralegals

[p]rovide legal aid services that range from legal education and awareness in the communities to advise, and mediation in individual cases. [They] are important in the sense that they refer clients to the right institutions, thereby ensuring that people get help in good time. [They] are a link between the community and appropriate legal or human rights institutions and are often in close contact with the communities they serve. Community paralegals also play an important role in community mobilisation (FGD ZM).

The FGD in Zambia reiterated the critical influence that CBPs play at the community level:

In villages, community paralegals form part of the village committees and serve as advisers to traditional leadership in terms of human rights and legal issues at the community level (FGD ZM).

Stakeholders from Uganda added that paralegals

[a]ct as the go-between in these communities as well, inevitably they are solicitors i.e. they are the first point of contact for the people in these communities (UG 1).

In addition, they act

[a]s a referral pathway for justice. This referral pathway assists communities to know where they can obtain a remedy. Their role can also be said to be advisory. Many of them also act as, and they are our

linkages to the different JLOS (Justice Law and Order Sector) partners like police. So they play a very vital role even though they never go into litigation, court representation and the like as they are not advocates (UG 2).

Furthermore, paralegals are

[c]ritical to decide on the best course of action on a case by case basis since they have richer background knowledge on the matters at hand (UG 3).

They also

[c]onnect those persons in need of lawyers to advocates. They come in to help and give directions on legal processes of court in general to accused persons in need of legal counsel but have no access to advocates to support them (UG 4).

Their role is further seen in the fact that

[t]hey engage with the public, where the law plays out and get to understand the public in that regard and sieve out the substantial issues from the irrelevant ones and are able then to advise the communities on what the law says about their substantial issues, how to find help, from whom to find help and where to find help. So they bridge the community with the mainstream legal structures (UG 5).

The stakeholder participants from Zambia stated that CBPs

[p]rovide basic legal advice, mediate over cases and provide legal empowerment where the community receive legal education and information, interviewing clients, linking communities to both formal and informal justice institutions [and] [s]implifying legal and human rights (ZM 1).

They also provide

[m]ediation and assist clients to develop negotiations skills, [and as] [a]dvisers to traditional leaders on human rights and some legal issues. (ZM 2).



The FGD from Nigeria stated:

With our training as paralegal, we are meant to understand that the role of a paralegal is very essential. The lawyers are not always there because they have to go for more greener pastures in town, but the paralegals in the villages, it is easier for the villagers to relate with the paralegals than even the lawyers and every aspect of a human life have legal angle to it because there is no way we will interact with one another in a particular sector and not infringe either consciously or unconsciously on people's right and when this happens instead of generating into a sort of outburst or any form of civil disturbance, a community-based paralegal can interfere may be through mediation or educating them on their legal right. The role of paralegal is very essential especially in rural environments.

Related to the above, the participants from Ghana stated that paralegals play an important:

It is a very important role they [CBPs] play because the legal system and the private sector have gaps. We have not institutionalised justice very well, especially in the rural areas. Those gaps would require some people with basic skills to assist the ordinary person to be able to deal with ... issues of access to justice. They play a key role in an underfunded community (PRT1GHN).

This is an indication that paralegals play a crucial role in bridging the gap of access to justice, which they do by giving free legal advice.

As regards Mozambique, stakeholder interviews referred mostly to paralegals' intermediary role of providing a link between the communities and justice institutions (both formal and informal). Most FGD participants stated that paralegals assist communities and support people in resolving their disputes. Other responses pointed out their advisory role in educating communities and connecting people to relevant institutions. What was highlighted in both the interviews and FGD were problems arising from terminology that does not suit the Mozambican context and which impedes proper identification of the role of paralegals.

The FGDs stated that the paralegals

[a]ssist in cases where the injured party is unable to defend himself or doesn't have the knowledge to resort to their own institutions to resolve the disputes (FGD MZ).

Concerning terminology, the FGD indicated that

[o]nce we import a term from abroad, it is difficult to define it, because here the paralegals have training (in Mozambique we have jurists, technicians, trainee lawyers, etc., they are trained in law, they just don't have a licence to practice law, and represent cases in courts). When we say the term 'paralegal', what are we referring to, considering that we already have many professional designations for people who do the same thing? The term in Brazil does not mean what the 'paralegal' in Mozambique supposedly means. Perhaps the question should be how to define those who work for the community because the term is confusing to me (FGD MZ).

While this did not point to a key role, it showed that a subjective engagement that speaks to the role that persons in similar positions occupy should be used rather than an objective 'one-size-fits-it-all' approach that was unrealistic.

A similar position was indicated when a participant said that

[a] paralegal assists the lawyer in his legal duties. We have other similar figures and what do we do with them? In Mozambique, paralegals perform the same functions as trainee lawyers, legal technicians. If these are the same as 'paralegal', there will be a big clash with the Mozambican Bar Association and the IPAJ (MZ FGD).

This corroborated the position in Uganda, where there were established schools to train paralegals to work in law firms and in courts as clerks.

There was a general understanding of the role of paralegals. In this regard, responses as to their role was clear. The FGDs indicated that

[i]n Mozambique, paralegals have existed for a long time. They are trained to help communities. Its main functions are to diagnose conflicts, identify disputes, assist in resolution and legal advice and citizenship education, dissemination of laws etc. (FGD MZ).

Other FGD participants stated:

Paralegals are helping to strengthen access to justice and help track conflicts that courts do not have access to (FGD MZ).

Paralegals have the role of providing support in solving legal problems. The main functions are to track conflicts and provide initial advice to communities regarding their problems (FGD MZ).

A paralegal has the function of educating the community and acts as an intermediary, as he forwards cases to formal institutions for the resolution of disputes. We must have an open approach to the term 'paralegal'. The other terms are more elitist, while a paralegal is closer to the community, speaks the same language as the community and is close to it, while other figures that we mentioned trainee lawyers, technicians etc. are not (FGD MZ).

As such, the CBPs offer support in terms of legal aid, assistance, information and representation for the purpose helping clients make informed decisions on the mode of dispute resolution. The conflation appears from the perspective from Uganda that compares CBPs to solicitors (in the United Kingdom) as far as they do not go to Court and Mozambique where the understanding of paralegals is varied.

In conclusion, there are the different understandings across the selected countries. There are different understandings across the selected countries; as such, a concerted effort that realigns this understanding to the desired position is important. This, unfortunately, informs the subsequent understanding of CBPs. This points to the work that has to be done by the stakeholders in disseminating the meaning of paralegals and CBPs.

5.3.3 Theme 3: Challenges of community-based paralegals

Other challenges relate to a lack of continuity, especially where the projects that paralegals are serving come to an end. The lack of recognition and/or appropriate regulatory framework may void any form of identification of the CBPs as a critical pillar in access to justice. This often concretises in fear of going to national institutions such as the police due to concerns about possible intimidation and harassment.

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‘Other challenges relate to a lack of continuity, especially where the projects that paralegals are serving come to an end’

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The FGD from Nigeria reported:

Acceptability where lawyers do not see them as a rival, that is why sometimes lawyers must be trained, don't see it as if they want to take your job, I see that a lot. They need to be enlightened (FGD Nigeria).

This was reiterated by the FGD from Zambia, which stated that the main challenges included the

[L]ack of acceptance and recognition in society because of institutions where they are coming from is one of the challenges faced by paralegals (FGD ZM).

It added that

[t]he fact that paralegals are employed only by CSOs makes it hard at times for them to be accepted in communities. Since most CBPs work in the same communities they live in, some community members become too familiar and may not take them seriously.

Mozambique expressed a similar view, saying that

challenges arise from the lack of information about the services of CBPs. In this regard, one stakeholder said that the primary challenge was that not only society at large but public institutions have limited knowledge of paralegals and their work.

The response highlighted that only people who could see or feel a direct benefit of their work recognise paralegals. This was evident in the high dispersion of paralegals across the entire country. The participant stated:

The other challenge is a dispersion of paralegals. They work across the country on different issues, but they are not mapped and there is no national platform to defend their rights (POOIMZ).

It was also noted that the challenges arise from the outset in the training that paralegals receive. There was resistance from some communities. The participants stated that

[p]aralegals with no approval of the community face a lot of resistance in their work and are not recognised by communities that they are to serve. But where the community has been involved in the selection of persons to be trained as paralegals, it is easier to push them (paralegals) back into those communities (FGD ZM).

This was exacerbated by instances where the paralegals worked on their own. A participant from Mozambique stated:

However, there are also more practical challenges, for example the particular vulnerabilities of paralegals who work independently and do not have support from a civil society organisation. Their work at the community level is more challenging. They have nowhere to turn to ask for advice or help or be protected in case their rights are violated (FGD MZ).

Some participants stated that there were lessons learnt which suggested that community leaders should be involved in the selection of candidates to be paralegals:

The lesson learnt on this is that there is a need for organisations running paralegal programs to involve community leaders to select paralegal candidates to ensure that paralegals are accepted and respected by the community (FGD ZM).



It was also noted that traditional leaders view community paralegals as competitors and that this serves as a barrier to paralegal work. This is because the settling of disputes in society is a source of monetary gain for traditional leaders – a service that paralegals provide for free. In a surprising twist, the legal fraternity also saw paralegals as competition that took on their work. It ought to be noted that despite this position, the legal fraternity continues to recognise the crucial role of the CBPs. One of the stakeholders stated that

[t]hey help lessen decongestion of cases and suspects in police cells, and they can be greatly supported through mentoring of paralegals (UG P2).

In most areas, paralegals do not have enough resources. The FGD from Zambia stated that the lack of resources affects the provision of services. Most CBP organisations find a way of raising funds. The FGD stated:

Most paralegal organisations raise their funds through proposal writing to donor agencies, though some engage in income-generating activities such as social enterprises (FGD ZM).

As a result of the lack of resources,

[c]ommunication and [paralegals] are often overwhelmed by clients needing help to get from one place to another. Some clients may not know where certain offices are situated and may need to be accompanied by paralegals and the clients expect the paralegals to provide transport. Most paralegals have to cover long distances on foot just to attend to clients' needs or follow up cases. This is particularly true for those that operate in rural settings where villages are far apart (FGD ZM).

This is evident in the mode of contracts of work for the paralegals. The FGD added that

[t]here are very few institutions or organisation that have employed community-based paralegals on a contract or full-time basis and retention of the same is not easy (FGD ZM).

The problem of funding was reiterated by the FGD from Uganda, which added that

[w]hen projects end, their work remains hanging ... some donors take the services back at the end of the projects (FGD UG).

Most of the funding is from private individuals and organisations, and there is no indication of the same from the government. Another problem is the lack of communication due to the lack of network coverage in some rural areas. The FGD from Zambia stated that

[m]ost community paralegal based in rural areas ride on traditional establishments for logistics and other work needs. Almost all community paralegals work without pay as they are volunteers (FGD ZM).

This continues to affect the work of the CBPs. It should also be noted that these challenges are not homogeneous and that no single solution offers panacea. The upside to the various conversations across the spectrum shows that most countries adopted various solutions to the challenges such as crafting forms of recognition and regulation by private entities.

5.3.4 Theme 4: The necessity of the recognition and regulation of CBPs

This ignited various responses that spoke to two sub-themes: recognition of paralegals, and regulation of paralegals.

5.3.4.1 Recognition of paralegals

The data collection identified the recognition and the lack thereof of across the selected countries. The FGD from Uganda identified that the lack of recognition and regulation is the source of all other problems. They stated:

Not being recognised in society as people who contribute to the justice system ... the lack of an existing law or regulations providing for their services [and the lack of]... regulations for CBPs, [and a] curriculum for paralegals (UG FGD).

Besides, the FGD from Uganda added that

[n]o form of regulations available as they are all just volunteers, so it is self-regulatory in most cases. In some organisations, there's a criterion in place that is followed and this depends on a person's reputation in the community as well as how the person is viewed (UG FGD).

The stakeholders alluded to lack of recognition as a critical dent in the work of CBPs in Uganda. It should be noted, however, that there was a need for the recognition to offer a sense of direction as to what paralegals need to do and what aspects inform their recognition under the law. A stakeholder explained the extent of the problem:

From the political point of view, I have not found any policies that recognise them [paralegals] as such, but I know they are absolved in the government structures so the government of Uganda uses them because they are the prosecutors in some courts (Grade 2), clerks to Judicial officers, clerks to State attorneys in the DPP and Attorney General Offices, they run libraries in many parastatals linked to government among others. They also do community liaison work in NGOs; they help a lot with organisations that deal with communities to empower them in terms of the law. Those are primarily the first pool of people they call upon to do those community outreaches and I am sure where the Government has got like in the probation offices they use them in that regard because they have that bias with the communities. But no policy document identifies them and recognises them as a unique cadre (UG P5).

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‘The data collection identified the recognition and the lack thereof of across the selected countries’

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Similar sentiments were made by a stakeholder in East Africa:

These were not government projects but civil society projects. One was by Plan Uganda and the other one by Foundation for Human rights initiative (FHRI) (UG P5).

On a positive note, it was stated that the National Legal Aid Bill was before Parliament, though it did not cover aspects of CBPs.

The matter of recognition was different in other countries such as Zambia and Tanzania. In Zambia, the FGDs indicated that the recognition was under the NLAP adopted in 2018. The stakeholder interviews indicated that

[p]aralegals have minimal recognition in Zambia as they discharge their functions through recognised civil society organisations (ZM P1).

Other stakeholders said the NLAP is in place and recognises paralegals at all levels. Likewise, some of the organisations informally recognised paralegals. Currently, pieces of training of paralegals are being regulated by TEVETA in the Ministry of Higher Education. This presents a problem as it requires that the recognition sets various rules and conditions that paralegals should fulfil. A look at the policy from Zambia indicates that paralegals have to raise fees to study regardless of the indication of experience on their part. This creates a dilemma, as the lack of recognition enables paralegals to flourish through the services they offer to the community, on the one hand, yet stifles services due to the government imposing a precondition requiring fees to be raised for studies. If the issue of recognition affects the operation of CBPs, then there is a need to revisit the mode of the recognition. In the interim, it is proposed that the wording of other laws that provide for recognition be reviewed.

The FGDs from Tanzania indicated that the country has legislation that recognises paralegals. The participants stated that because of this recognition, the paralegals who satisfied the requirements would be paid by the government. The FGDs and stakeholder interviews in Tanzania revealed that there is recognition of paralegals in the Legal Aid Act. The recognition requires that paralegals conduct training as determined by the Legal Aid Board of Tanzania. To this end, paralegals have to meet minimum standards before they are recognised under the law. An attempt to obtain recognition by CBPs who have no formal or elementary education makes the provision of their services an insurmountable task.

Participants from Nigeria stated that

[w]ith our training as paralegal, we are meant to understand that the role of paralegal is very essential, the lawyers are not always there because they have to go for more greener pastures in town but the paralegals are in the villages, it is easier for the villagers to relate with the paralegals than even the lawyers and every aspect of a human life have legal angle to it because there is no way we will interact with one another in a particular sector and not infringe either consciously or unconsciously on people's right and when this happens instead of generating into a sort of outburst or any form of civil disturbance, a community based paralegal can interfere may be through mediation or educating them on their legal right. The role of paralegal is very essential especially in a rural environment (FGD, Nigeria).

This position, as reiterated in other countries such as Uganda, creates a dilemma in that while countries without recognition strive for it while those with it have challenges in statutory recognition.

5.3.4.2 Regulation of paralegals

The participants were able to create a distinction between the recognition and regulation of paralegals. Regulations were referred to as the systems in place that pointed to the qualifications (both formal and informal) of paralegals. The FGD from Nigeria stated that

[w]hen you talk of regulation, you talk of enabling law ... some institutions ... train paralegals but am not sure we have certified a lot of them; that is why the legal aid council is going out to meet with institutions that will train them, expand also the scope of the courses, and after training them, they have to get certification and the certificate they will get from the institution is not enough. The certificate from the Legal Aid Council must be added to it. So for now, based on what we are still working on, I wouldn't say we have started regulating them, but it is still in process (FGD Nigeria).

They added that

[t]here is no regulation except for the people they are working for, like if paralegals are working with NGOs they just give them some guidelines to follow, that's how they are operating for now (FGD Nigeria).

The focus group participants and the interview respondents feel the need to regulate paralegals. It was indicated clearly that paralegals are yet to be formally regulated in Nigeria, in addition to the institutional regulation by umbrella organisations. It was also clear that the Legal Aid Council of Nigeria is engaging with tertiary institutions to set up a system for the professional training, certification and regulation of paralegals in Nigeria. One of the participants drew attention to section 23 of the Legal Aid Act of 2011, which provides for the licencing of the provision of paralegal aid:

(3) The Governing Board may make regulations generally for the better carrying on the purpose of this Act and without prejudice to the generality of the foregoing, such regulations may make provision for -

(4) The Council shall make regulations for the involvement of Para-Legal aid provision in accordance with the provisions of this Act.

In addition, section 17(3) states that the Council may grant licenses to persons who have undergone a prescribed course in paralegal services to render such services in appropriate situations.

The FGD from Uganda referred to regulations by the ULS and the various organisations. Concerning the ULS, an individual participant stated:

Yes, we do have a curriculum and we intend to undertake another training of paralegals in early December 2020, so there is a curriculum that we have developed (UG P 2).

Furthermore, some stakeholders preferred to look at the use of goodwill by the justice, law and order stakeholders who knew the organisations that had trained the paralegals, and as such gave them respect in that regard. As to the existence of regulation, a participant said:

No. What usually happens is they are treated with goodwill. When you look at the rapport that we have built over the years with the other stakeholders, when we train the paralegals these stakeholders participate as well in training the paralegals, so we have more of a collaborative sort of arrangement wherein X or Y is identified as a CBP and they have the basics and they have the contacts of saying the Police Station OC, the LC Chairperson et al. So ours is more of collaborative since we have offices that are in almost all the regions in this country, we have the legal officers who are in those offices to monitor their work. We also do periodic assessments and monitoring of their work as well (UG P2).

In Zambia, their rules of regulation under the NLAP stated:

Regulation [is] through the NLAP through paralegal accreditation by TEVETA, supervision of paralegals by legal assistants and legal practitioners (FGD ZM).

In addition, participants said that

[t]he National Legal Aid Policy has introduced the regulation of paralegals through the Legal Aid Board. All paralegals will now be required to train under the approved curriculum and will be required to be licensed for them to practice as paralegals. Paralegals will also be regulated by guidelines which are in the process of being developed by the Ministry of Justice and the regulator will be the Legal Aid Board, which is a statutory body. Besides, the policy has introduced the aspect of supervision. As such, all paralegals will be required to be supervised by civil society organisations or other accredited institutions (FGD ZM).

This has also been evident in the adoption of qualifications for paralegals. The participants added:

For level three paralegals, for instance, should have a minimum qualification of Grade 9 school certificate or equivalent to be trained for four weeks. Before the NLAP, any person who showed the zeal to work in the community was trained as a paralegal and provided a service (FGD ZM).

Concerning the use of an employment criteria in regulating paralegals, the participants stated:

The employment criteria for one to be employed as a community-based paralegal is that one should have a minimum of a level three paralegal qualification. Entities employing paralegals may also look at one's experience in community/paralegal work and attributes, such as commitment to work and honesty. Before the coming of the NLAP, CSOs employing paralegals would identify individuals from various communities based on their availability and competency and train them to become paralegals.

As such, the regulation is in the use of the national policy, the education qualifications and employment criteria.

In Mozambique, the majority of answers indicated that there were no specific regulations, as CSOs work with paralegals, or train them, but do not employ them directly. Only one organisation gave spe-

cifics about their internal regulation, stating that they specifically define the area of work for each paralegal. In the majority of organisations, there were even no minimum qualification requirements. Only three organisations indicated high school degree as a requirement.

5.3.4.3 Financial support to paralegals

Various organisations reiterated the challenge of the lack of financial resources. According to PAN,

[f]inding finances for paralegal work is a big challenge for community-based paralegals including those based in urban areas as the majority of them are volunteers. They do not have enough resources for communication and are often overwhelmed by clients needing help to get from one place to another. Some clients may not know where certain offices are situated and may need to be accompanied by paralegals and the clients expect the paralegals to provide transport. Most paralegals have to cover long distances on foot just to attend to clients' needs or follow up cases (FGD ZM).

In Mozambique, stakeholder participants indicated that

[t]he major challenge is related to logistics in conducting the work. They need transport, water, food and educational material. And the lack of training is also a challenge faced by paralegals (PO01MZ).

As a consequence of the lack of finances, the operation of the work of the paralegals is greatly affected. It is stated that

[t]his is particularly true for those that operate in rural settings where villages are far apart. Furthermore, communicating via phone is a challenge because of bad networks in some rural areas. Most community paralegals based in rural areas ride on traditional establishments for logistics and other work needs. Almost all community paralegals work without pay as they are volunteers. There are very few institutions or organisations that have employed community-based paralegals on a contract or full-time basis and retention of the same is not easy (FGD ZM).

This situation is not unique to Zambia. Other countries have also alluded to it as well. In Uganda, the FGD stated that paralegals face challenges as far as

[f]acilitation from Office sometimes is not provided...(FGD UG).

This is aggravated when the provision of financing is affected at the closure of projects. In addition,

[s]ome donors take the services back at the end of the projects ... [FGD UG].

5.3.4.4 Good practices on paralegals

Various good practices can be emulated pending the national recognition of paralegals. Concerning the recognition of paralegals, it was evident that NGOs and other organisations provided some form of recognition that presented some criterion. This is evident across all the six countries.

Regulation was also evident in the mode of adopting rules for the qualification and the recognition of paralegals. A participant from Uganda indicated that

[w]e undertook a needs assessment of the paralegals to identify the areas where they needed capacity building. The components of this curriculum were trying to teach them in Alternative Dispute Resolution (ADR) and looking at all the mechanisms thereunder. Of course, ours is special since we are trying to train them in the extractives industry and to give them a feel of what they should expect in the extractives industry and some of the components include looking at the contracts that the government signs with the mining companies, looking at the best practices from countries like Canada that are already extracting oil and what they can borrow from that to help them advocate for better forum for our people, looking at training them on revenue etc. (UG P2).

In other countries, such as Zambia, it was the adoption of a national policy on legal aid that was used to inform the recognition and regulation of CBPs.



It is worth noting that some countries have moved to the recognition and regulation of CBPs. While this is welcome, these developments seem to stifle the work of CBPs due to the need for experience, expertise and qualifications that most current paralegals do not have even though they are otherwise doing a satisfactory job. This problem is exacerbated by the lack of financial support from the government that seeks to recognise and regulate paralegals.

5.3.5 Theme 5: Recommendations for the enhancement of community-based paralegals

The participants made several recommendations in regard to the successful development and use of CBPs in their countries.

Concerning the improvement of the role of paralegals, the participants argued for the adoption of a Legal Aid Act. They argued that this would solve the issue of identity and the provision of the roles of the paralegals. Other steps that were proposed include the need to

[I]obby for paralegals' legislation and funding, facilitate their work for example in modes of transport, airtime and meals in the field among other needs (FGD UG).

The FGD participants argued that Uganda had to play a critical role regarding the improvement of paralegals by

[s]upporting trainings of paralegals, pushing for laws and regulations, involving paralegals in the process of enacting the laws and regulations, [and] amending existing laws that pose a threat to paralegal work (FGD UG).

Participants from Uganda proposed that the recognition and regulation of paralegals is important if legislation allows for independence of the work of CBPs. They added that the government could employ paralegals in its departments to reduce the cost of private individuals and organisations.

In Zambia, participants applauded the government for adopting the NLAP. They stated that the govern-

ment had to continue with its various programmes. It was argued that training had to be increased to ensure that training for paralegals extended to the judiciary, the Zambian police service and other civil services.

In Nigeria, it was reiterated that the provision of financial support was important for the proper functioning of the CBPs sector. The financial support had to go towards the training, small stipends and the placement and financial support in mainstream areas of the economy. The recognition of CBPs should not be an expensive venture that defeats the purpose of their existence in the community. Rather, the recognition has to speak to their lived realities in terms of lack of high levels of education and lack of funding to undergo the process of recognition. This will go a long way in ensuring that the recognition of CBPs is informed by their situation in society and avoiding a situation in which national recognition defeats the purpose of their existence. CBPs offer various recommendations. These have to inform the concerted approach of stakeholders who seek to improve or enhance the work of CBPs. An approach that encourages working in silos would defeat the purpose of transmitting benefits to the communities where CBPs work.

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‘An approach that encourages working in silos would defeat the purpose of transmitting benefits to the communities where community-based paralegals work’

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5.4 Discussion of identified gaps

Following the findings from the study and the subsequent validation workshops, several critical issues were identified as proposals in addition to the findings of the study. Critical gaps on various aspects of access to justice were identified. The participants used these gaps to tangible solutions. This included a three-step approach. First, the issue of access to justice should be unpacked; secondly, the role of the CBP in providing legal aid had to be ascertained; and, thirdly, that the issue of sustainability be brought to the fore to enable the evolving practices.

5.4.1 Unpacking access to justice

This section highlights the principle of justice, access to justice, legal aid and the position of paralegals

5.4.2 The traditional and modern view of justice

Briefly, the traditional sense of justice has three critical components: fairness, equality, and impartiality. Fairness speaks to acting without bias or without discrimination. Equality relates to the fair distribution of benefits and burdens among stakeholders and society. Impartiality relates to the absence of prejudice in justice.

In the African traditional justice system, emphasis is placed on participation, reconciliation and maintaining harmony in society. The traditional justice system dealt with wide-ranging issues including civil and criminal matters (OCHCR, 2016). Challenges associated with the formal justice system, such as cost, delay, dearth of legal practitioners and cum-

bersomeness, led to the popularity of the traditional justice system in many African societies. Many people in Africa find it easy and convenient to access the traditional justice system, which is less cumbersome and expensive than the formal.

In the modern view, justice is seen as taking the form of legal rules. The application of these rules has to be a dispensation in accordance with the law. This gives rise to the rights holder and the duty bearer. The contemporary view of justice is a secular system, dispensed according to the law, with a remedy where there is a violation of rights. Thirdly, the state is the arbiter of the justice system, and finally, benefits and punishments are based on the deeds of the individual. The modern view calls for the need for remedy where there is a violation of a right. First, the state retains the obligation to ensure justifiable, fair and equitable outcomes, secondly, there is a functional and effective mechanism for justice delivery. Thirdly, there should be laws to facilitate access to justice, and fourth, the state should provide additional forms of justice

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‘The traditional sense of justice has three critical components: fairness, equality, and impartiality’

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In the context of access to justice, the narrow or the traditional view looks at the court as the dispenser of justice. Access to justice means the ability of the person to participate in the judicial process. The traditional view requires access to courts or the provision of legal aid to the persons in need of access to justice.

In a holistic evaluation of the context of access to justice, various challenges are evident, such as the economic capacity of an individual, time-consuming engagements and procedural challenges, the cost of legal representation, geographical factors that inhibit access to justice, and the inadequate number of courts to provide for access to justice. Due to these challenges, various initiatives have been taken, such as legal aid, the use of class action, and use of ADR through negotiation, mediation, reconciliation. As such, the modern view looks at access to justice as the provision of legal aid and the use of ADR in the resolution of disputes. As indicated, under human rights law, everyone's rights which are violated should be remedied.

The DIHR gives various elements that offer an understanding of access to justice. It proposes a definition that focuses on outcomes and remedies rather than merely on institutions that provide the service. The critical elements of a viable system that enables access to justice include:

- a framework of legal protection highlighting acceptable substantive and procedural standards;
- legal awareness on the part of providers and users;
- legal services which are linked to enforceable remedies, including legal aid and counsel;
- fair and effective adjudication of disputes;
- enforcement or remedies; and
- transparency and oversight of the operation of the system.

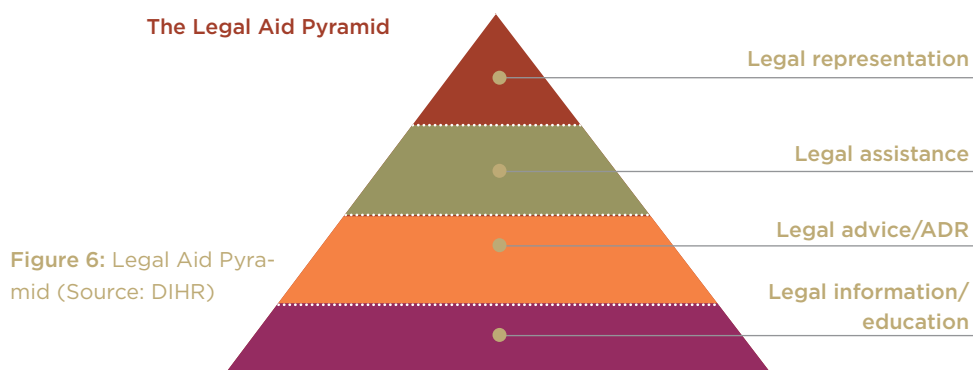
This is an indication that these six elements inform the concept of legal in the grand scheme of things. It also shows that legal aid is not limited only legal representation by includes other aspects on access to justice.

It should be noted that access to justice is required not only in the formal justice system but in informal ones as well. Informal justice systems include systems and mechanisms that are beyond the normal realm of courts and justice institutions yet trusted and used by people to resolve disputes and maintain social order. According to a UN report, these systems are not part of the judicial system; they may be used to resolve disputes and regulate conduct through adjudication or mediation. They lack statutory stipulations on their substantive, procedural or structural foundations. Conversely, these institutions are based on traditional, religious, or administrative leadership structures in the community. These structures may also be supported by NGO-promoted initiatives, such as community paralegals or village mediators.

This position has to be informed by the availability of legal services. It is on this basis that the concept of legal aid is unpacked.

5.4.3 The concept of legal aid

The findings from the study show that the participants did not have a clear grasp of legal aid. Legal aid refers to the provision of free or subsidised services to individuals who are subjected to an eligibility criterion that identifies them as poor and vulnerable people. Legal aid strengthens access to justice through the provision of various aspects such as legal information, education, advice and assistance, and representation. Legal representation may (at times) engage ADR. Drawing on the legal aid pyramid by the DIHR, the four aspects of legal aid are legal representation, legal assistance, legal advice or ADR, and legal information or education.





A look at the pyramid shows that the bulk of the work to be done is in giving legal information or education. This is followed by the grant of legal advice and/or the possible use of ADR. Legal assistance may be understood as advise on what needs to be done when the need for representation arises.

5.4.3.1 Legal education, and legal information

Is it argued that the provision of legal information and education is the mode of solving legal problems at the community or lowest level. According to the Global Report on legal aid (2016), the ability to give information or education is characterised as the simplest thing to do in the community. It is on the basis of the information or education received that an individual appreciates his or her rights under the law. It is argued that this knowledge and expertise can help to solve legal problems without recourse to courts.

Without prejudice to the foregoing and in the light of the findings of the study, it is proposed that the concepts of legal education and legal information not be conflated with each other as meaning the same thing. A simple definition of legal education would be the education of individuals in the principles, practices, and theory of law (Boon & Webb, 2008). On the other hand, legal information refers to neutral details or guidance concerning the law and may include guidance on court procedures, documents, pleadings, practices, due dates and legal authority in statutes, cases, or rules (LawInsider, 2021). This is an indication that the information is not necessarily for the purpose of going to court but for knowing the options available to an individual. It is on this basis that such information need not be the sole preserve of attorneys, advocates and lawyers but be open to persons who are trained to give such information. It also follows that it may be too much for a paralegal to know especially in terms of legal information from the definition above.

It is on this basis that the two concepts of legal education and legal information are severed from each other to create two layers of legal education (at the bottom of the strata), followed by legal information (as the second part of the strata from

the bottom). The developing pyramid is illustrated below.

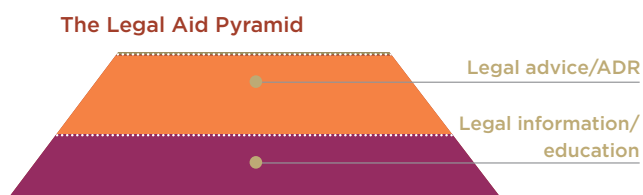


Figure 7: Re-imagining the legal aid pyramid

5.4.3.2 Legal advice

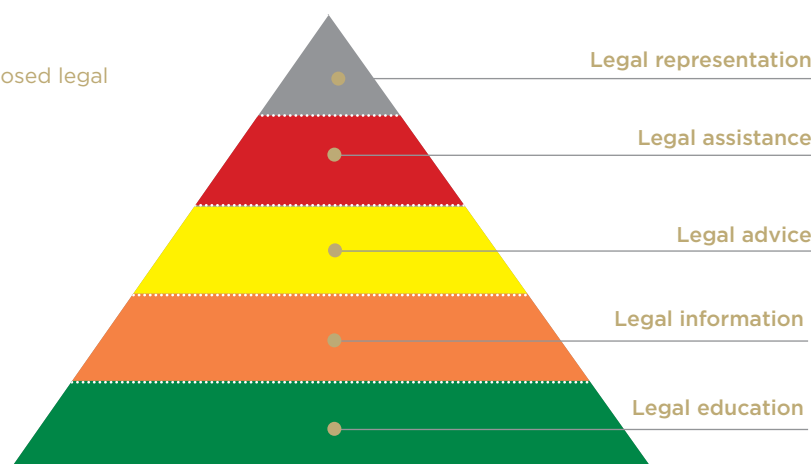
Legal advice is at the second level in the tier that is used to empower persons with knowledge and expertise on how to exercise rights to solving a legal problem. It is defined as the application of the law, including statute and case law and legal principles, to a particular situation, followed by recommendations on the best course of action to take to suit the facts of the case and what the person wants to achieve (CPLEA, 2021).

It is instructive to note that legal advice remains at a lower level where there is no need for an attorney to provide it. Provided the person giving the advice has been educated on the principles of the law, he or she may easily give this advice. The point of departure of advice from legal information lies in moving from what the words, and processes mean to what an evaluation of the law in respect to specific facts.

5.4.3.3 Legal assistance, legal representation

After legal advice comes legal assistance. Here, an individual is given direction on how to navigate the legal process in courts of law. The advice may be on the nature of the process if one decides to go to court, the costs involved and the processes he or she may be subjected to. It is argued that it is from this position that the services of a lawyer may be required. It is argued that it is on the basis of legal assistance that legal representation may be triggered.

Figure 8: Proposed legal aid pyramid



It is clear from the illustration that other persons with the requisite knowledge and experience may be able to give legal education, information, advice, assistance before using a lawyer for the purpose of legal representation.

5.4.4 The 'community' and the 'paralegal'

The gap to which the study turns is whether a person should be a paralegal or a CBP. The findings from the research indicate that a paralegal may be different from a CBP based on the understanding therein. For instance, the understanding of a paralegal in Uganda is contextually different from that in

Tanzania and Zambia. For Mozambique, it is a foreign term that is yet to be adequately appreciated. A critical element that arises from the different contexts is the question of 'community'. While CBPs are found in geographical communities in the lower administrative structures of a given area, paralegals are also found in different spaces where they offer legal education, information, advice and assistance.

For instance, a paralegal in a court registry who is working as a clerk to a judge or for filing documents is in position to dispense with the obligation of providing legal education, information, advice and as

assistance as trained by NGOs to which the paralegals are associated. This was shared by participants from Tanzania and Zambia.

The foregoing analysis calls for a definition of 'community' before defining a paralegal. In a simple and general sense, a community is defined as a fairly broad term that encompasses groups of people working together toward the same goal (MacQueen, et al., 2001). This is in tandem with the work of a paralegal in a geographical community. This is synonymous with the position that a community is where local people gather and connect, to do things together and pursue shared interests or activities (Barnwood Trust, 2021). However, there are other spaces that might not fit the foregoing definitions such as spaces where law clerks, clerks in law firms, paralegals in prison settings. A more expansive definition of a community needs to be adopted. To this end, it is proposed that a community be referred to as a space where a paralegal operates to offer services to the population. This may be a geographical, contextual place where the paralegal or offers services. It follows as such, that a paralegal is an individual, who by virtue of experience or training offers education, information, advice and assistance to his community.

5.4.5 Sustainability

This matter arises from instances where the question of financing is an elephant in the room. It is recognised that there are different types of CBPs based on their communities of work. The study lays emphasis on CBPs who have experience other than qualifications and are attached to their communities. In instances where the paralegals are accountable to their traditional leaders, or are traditional leaders, then the issue of sustainability does not arise. This would call for a concerted approach where support to the work of CBPs is informed by identified categories across the various countries in Africa. In Mozambique, all respondents indicated training as one of the most important requirements for enhancing the work of CBPs. Other recommendations referred to legal recognition and mapping paralegals in the country, as well as close (and formalised) cooperation with other justice/legal aid providers, namely IPAJ and the bar association.

5.5 Conclusion

The study aimed to document the role, functions, challenges and regulation of paralegals in Zambia, Uganda, Mozambique, Nigeria, Ghana and Tanzania. It sought to evaluate the legal recognition of paralegals/CBPs in the selected countries. Drawing on the lessons, challenges and good practices that accrue therefrom, the study was guided by a four-fold purpose:

- to understand the role and challenges in the work of paralegals/CBPs in six selected African countries;
- to document and share good practices concerning paralegals in the selected countries;
- to evaluate the effect of recognition and the lack thereof in selected countries; and
- to advocate for better support and political commitment by states for the work of paralegals/CBPs across Africa.

With the aid of a qualitative research method, the study was guided by five research areas. These included the following:

- how paralegals/CBPs contribute to the realisation of access to justice for vulnerable and marginalised groups;
- the challenges facing Paralegals/CBPs in Africa;
- the necessity of the recognition and regulation of paralegals/CBPs;
- the benefits and concerns around recognition and regulation of paralegals/CBPs; and
- how the work of paralegals/CBPs can be enhanced.

Based on these five research areas, five themes emerged from the data analysis:

1. disputes resolution in the community;
2. the role of CBPs in the realisation of access to justice
3. challenges faced by CBPs;
4. the necessity for the recognition and the regulation of CBPs; and
5. recommendations towards the enhancement of the role of CBPs.

Concerning the first theme, it was established that the six countries identified various modes of solving disputes and the institutions that were used (both

formally and informally) in the resolution of the disputes. This theme answered the first research area by stating that there are various ways of having access to justice, including the use of paralegals.

Concerning the second theme, there were different meanings attached to the role of the CBP. However, the difference was more of an academic exercise, as all the countries pointed to a group of individuals who worked in various communities to ensure access to justice. The second theme addressed the second research area.

The third theme was the challenges paralegals face in Africa. These were similar across the spectrum and included lack of acceptance and continuity, resistance from the community, lack of adequate funding and poor communication in the course of doing their work. The theme answered the third research question in part. Another challenge was the issue of recognition and regulation, which passed as another theme. As such, the third research area was also answered in the fourth theme.

As indicated, the fourth theme was the necessity of the recognition and registration of CBPs. This theme spoke to three sub-themes: the recognition of paralegals, the regulation of paralegals, and the good practices identified by paralegals. These sub-themes collectively answered the fourth research question. It should be noted, however, that the legal recognition of paralegals in some countries such as Zambia and Tanzania created a plethora of challenges around undertaking and financing studies to obtain recognition to work as CBPs. This points to the need for clarity on the recognition of parale-

gals (as persons who already have some degree of training, as noted in the practice in Uganda and the emerging form of recognition in Zambia and Tanzania) and CBPs (as trained by paralegal organisations to offer legal information and advice).

It follows that the trend is that of emerging national recognition of paralegals informed by training and meeting standards. As long as national legal recognition and training of paralegals stifles their ability to provide their services, such recognition misses its mark.

The fifth theme relates to recommendations participants made for improving the work of CBPs. It was established that there is a need for governments to use legislation to recognise than stifle the role of CBPs and to be involved in regulating them. This theme addressed the fifth research area.

5. Recommendations

Governments:

- Offer financial support to the operation of CBPs.
- Avoid stifling the role of CBPs by using qualifications as the basis for recognition and regulation.
- Allow informal CBPs to continue in their role based on their experience.
- Engage private organisations that have adopted in-house modes of recognition and regulation.
- Realign the use of both formal and informal CBPs in view of the various advantages they bring to the table.
- Deliberate efforts to disseminate the role of CBPs in various fora.
- Consider a law for paralegals in various contexts in the light of the legal systems.

AU organs:

- Develop model laws, frameworks, norms and standards on the functions and role of CBPs.
- Hold governments to account through state-party reporting on matters taken to ensure access to justice using CBPs.
- Liaise with pan-African CSOs to take on advocacy missions on CBPs.
- Use monitoring bodies to follow up on steps taken to promote and protect the rights of CBPs.
- Support the work of CBPs with a view to ensuring access to justice for disadvantaged groups in Africa.

Civil society organisations:

- Advocate for government's engagement of reform through policy and legal development.
- Campaign for the continued recognition of both formal and informal CBPs.
- Adopt in-house recognition and regulation of CBPs to offer a platform for the continued use of their services.
- Fund the work of CBPs to ensure the continued provision of their services to the community.
- Hold governments to account through state-party reporting on matters taken to ensure access to justice through the use of CBPs.
- Prepare alternative or complementary reports to the monitoring organs at regional and international levels.
- Take a dual approach to the work of CBPs by advocating for the recognition of the informal CBPs (based on experience) and the formal CBPs (based on their approach to cases).
- Engage in training of CBPs/paralegals in order to sharpen their skills.
- Research, document and disseminate findings, including good practices, on roles and challenges of CBPs across Africa.
- Provide avenues in the justice sector for the

work of CBPs to extend to places such as the police, courts, prisons and places of detention.

Legal profession/bar associations:

- Orientate members on the role of CBPs as partners and not enemies of progress in realising access to justice for the poor.
- Collaborate with civil society groups and other stakeholders in addressing challenges facing CBPs.
- Advocate for policy and legal reforms that create an enabling environment for CBPs.
- Facilitate meetings and debates on the important role of CBPs in realising access to justice for disadvantaged groups.

Donors:

- Support research and other activities relating to the work of CBPs, especially at country level, in terms of data collection, analysis and validation.
- Facilitate discussion and debate on the role of CBPs in realising access to justice.
- Support grassroots organisations involved in realising access to justice for disadvantaged and marginalised groups.
- Collaborate with governments and policy-makers with a view to ensuring adequate support for CBPs.

All other stakeholders:

- Make concerted and deliberate efforts to unpack the challenges.
- Use deliberate (conceptual and empirical) research that is aimed directly at improving the work of CBPs.
- Question existing legislation in which recognition stifles the role of CBPs.
- Replicate good practices across the countries to address challenges.

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APPENDIX A: INFORMATION SHEET

Project Title: The legal recognition of paralegals in Africa: Lessons, challenges and best practices

What is this study about?

This is a research project being conducted by the Dullah Omar Institute at the University of the Western Cape in conjunction with the African Centre of Excellence on Access to Justice. I am inviting you to participate in this research project because you have expertise and experience in the field.

What will I be asked to do if I agree to participate?

You will be asked to fill in the agreement form for the interview schedule and use of audiotape prior to conducting the interview. You will be asked to respond to the interview questions in the way you understand them. The interview will take about 60 minutes. The offices of the legal aid body in your country will be used to carry out the study. The questions for the interview are exploring the legal recognition of paralegals in Africa, drawing on some of the lessons, challenges and best practices.

Would my participation in this study be kept confidential?

The researcher undertakes to protect your identity and the nature of your contribution. To ensure your anonymity, your name will not be included for any purpose in this research project. A code will be used to differentiate between the transcriptions of participants. Only the researcher will be able to link your identity and have access to the identification key especially for the information verification. To ensure your confidentiality, the interviews will be copied to a computer immediately afterwards and deleted from the audiotape. The interviews will be kept in a password-protected folder which will be known to the researcher only. The transcriptions will be identified with codes and stored in the lockable filing cabinet, personal to the researcher. If we write a report or article about this research project, your identity will be protected to the highest.

What are the risks of this research?

There may be some risks from participating in this research study. The risks may include psychological, social, emotional and legal risks. There might also be risks that are currently unforeseeable as all human interactions and talking about self or others carry some amount of risk. We will nevertheless minimise such risks and act promptly to assist you if you experience any discomfort, psychological or otherwise, during the process of your participation in this study. Where necessary, an appropriate referral will be made to a suitable professional for further assistance or intervention.

Some of the legal risks to the research will include instances where the participants are in violation of the law for revealing information that is prohibited by statute, or engaging in the research when under the age of majority. Another legal risk will be the carrying out of research contrary to statutory restrictions, especially in the era of Covid-19.

What are the benefits of this research?

This research is not designed to help you personally, but the results may help the researcher to learn more about the lessons, challenges and best practices in the context of the legal recognition of paralegals in Africa. We hope that, in the future, other people might benefit from this study through improved understanding of these interactions.

Do I have to be in this research and may I stop participating at any time?

Your participation in this research is completely voluntary. You may choose not to take part at all. If you decide to participate in this research, you may stop participating at any time. If you decide not to participate in this study or if you stop participating at any time, you will not be penalised or lose any benefits to which you otherwise qualify.

Is any assistance available if I am negatively affected by participating in this study?

All possible precautions will be taken to protect you from experiencing any harm from the research process. If, however, you are or feel that you are being negatively affected by this research, professional counselling assistance will be sought for you.

What if I have questions?

This research is being conducted by Dullah Omar Institute, Faculty of Law at the University of the Western Cape, in conjunction with the ACE-AJ. If you have any questions about the research study itself, please contact us on the following telephone numbers: +27 21 959 3204, +27 21 959 3208; or you can reach the project supervisor on the following email: edurojaye@myuwc.ac.za. Should you have any questions regarding this study and your rights as a research participant, or if you wish to report any problems you have experienced related to the study, please contact:

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APPENDIX B: CONSENT FORM FOR THE SEMI-STRUCTURED INTERVIEWS

Title of Research Project: The Legal Recognition of Paralegals in Africa: Lessons, Challenges and Best Practices

The study has been described to me in language that I understand. My questions about the study have been answered. I understand what my participation will involve and I agree to participate of my own choice and free will. I understand that my identity will not be disclosed to anyone. I understand that I may withdraw from the study at any time without giving a reason and without fear of negative consequences or loss of benefits.

- I agree to be audio-taped during my participation in the study.
- I do not agree to be audio-taped in my participation in this study.

Participant's code.....

Participant's signature.....

Date.....

APPENDIX C: CONSENT FORM FOR THE FOCUS GROUP DISCUSSIONS

Title of Research Project: The Legal Recognition of Paralegals in Africa: Lessons, Challenges and Best Practices

The study has been described to me in a language that I understand. My questions about the study have been answered. I understand what my participation will involve and I agree to participate of my own choice and free will. I understand that my identity will not be disclosed to anyone. I understand that I may withdraw from the study at any time without giving a reason and without fear of negative consequences or loss of benefits.

- I agree to be audio-taped during my participation in the focus group discussions in the study.
- I do not agree to be audio-taped in my participation in the focus group discussions in the study.

Participant's code.....

Participant's signature.....

Date.....

APPENDIX D: INTERVIEW FOR THE FOCUS GROUP DISCUSSIONS

QUESTIONS FOR THE FOCUS GROUP DISCUSSIONS PRELIMINARY DATA

FGD Code	
Country	
No. of Participants	

QUESTIONS

1. What are the major ways of solving disputes in your community?
2. Could you tell us which institutions are supposed to settle disputes in your community?
3. What do you understand by the term paralegals?
4. Would this have the same meaning for community-based paralegals?
5. What do you consider to be the important roles of paralegals/community-based paralegals?
6. What are the main challenges facing CBPs in Africa?
7. How are CBPs regulated in your communities?
8. Do the CBPs have any minimum qualifications?
9. Do the CBPs have any employment criteria?
10. Does the government play any role in the work of CBPs?
11. With particular regard to funding, how do you raise funding for the CBPs?
12. What are the perspectives of the legal profession on your work as CBPs?
13. How can the work of CBPs be enhanced?
14. What role should the government play regarding the work of CBP?
15. What form of recognition/regulation would you propose for paralegals/CBPs?

APPENDIX E: INTERVIEW GUIDE FOR THE INDIVIDUAL INTERVIEWS

QUESTIONS FOR THE INDIVIDUAL PARTICIPANTS

PRELIMINARY DATA

Participants' Code	
Role in an organisation /Designation	
Age	
Sex (Please tick)	M <input type="checkbox"/> F <input type="checkbox"/>
Number of years of experience in the current organisation	
Number of years of experience in the occupation of paralegals	

QUESTIONS

1. Tell me about your work at your organisation?
2. How did you first get involved with CBPs?
3. Do you still hold these views?
4. What are some of the initiatives you use with regard to CBPs?
5. How does the government fit in some of these initiatives?
6. What was the rationale for the development of these initiatives?
7. What is your major source of funding for the organisations?
8. How are CBP organisations regulated in your country?
9. What is the position of recognition of CBPs in your country?
10. What was the rationale for the development of these initiatives?
11. How do you evaluate CBP work as a person who is a senior staff in a paralegal organisation?
12. What would you consider to be the reason for this outcome?

APPENDIX F: TABULATED ANALYSIS OF THE THEMES PER COUNTRY

Themes	Sub-themes	Uganda	Tanzania	Nigeria	Ghana	Zambia	Mozambique
Mode of dispute resolution	Modes of solving disputes in society	X	X	X	X	X	X
	Institutions for settling disputes in society	X	X	X	X	X	X
Role of Community Based Paralegals	Meaning of the term 'paralegal'	X	X	X	X	X	X
	Meaning of the term 'community-based paralegal'	X	X	X	X	X	X
	Role of 'community-based paralegals'	X	X	X	X	X	X
Challenges facing CBPs		X	X	X	X	X	X
The necessity of the recognition and regulation of CBPs	Recognition of paralegals	X	X	X	X	X	X
	Regulation of paralegals	X	X	X	X	X	X
	Financial support to paralegals	X	X	X	X	X	X
	Good practices on paralegals	X	X	X	X	X	X
Recommendations towards the enhancement of CBPs		X	X	X	X	X	X

APPENDIX G: THEME 1: MODE OF DISPUTE RESOLUTION

Sub-Themes		Uganda	Tanzania	Nigeria	Ghana	Zambia	Mozambique
Modes of solving disputes in society	Formal	X	X	X	X	X	X
	Informal	X		X	X	X	X
	Traditional				X	X	X
	Mediation	X		X	X	X	X
	Police	X		X	X	X	X
	ADR	X	X	X	X	X	X
Institutions for settling disputes in society	Courts	X	X	X	X	X	X
	Traditional courts	X			X	X	X
	Local admin	X		X	X	X	X
	Police	X		X	X	X	X
	Negotiators	X	X	X	X	X	X
	NGOs	X	X	X	X	X	X
	Paralegal organisations	X	X	X	X	X	X

APPENDIX H: THEME 2: ROLE OF COMMUNITY BASED PARALEGALS

Sub-themes		Uganda	Tanzania	Nigeria	Ghana	Zambia	Mozambique
Meaning of the term 'paralegal'	Institutionalised for professionalisation	X	X	X	X	X	X
	Experience	X	X			X	X
	Expertise					X	X
	Community based	X	X			X	X
	Criminal matters	X	X			X	X
	Civil Matters	X	X	X	X	X	X
	Foreign Concept						X
Meaning of the term 'community-based paralegal'	Institutionalised for professionalisation	X	X	X	X	X	X
	Experience	X	X	X	X	X	X
	Expertise	X	X	X	X	X	X
	Community based	X	X	X	X	X	X
	Criminal matters	X	X	X	X	X	X
	Civil Matters	X	X	X	X	X	X
	Foreign Concept						X
Role of 'community-based paralegals'	Legal education	X	X	X	X	X	X
	Legal information	X	X	X	X	X	X
	Legal advice	X	X	X	X	X	X
	Legal assistance	X	X	X	X	X	X
	Other			X			

(Prisons)

APPENDIX I: THEME 3: CHALLENGES FACING COMMUNITY BASED PARALEGALS

Forms of challenges	Uganda	Tanzania	Nigeria	Ghana	Zambia	Mozambique
Financial	X	X	X	X	X	X
Sustainability	X	X	X	X	X	X
Recognition	X		X	X		X
Regulation	X		X	X		X
Stifling laws		X			X	
Conceptual (community)	X (Courts)		X (Prisons)	X	X (Traditional communities)	
Legal profession	X	X	X	X	X	X
Local administration						
Police harassment	X	X			X	
Other						

APPENDIX J: THEME 4: THE NECESSITY FOR RECOGNITION AND REGULATION OF CBPS

Sub-themes		Uganda	Tanzania	Nigeria	Ghana	Zambia	Mozambique
Recognition of paralegals	Statute		X			X	
	Policy	X	X	X	X	X	
	NGOs					X	X
	Other: Community						
Regulation of paralegals	Statute		X			X	
	Policy					X	
	NGOs						
	Other: Community	X	X	X	X	X	X
Financial support to paralegals	Government						
	NGOs	X	X	X	X	X	X
	Local sustainability						
	Legal societies	X	X	X	X	X	X
	Other						
Good practices on paralegals	Mode of dispute resolution						
	Role of CBPs	X	X	X	X	X	X
	Dealing with challenges		X	X		X	
	Recognition of CBPs		X			X	
	Regulation of CBPs		X			X	
	NGO practices	X	X	X	X	X	X
	Online databases		X				
	Law society involvement	X	X	X	X	X	X

APPENDIX K: THEME 5: RECOMMENDATIONS FOR THE ENHANCEMENT OF CBPS

Forms of recommendations	Uganda	Tanzania	Nigeria	Ghana	Zambia	Mozambique
Financial	X	X	X	X	X	X
Sustainability	X	X	X	X	X	X
Recognition	X	X	X	X	X	X
Regulation	X	X	X	X	X	X
Stifling laws	X	X	X	X	X	X
Conceptual (Community)	X	X	X	X	X	X
Legal profession	X	X	X	X	X	X
Local administration	X	X	X	X	X	X
Police harassment	X	X	X	X	X	X
Other	X	X	X	X	X	X

