

PARLIAMENT OF UGANDA

**REPORT OF THE SECTORAL COMMITTEE ON LEGAL AND
PARLIAMENTARY AFFAIRS ON THE NATIONAL LEGAL AID
BILL, 2022**

**OFFICE OF THE CLERK TO PARLIAMENT
PARLIAMENT BUILDING
KAMPALA-UGANDA**

Name

NOVEMBER, 2022

1.0. INTRODUCTION

The National Legal Aid Bill, 2022 was read for the first time on 28th September, 2022 and pursuant to Rule 129 (1) of the Rules of Procedure of the Parliament of Uganda, the Bill was referred to the Sectoral Committee on Legal and Parliamentary Affairs for scrutiny. In accordance with Rule 129 (2) of the Rules of Procedure of Parliament, the Committee examined the Bill and prepared a report on the same.

The object of the Bill is to regulate the provision of legal aid services by legal aid service providers in Uganda; to make provision for the grant of legal aid services to indigent, marginalised and vulnerable persons; to make provision for eligibility for the grant of legal aid; to make provision for the termination of legal aid; to make provision for the payment of court fees, costs and damages by an aided person; to create a Legal Aid Funding Account; to recognise legal aid service schemes existing in Uganda; to continue in existence Justice Centres and to amend the Poor Person's Defence Act.

2.0. BACKGROUND

The provision of legal aid services in Uganda is guided by the Constitution of the Republic of Uganda, 1995, the Poor Persons Defense Act Cap. 20, the Law Development Centre Act Cap. 132 and the Advocates Act, Cap 267. Legal aid services are provided by the State as directed in Article 28 (3) and these efforts are supplemented by non state actors, including NGOs, Community Based Organisations, professional bodies and associations, pro bono schemes, paralegals and community based volunteers and academic institutions. The judiciary also provides legal aid services by Justice Centres under Circular Instrument No. 1 of 2010.

Legal aid is generally understood as the provision of free legal services in civil or criminal matters to persons who cannot afford the services of a lawyer for the conduct of a case or a legal proceeding in any court, tribunal or before an authority.

In Uganda, legal aid takes a number of forms depending on the law or legal regime making provision for legal aid services. Article 28 (3) of the Constitution of the Republic of Uganda, 1995 regards legal aid as the provision of free legal representation at the expense of the State to persons charged with an offence which carries a sentence of death or imprisonment for life. Article 28(3) (e) provides that

[Handwritten signatures and marks at the bottom of the page, including a large signature on the right and several smaller ones on the left and center.]

“Every person who is charged with a criminal offence shall in the case of any offence which carries a sentence of death or imprisonment for life be entitled to legal representation at the expense of the State;...”

Under Section 3 of the Advocates Act, Cap 267 empowers the Law Council to exercise general supervision and control over the provision of legal aid and advice to indigent persons. To this end, the Law Council has accredited a number of legal aid service providers to provide legal aid in Uganda while at the same time it has allowed the establishment of a number of legal aid schemes including Pro Bono Schemes, law clinics operated by public universities and the provision of legal aid by paralegals and law students.

The entities and persons accredited by the Law Council under the Advocates Act to provide legal aid services take legal aid to mean the provision of legal advice or representation by a lawyer, an advocate or a paralegal, as the case may be, to a client at no cost or at a very minimal cost¹. The legal aid provided under this scheme is limited to only indigent persons, in both criminal and civil matters. In addition, the Advocates Act makes it mandatory for Advocates to provide pro bono to indigent persons in Uganda (section 15A) and the Advocates (Pro Bono Services to Indigent Persons) Regulations, 2009 sets a minimum of 40 hours free services in each year.

The Law Development Centre Act Cap. 132 also makes provision for legal aid services and empowers the Law Development Centre to assist in the provision of legal aid and advice to indigent litigants and accused persons. Pursuant to this power, the Law Development Centre a Legal Aid Clinic through which provides legal aid services to juveniles, indigent litigants and accused persons. Law students at the Law Development Centre may also provide unpaid representation to indigent persons in the Magistrates Courts under supervision of an Advocate under the Advocates (Student Practice) Regulations, 2004.

The Poor Persons Defense Act, Cap.20 also makes provision for the grant of legal aid services and requires in section 2 that where it appears for any reason that it is desirable, in the interests of justice, that a prisoner should have legal aid in the preparation and conduct of his or her defence at his or her trial and that the means of the prisoner are insufficient to enable him or her to obtain such aid a certifying officer, upon the committal of the prisoner for trial or a certifying officer at any time after reading the summary of the case submitted at the committal proceedings, may certify that the prisoner ought to have the legal aid, and if an indictment is filed against the prisoner and it is possible to

¹ See regulation 4 of the Advocates (Legal Aid To Indigent Persons) Regulations, 2007

2

(Ombaka)

Shomu

reco

procure an advocate, the prisoner shall be entitled to have an advocate assigned to him or her. In this Act, legal aid is limited to the provision of legal representation to an indigent person committed for trial, thereby limiting the scope of legal aid to only criminal matters and conditional on obtaining an advocate to the case.

Justice Centre Uganda, established under Circular Instrument No.1 of 2010 also provides legal aid services in civil and criminal matters to indigent persons. Justice Centres were established as a pilot project of the Justice Law and Order Sector to provide the Government with lessons to be taken into account for the provision of quality state funded legal aid and is hosted by the judiciary.

Pauper Suits under the Civil Procedure Rules are also a form of legal aid, albeit only relieving the pauper's obligation to pay court fees. Order 33 of the Civil Procedure Rules, made under the Civil Procedure Act, Cap. 65, provides for Pauper Suits. It states that "Subject to the following provisions of this Order, any suit may be instituted by a pauper. For the purposes of this Order a person is a "pauper" when he or she is not possessed of sufficient means to enable him or her to pay the fee prescribed by law for the plaint in the suit." Whereas this is a very useful provision for enhancing access to justice, the conditions for paupers' suits are so stringent that few people would be able to file such suits without legal assistance. For instance, the pleadings must be set out as prescribed under the Rules, and the application must be properly signed. The application must be presented in person, and the court requires evidence of the applicant's pauperism.

In Uganda therefore, Legal aid services are-

- (a) Regulated by the Law Council as empowered under the Advocates Act through accreditation of legal aid service providers;
- (b) provided by the State as directed in Article 28 (3) and these efforts are supplemented by none state actors, including NGOs, Community Based Organisations, professional bodies and academic institutions that operate legal aid schemes and services;
- (c) provided to persons who are indigent and whose means to pay for legal services have been examined through the means and merit test;
- (d) generally funded by the donor community save for those cases falling under the provisions of Article 28 (3) which are directly funded by the state.

The bottom of the page contains several handwritten signatures and scribbles. On the left, there is a signature that appears to be 'A. A. A.'. In the center, there is a signature that looks like 'M. M. M.'. To the right, there is a large, stylized signature that could be 'S. S. S.'. There are also some smaller scribbles and initials scattered around, including one that looks like 'A. A. A.' and another that looks like 'S. S. S.'. The page number '3' is visible in the center.

- (e) Provided by both professionals and non professional legal aid service providers in form of paralegals and community volunteers.
- (f) currently offer a range of services appropriate to the needs of poor people in conflict with the criminal law and operate at different levels. Some are community-based, others work within the criminal justice institutions. They are operational both as paid professionals with extensive training and volunteers with minimum preparation.

3.0. OBJECT OF THE BILL

The object of this Bill is to regulate the provision of legal aid services by legal aid service providers in Uganda; to make provision for the grant of legal aid services to indigent, marginalised and vulnerable persons; to make provision for eligibility for the grant of legal aid; to make provision for the termination of legal aid; to make provision for the payment of court fees, costs and damages by an aided person; to create a Legal Aid Funding Account; to recognise legal aid service schemes existing in Uganda; to continue in existence Justice Centres; to amend the Poor Person's Defence Act; and for other related matters.

As already noted above, the framework for provision of legal aid services is scattered on a number of legislations hence the need for a harmonized and comprehensive legal regime. Furthermore, emphasis is put on criminal legal aid as provided in Article 28 (3) (e) of the Constitution and the Poor Persons' Defense Act, leaving a bulk of civil matters without a legal regime under which the provision of legal aid is made. Suffice to note that the existing models for delivering civil legal aid are not standardised in form of application, matters and areas of coverage and are unsustainable, urban based and out of reach for most Ugandans who require such services.

4.0. METHODOLOGY

- a) In consideration of the Bill, the Committee interacted and received memoranda from;
 - I. Attorney General
 - II. Hon Aogon Silas -the Mover of the Bill
 - III. Law Council
 - IV. Law Development Center
 - V. Equal Opportunity Commission
 - VI. Justice Centres
 - VII. The Uganda Association of Women Lawyers (FIDA)

Ambaka

Aogon

FIDA

Justice Centres

Equal Opportunity Commission

Law Development Center

Law Council

Hon Aogon Silas

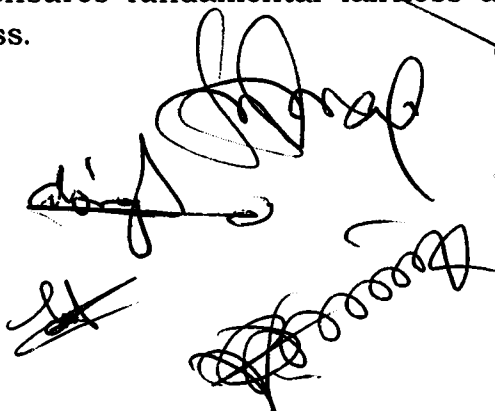
Attorney General

b) The Committee reviewed the following;

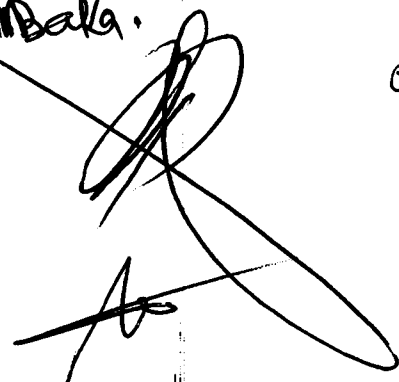
- I. The constitution of Republic of Uganda 1995 (as amended)
- II. The Poor Persons Defense Act Cap. 20,
- III. The Law Development Centre Act Cap. 132
- IV. The Advocates Act, Cap 267
- V. Civil Procedure Act, Cap. 65
- VI. Universal Declaration of Human Rights (UDHR),
- VII. The International Covenant on Civil and Political Rights,
- VIII. International Covenant on Economic, Social and Cultural Rights,
- IX. UN Convention on the Rights of the Child,
- X. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),
- XI. The Convention on the Rights of Persons with Disabilities,
- XII. The African Charter on Human and Peoples' Rights,
- XIII. The African Charter on the Rights and Welfare of the Child,
- XIV. The Protocol on the Rights of Women in Africa (Maputo Protocol)
- XV. African Youth Charter.
- XVI. the Resolution on the Right to Fair Trial and Legal Aid in Africa (Dakar Declaration),
- XVII. The Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System in Africa 2004,
- XVIII. The Kyiv Declaration on the Right to Legal Aid Conference on the Protection and Promotion of Human Rights through Provision of Legal Services, 2007,
- XIX. The United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, 2013
- XX. Sustainable Development Goals (SDGs)
- XXI. Advocates (Legal Aid to Indigent Persons) Regulations, 2007

5.0. NEED FOR THE LAW

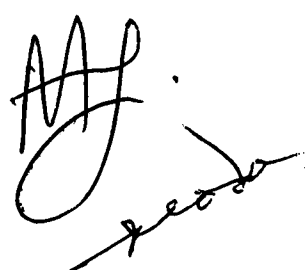
Legal aid is an essential element of a fair, humane and efficient criminal justice system that is based on the rule of law. Legal aid is a foundation for the enjoyment of rights and freedoms, including the right to a fair trial and is a precondition to exercising rights and freedoms and an important safeguard that ensures fundamental fairness and public trust in the criminal justice process.



AmBaka.



Amumu

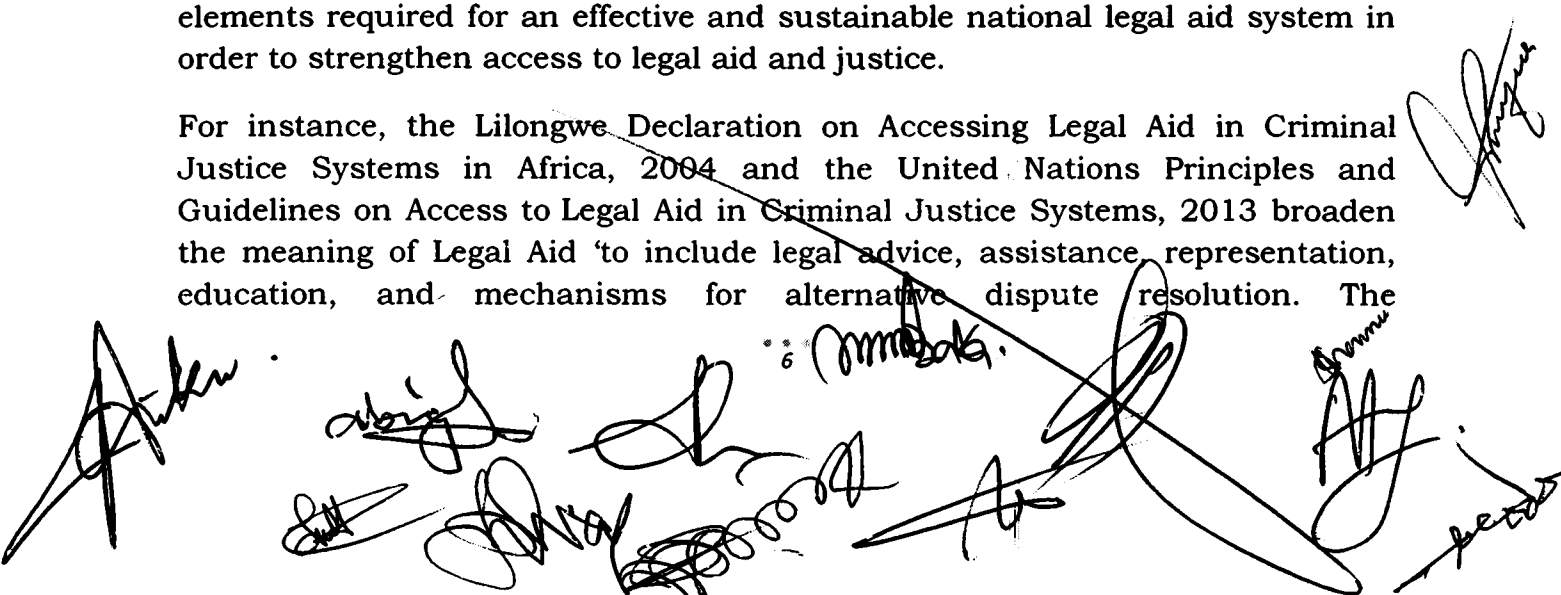


Article 21 (1) of the Constitution provides that all persons are equal before and under the law and shall enjoy equal protection of the law. In the same vein, Article 21(2) prohibits the discrimination of a person on grounds of, among others, social and economic standing. By the command of this Article, legal aid provision is a starting point in ensuring that all persons in Uganda, irrespective of social or economic standing access legal representation as a means of ensuring that equality for all sought by the Constitution can be achieved.

There are various legal, policy and institutional frameworks that promote access to justice, internationally, regionally and locally in Uganda today. Apart from the legal regime pertaining to the legal aid in Uganda, Uganda is a signatory to a number of International legal instruments that make provision for the grant of legal aid services including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, UN Convention on the Rights of the Child, The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), The Convention on the Rights of Persons with Disabilities, The African Charter on Human and Peoples' Rights, The African Charter on the Rights and Welfare of the Child, The Protocol on the Rights of Women in Africa (Maputo Protocol) and African Youth Charter.

These legal instruments are supplemented by other guidelines and non binding instruments including the Resolution on the Right to Fair Trial and Legal Aid in Africa (Dakar Declaration), The Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System in Africa 2004, The Kyiv Declaration on the Right to Legal Aid Conference on the Protection and Promotion of Human Rights through Provision of Legal Services, 2007, the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, 2013 and Sustainable Development Goals (SDGs) all of create international standards and recognized good practices in the provision of legal aid services and provide guidance to States on the fundamental principles on which a legal aid system in criminal justice should be based as well as outlining the specific elements required for an effective and sustainable national legal aid system in order to strengthen access to legal aid and justice.

For instance, the Lilongwe Declaration on Accessing Legal Aid in Criminal Justice Systems in Africa, 2004 and the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, 2013 broaden the meaning of Legal Aid 'to include legal advice, assistance, representation, education, and mechanisms for alternative dispute resolution. The



The bottom of the page contains several handwritten signatures and scribbles in black ink. On the right side, there is a large, stylized signature that appears to be 'John'. Below it, there are several other signatures, some of which are more legible than others. On the left side, there is a large, bold signature that looks like 'A. K. ...'. In the center, there are several smaller signatures and scribbles, including one that looks like 'M. ...'. The overall appearance is that of a document with multiple signatures, possibly indicating approval or agreement.

Declarations further call on governments to deliver legal aid to the poor, marginalised and vulnerable persons, especially women and children and requires, among others, that persons whose means exceed the limits of the means test but who cannot afford, or do not have access to, a lawyer in situations where legal aid would have otherwise been granted and where it is in the interests of justice to provide such aid, are not excluded from receiving assistance. This allows the introduction of new criteria in the grant of legal aid services. The Declarations call for the participation of a wide range of actors in the provision of legal aid, including NGOs, Community Based Organisations, professional bodies and associations, and academic institutions.

In order to achieve the objects of the Lilongwe Declaration on Accessing Legal Aid in Criminal Justice Systems in Africa, the Bill incorporates a number of best international practices as espoused in the above international standards in the provision of legal aid in Uganda which include-

- (a) expanding the scope of legal aid services provided by legal aid service providers;
- (b) providing additional two eligibility criteria for the grant of legal aid services, namely, Vulnerability and Marginalization to supplement the already existing indigence test;
- (c) recognizing that the provision of legal aid services is a shared responsibility between the State and non state actors and to this end recognizes the different models for providing legal aid services including state and non state actors, NGOs, Community Based Organisations, professional bodies and associations, pro bono schemes, paralegals and community based volunteers and academic institutions and encourages the creation of partnerships among such persons and entities in order to create synergies in the provision of legal aid services;
- (d) providing mechanisms to ensure sustainability of legal aid services through the creation of dedicated funding account for legal aid services in order to supplement Government efforts;
- (e) Removing matters that may hinder a person from accessing legal aid services, including restricting the imposition of court fees, costs and other barriers to accessing justice.

The Bill will therefore establish standards and criteria for providing legal aid in Uganda by expanding the eligibility criteria to include some of the most vulnerable persons in society who might not be eligible if the merits test is used. This will extend the provision of legal aid to majority of Uganda's

population, especially women, children, the elderly and other marginalised communities in Uganda, thereby creating a fairer and humane society.

The Bill will also create synergies between the different models of providing legal aid since the provision of legal aid services is widely spread out in a number of legislations, with each entity undertaking legal aid services independently. This not only breeds competition for funding but also wastes resources since the legal aid service providers are not coordinated in the provision of legal aid. By setting standards for providing legal aid, the Bill will facilitate access to legal aid services by making it possible for the legal aid service providers to synergize thereby creating a credible, accessible, affordable, sustainable and accountable legal aid service. It will also enhance resource mobilization and utilization in order to meet the current and future demands of the legal aid services in Uganda.

The Bill further answers one of the biggest challenges faced by legal aid services, being provision of adequate resources, in form of human capital and other financial resources. The provision of legal aid services requires the mobilization of both financial and none financial resources. The none financial resources such as advocates and lawyers are limited in supply and in most cases, are concentrated in Kampala and other urban areas. There is an acute shortage of legal practitioners in rural areas of the country, with the vast majority of lawyers (estimated 85%) being concentrated in Kampala, other cities and Municipalities and most of the others serving the other main towns. It is estimated that about 16% of the entire country has access to full-time legal representation by lawyers. This means that about 84% of the population in Uganda (over 24 million people) do not have adequate access to lawyers and have to rely on other forms of assistance, such as that provided by the Local Council Courts.

The Bill recognizes the work done by paralegals and community based volunteers as essential and encourages it in order to ensure adequate human resources are available. The use of paralegals and community volunteers is recognition that paralegals play an important role in facilitating the provision of legal aid services.

The Bill also creates funding mechanisms for legal aid services which will be accessible by all legal aid service providers. This will enhance the sustainability of legal aid services in Uganda.

The bottom of the page contains several handwritten signatures and initials in black ink. On the left, there is a large, stylized signature. In the center, there are several smaller, more legible signatures, some of which appear to be names like 'Mubala' and 'Brenna'. On the right, there is a large, circular signature and another smaller one. The signatures are scattered across the bottom half of the page, overlapping the text area.

6.0. ANALYSIS OF THE PROVISIONS OF THE BILL

This part of the report will analyze the proposals made in the Bill, consider each clause and identify legal and practical issues that may affect its implementation and make recommendations as appropriate.

6.1. Definition of legal aid

Clause 2 of the Bill introduces, among others, a definition of the phrase “legal aid” which it defines to include legal advice, legal representation, legal education, creating awareness through the provision of legal information and law-related education, recommending law reform and undertaking advocacy work on behalf of the community and assistance in resolving disputes by alternative dispute resolution, drafting of relevant documents and effecting service incidental to any legal proceedings; and giving effect to any out-of-court settlement.

The definition adopted in the Bill is broad and caters for a wide spectrum of matters for which legal aid can be provided. This definition draws from the definition of legal aid as adapted from the Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System in Africa 2004 and the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, 2013 which all favor a broad definition of legal aid.

In the earlier mentioned guidelines and principles, “legal aid” includes legal advice, assistance and representation for persons detained, arrested or imprisoned, suspected or accused of, or charged with a criminal offence and for victims and witnesses in the criminal justice process that is provided at no cost for those without sufficient means or when the interests of justice so require. Furthermore, the principles and guidelines require that “legal aid” is intended to include the concepts of legal education, access to legal information and other services provided for persons through alternative dispute resolution mechanisms and restorative justice processes.

The definition adopted in the Bill is also broader than that contained in the Advocates (Legal Aid to Indigent Persons) Regulations, 2007 which, in Regulation 4, defines legal aid to mean the provision of legal advice or representation by a lawyer, an advocate or a paralegal, as the case may be, to a client at no cost or at a very minimal cost.

The definition contained in the regulations limits legal aid to legal representation and legal advice. This does not take into account the best

[Handwritten signatures and scribbles at the bottom of the page, including a large signature on the left and several smaller ones on the right.]

practices in the provision in legal aid which extend legal aid to include legal education, creating awareness through the provision of legal information and law-related education, recommending law reform and undertaking advocacy work on behalf of the community and assistance in resolving disputes by alternative dispute resolution, drafting of relevant documents and effecting service incidental to any legal proceedings and reaching or giving effect to any out-of-court settlement.

Furthermore, the definition adopted under the Advocates (Legal Aid to Indigent Persons) Regulations, 2007 assumed that legal aid services can only be provided by advocates and paralegals and yet these services are provided by accredited legal aid service providers such as legal aid service providers in the form of non-governmental organizations, community-based organizations, religious and non-religious charitable organizations, professional bodies and associations, academia and other bodies that are mandated by law to provide legal aid in Uganda. The definition in the regulation therefore failed to recognise the different modes through which legal aid services are provided in Uganda.

Recommendation

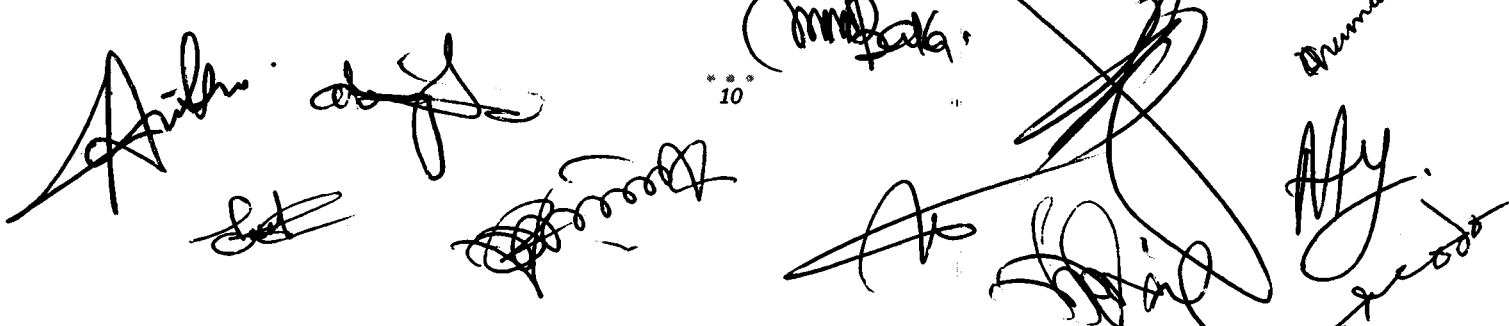
The Committee recommends that the scope of legal aid services as envisaged in the definition of the phrase legal aid as proposed in the Bill should be supported since it incorporates a best practice and will enhance the services that an eligible person would be entitled to upon grant of legal aid.



6.2. Eligibility for grant of legal aid

Clauses 3 and 4 of the Bill make provision for eligibility to legal aid services. Clause 3 for instance empowers the grant of legal aid services in criminal and civil matters. On the other hand, clause 4 allows the grant of legal aid to a person who is indigent, marginalised. Furthermore, sub clause (2) of clause 4 grants the legal aid service provider discretion to grant legal aid services to a person where, in the opinion of the legal aid service provider, the matter for which legal aid services are requested is a matter of public interest.

It is therefore discernable that legal aid services can only be granted to a person who is indigent, marginalised or vulnerable or any other person where,



in the opinion of the legal aid service provider, the matter for which legal aid services are requested is a matter of public interest.

The Bill, in clauses 2 and 6, guide on who an indigent, marginalized is and further prescribes criteria for evaluating a person for suitability to receive legal aid services.

An indigent person is taken to be a person who has been assessed by a legal aid service provider and found, having regard to his or her income, assets or social status that he or she cannot afford to pay for legal services. In assessing a person for indigence, clause 6 (2) guides that a legal aid service provider can have regard to-

- (a) the financial status of the person, including his or her income, assets, debts and other financial obligations;
- (b) the standard of living of the applicant; or
- (c) any other circumstance affecting the applicant's ability to afford legal services.

On the other hand, the Bill proposes that a "marginalised person" is that person who is marginalised on the basis of gender, age, disability or any other reason created by history, tradition or custom. Clause 6 (2) (c) guides a legal aid service provider in determining whether a person is marginalised and it requires the legal aid service provider to consider the culture, religion, custom of a person, including whether the person is a refugee, a stateless person or a member of a minority community in Uganda, for purposes of determining whether the applicant is marginalised.

The last criteria is vulnerability and the Bill proposes that a vulnerable person is one who is in need of special protection because of age, gender, illness, physical or mental disability, national, social or personal status, or other status, including a child, a refugee, an internally displaced person, a stateless persons, an asylum seeker, a victim of human trafficking or of gender-based violence, an illiterate person, elderly person and a member of a minority community. The Bill, in clause 6 (2) (b) guides that consideration shall be to the age, health, disability or any other personal circumstance of the applicant, for purposes of determining whether the applicant is vulnerable.

It should be noted that currently in Uganda, legal aid is only provided to persons who meet the criteria set out in regulation 24 of Advocates (Legal Aid to Indigent Persons) Regulations, 2007. Regulation 24 only imposed one

[Handwritten signatures and scribbles at the bottom of the page, including a large signature on the left and several smaller ones on the right.]

criteria, that of being indigent, and guides that an indigent person is one who, in the opinion of the legal aid provider-

- (a) has insufficient means to afford the services of an advocate on his or her own account;
- (b) has reasonable grounds for initiating, carrying on, or defending the matter for which he or she applies for legal aid, or the matter is of public interest;
- (c) if it is a civil matter, there is reasonable prospect of success or recovery in the matter; and
- (d) the applicant is in need of or would benefit from the legal aid.

The challenge with the above provision is that it left out a big percentage of Ugandan population from accessing legal aid especially where such persons are not poor but maybe vulnerable or marginalised. This meant that the criteria adopted in the regulations only considered the financial status of a person and not their social status, yet the financial status of a person is not the only the cause of his or her inability to pay for legal services.

The United Nations, having realized that there are many causes of a person's inability to pay for their own legal services under the United Nations Principles and Guidelines guided on Access to Legal Aid in Criminal Justice Systems, 2013, that whenever States apply a means test to determine eligibility for legal aid, they should ensure that persons whose means exceed the limits of the means test but who cannot afford, or do not have access to, a lawyer in situations where legal aid would have otherwise been granted and where it is in the interests of justice to provide such aid, are not excluded from receiving assistance.

This guideline means that in addition to indigence as an eligibility criterion, States must adopt other criteria for determining the eligibility of a person to receive legal aid in order to ensure that every person who needs legal assistance can receive it.

The Bill therefore takes cognizance of the other matters that may hinder a person from paying for legal services; including poverty, marginalization and vulnerability and acknowledges these as key factors in accessing justice. Indeed, Government recognise that marginalization and vulnerability are serious matters that need to be addressed. For instance, various provisions of the Constitution of the Republic of Uganda, 1995, impose obligations and duties on the State and Ugandans at large to protect the vulnerable and marginalised. Article 17 (c) makes it a duty for every Ugandan to protect

A collection of handwritten signatures and scribbles in black ink, located at the bottom of the page. Some signatures are clearly legible, while others are more abstract scribbles. The signatures appear to be from various individuals, possibly legal professionals or officials involved in the document's creation or review.

children and vulnerable persons against any form of abuse, harassment or ill treatment. Furthermore, article 21 directs that all persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law and further prohibits the discrimination of a person on the ground of sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability. The Constitution also mandates the State to undertake affirmative action in favour of groups marginalised on the basis of gender, age, disability or any other reason created by history, tradition or custom, for the purpose of redressing imbalances that exist against them.

Notwithstanding the above positive aspects of the Bill, the Committee notes that some aspects of the Bill do not go far enough to clarify the provision for and the consideration before grant of legal aid.

The Bill in clause 3 restricts the provision of legal aid services in a civil or criminal matter before a tribunal, court of judicature or subordinate court. This provision not only limits the provision of legal aid services to matters involving court alone, but it also conflicts with the broad definition of legal aid. This means that whereas the Bill incorporates a broad definition of legal aid services, clause 3 limits them to be provided in court processes alone, leaving out other fora where legal aid services may be required. More so, the Bill does not prescribe when legal aid services can be provided.

The Committee notes that the point at which legal aid services can be invoked determines whether legal aid services provided will be effective or not. If legal aid services are provided later in the proceedings for which legal aid is granted, it might not be as effective as that provided immediately a matter arises so that the person can be guided throughout their interaction with the justice system. The Committee notes that best practices require legal aid services to be provided at the earliest opportunity of a person's interaction with the justice system. The Committee notes that Article 3 of the 2004 Lilongwe declaration on accessing legal aid in criminal justice systems in Africa recommends that legal aid services are provided from a person's first interaction with the justice system. This is missing in clause 3 of the Bill and it may render effectiveness of the interventions proposed by the Bill.

Recommendation

The Committee therefore recommends that proposal in the Bill in incorporating vulnerability and marginalization as an evaluation criteria for a grant of legal aid service should be supported since it not

A collection of handwritten signatures and initials in black ink, scattered across the bottom of the page. Some are large and stylized, while others are smaller and more compact. They appear to be the signatures of various individuals involved in the document's review or approval.

only incorporates an international best practice but also complies with a constitutional directive on the protection of vulnerable and marginalised members of our society.

The Committee also recommends that clause 3 be harmonized with the definition of legal aid which allows the provision of legal aid services beyond court matters. The Bill should also incorporate a best practice in the provision of legal aid services which is espoused in Article 3 of the 2004 Lilongwe Declaration on accessing legal aid in criminal justices systems in Africa which requires legal aid to be provided from a person's first interaction with the justice system in order for legal aid proposed in the Bill to be meaningful.

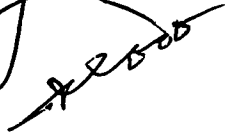
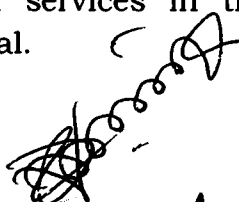
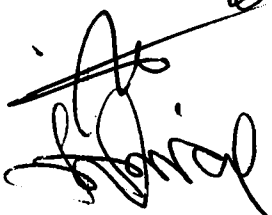
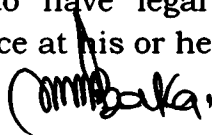
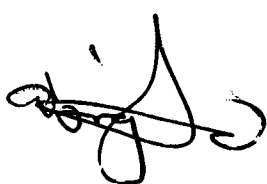
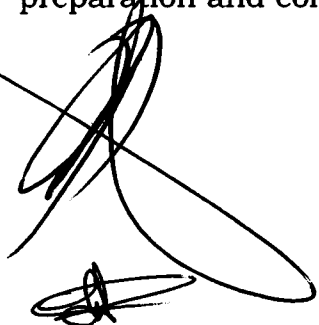
6.3. Provision of legal aid services

Clauses 5 and 9 of the Bill make provision for the grant of legal aid services by legal aid service provider and by court respectively.

Clause 5 of the Bill requires a person who intends to receive legal aid services to apply to a legal aid service provider. The application may be oral, in writing or in any other form prescribed by the legal aid service provider or by the Minister. The Bill further requires the application for legal aid services to be made by the eligible person or any other person or organisation on behalf of the eligible person.

The Bill, in clause 2, defines a legal aid service provider to include an organisation that has been accredited by the Law Council to provide legal aid services under the Advocates Act, Cap. 267, an advocate providing pro bono services under a pro bono scheme approved by the Law Council, the Law Development Centre, Uganda Law Society, Justice Centres, a pro bono scheme, law clinic or any other such scheme by whatever name called, operated by a public or private institution of learning and approved by the Law Council to provide legal aid services and anybody mandated by an Act of Parliament to provide legal aid services in Uganda.

Clause 9 of the Bill empowers Court to grant or direct the grant of legal aid services to a prisoner where the prisoner is indigent, vulnerable or marginalised and the prisoner intends to have legal aid services in the preparation and conduct of his or her defence at his or her trial.



The Bill further requires that court's discretion can only be obtained through an application, which may be oral, in writing or in any other form prescribed by the Chief Justice. The application may be made by the prisoner or any other person or organisation on behalf of the prisoner and Court is required to, in accordance with section 2 of the Poor Persons Defense Act evaluate the application for legal aid services. Where Court determines that it is desirable to for a prisoner to receive legal aid services, court directs Government to provide legal aid services to the prisoner on such conditions as Court may determine. The Bill requires that Legal aid provided by order of court shall be provided by Justice Centres.

The Committee notes that the above provisions of the Bill provide a number of options from which an eligible person may apply for and be granted legal aid services. The provisions take into account all the different models available in Uganda through which legal aid services are provided. These models include provision of legal aid services by Court under the Poor Person's Defense Act, by accredited legal aid service providers, advocates providing pro bono services under a pro bono scheme approved by the Law Council, the provision of legal aid services by statutory bodies such as the Law Development Centre, Uganda Law Society, Justice Centres as well as the provision of legal aid services by institutions of higher learning and professional.

The Committee observes that all the above models are currently in existence in Uganda but have been hitherto, working in isolation, with each providing legal aid services based on their own criteria, each employing different application methodology while at the same time competition for resources. This state of affairs has created a number of challenges including, a failure to create synergies amongst legal aid service providers, wastage of resources, especially arising from access to legal aid services by aided persons from different legal aid service providers. The uncoordinated provision of legal aid services has also created donor fatigue in availing funds for providing legal aid services due to duplication of functions amongst the different models of providing legal aid services. This has made the provision of legal aid in Uganda uncoordinated and very difficult to evaluate.

The proposal by the Bill to create standards that will apply to the provision of legal aid under the different models as well as the recognition of the different models through which legal aid is provided should be supported since it facilitate the provision of credible, accessible, affordable, sustainable and accountable legal aid services to indigent, marginalised or vulnerable persons in Uganda.

The bottom of the page contains several handwritten signatures and initials. On the left, there is a large, stylized signature. In the center, there is a signature that appears to be 'Abig' and another that looks like 'A. B.'. To the right, there is a signature that looks like 'Combara' and another that looks like 'M. J.'. There are also some other smaller initials and scribbles scattered across the bottom right area.

The Committee is concerned that whereas this is a law of national application, there are provisions in the Bill which, if passed in their current state, will create a monopoly for one legal aid service provider to the disadvantage of the others. The proposal in clause 9 (6) to designate Justice Centres as the only legal aid service provider to provide legal aid services will unfairly disadvantage both legal aid service providers and those who seek legal aid services from Court since the restriction will mean its only Justice Centres that can provide legal aid when directed by Court. Considering that justice centres is currently not spread out in the entire country and aware that justice centres may not be in position to provide legal aid services singlehandedly, there is need to remove this proposed monopoly in order to ensure that all legal aid service providers are eligible to provide legal aid services when called upon by Court.

Recommendation

In light of the above, the Committee recommends that all matters in the Bill that propose to create a monopoly in favor of justice centres should be removed so that all legal aid service providers are on equal footing in the provision of legal aid services.

6.4. Grant, variation and termination of legal aid services

Clause 7 of the Bill deals with grant of legal aid services and it requires an application for legal aid shall be determined within five working days of receipt of an application for legal aid. The provision further empowers a legal aid service provider who, upon evaluating the application and making a finding to grant legal aid services, to notify the applicant and any other person the legal aid service provider considers necessary, of the grant of legal aid services.

Clause 8 grants a person who is aggrieved by a decision of the legal aid service provider to appeal to the Law Council for redress.

Clause 10 of the Bill empowers a legal aid service provide to vary the terms on which legal aid services are provided and inform the aided person of such changes.

Clause 11 of the Bill imposes an obligation on the aided person or a person acting on behalf of an aided person to inform the legal aid service provider of any change in the personal circumstances of the aided person. This is intended to ensure that the aided person remains eligible throughout the provision of legal aid services in order to ensure that legal aid services are only rendered to persons who qualify.

The bottom of the page contains several handwritten signatures and scribbles in black ink. There are approximately 10-12 distinct marks, some appearing to be initials or full names, scattered across the lower half of the page. The page number '16' is visible in the center of this section.

Clause 12 and 13 make provision for termination of legal aid services and provide a number of grounds upon which legal aid services may be terminate or lapse. Legal aid services shall lapse on the death of the aided person, upon final determination of the matter for which legal aid services are provided; or upon enforcement of a judgement of court or an out of court settlement by the legal aid service provider.

Legal aid service provider may terminate legal aid services where—

- (a) the aided person breaches any provision of this Act or a condition for the provision of legal aid services;
- (b) the aided person ceases to be eligible to receive legal aid services;
- (c) the legal aid service provider ceases to be qualified to provide legal aid services in Uganda;
- (d) the aided person loses interest in the matter for which legal aid services are provided;
- (e) the aided person is receiving legal aid services on the same matter, from another legal aid service provider or private counsel; or
- (f) the aided person obtains legal aid services by fraud, mistake or misrepresentation of any material fact.

An aided person ma, with the mutual consent, terminate the legal aid services.

The above provision create clarity on the grounds of termination and the effect of termination of legal aid services and ensures that legal aid services are only terminated on grounds that are fair and the rules of natural justice are complied with before terminating the services.

The Committee is concerned that some provisions in the Bill need to be rethought due to their impracticality. The Bill proposes in clause 8 to allow a person who has been denied legal aid to appeal to the Law Council for redress and the decision of the Law Council will be final. The Committee is concerned that whereas there is no right to legal aid, the proposal in clause 8 might be interpreted as imposing a duty to at all times provide legal aid, thereby making the application for legal aid as well as the assessment of a person's eligibility to receive legal aid redundant. The Committee is also concerned that the proposal will impose an onerous duty on legal aid service providers to provide legal aid services and is likely to result in unreasonable suits and complaints to the Law Council against legal aid service providers which will affect the delivery of legal aid services to eligible persons.

The bottom of the page contains several handwritten signatures and initials in black ink. On the left, there is a large signature that appears to be 'Amber'. In the center, there are several smaller signatures and initials, including one that looks like 'Sh' and another that looks like 'C. M. Baker'. On the right, there is a signature that looks like 'Amma' and another that looks like 'J. M. M. M.'. There are also some scribbles and other marks.

The Committee also notes that the proposal in clause 8 is redundant in light of the constitutional requires under Article 42 of the Constitution of the Republic of Uganda which empowers a person to seek redress in courts of law whenever they are dissatisfied with administrative decisions. Therefore, the proposal to restrict appeals to the Law Council as well as the proposal to have the decision of the Law Council being final may be challenged for infringing on Article 42 of the Constitution since it will fetter the exercise of judicial power over such disputes.

The Committee further notes that the Bill lacks clarity as to whether the merit test, which is a main stay in all legal aid systems, is applicable in Uganda. The Committee notes that whereas the Bill makes provision for evaluation of a person's eligibility in clause 6 by legal aid services providers, it is silent on the assessment of the viability of the matters for which legal aid services are provided. This means that once a person has been assessed on their eligibility, there is no need to assess the subject matter for which legal aid services are sought, to determine whether those matters have likelihood of success, is not frivolous or vexatious or can be settled without incurring expenses or that there are reasonable grounds for bringing or defending such a matter in order to ensure that the resources available for legal aid services are utilized for the most deserving cases and over matters that warrant the grant of legal aid services.

Recommendations

In light of the above, the Committee recommends as follows-

(a) clause 6 be amended to insert a new sub clause to introduce in the Bill a merits test to enable legal aid service providers assess whether the matter for which legal aid services are sought has a likelihood of success, is not frivolous or vexatious or can be settled without incurring expenses or that there are reasonable grounds for bringing or defending such a matter in order to ensure that the resources available for legal aid services are utilized for the most deserving cases and over matters that warrant the grant of legal aid services.

(b) clause 8 be deleted with the justification that it is redundant in light of the constitutional requires under Article 42 of the Constitution of the Republic of Uganda which empowers a person

to seek for redress in courts of law whenever they are dissatisfied with administrative decisions.

(c) Clause 9 of the Bill be amended to remove the monopoly granted over legal aid services granted to Justice Centres.

6.5. Award and Recovery of Costs, Damages and Disbursements

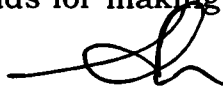
Part IV of the Bill makes provision for treatment of awards, recovery of costs, damages and disbursements.

Clause 15 of the deals with security for costs by an aided person and it requires that in a civil suit, an aided person shall not be required to make provision for security for costs unless court is satisfied that there are reasonable grounds for making such an order against the aided person.

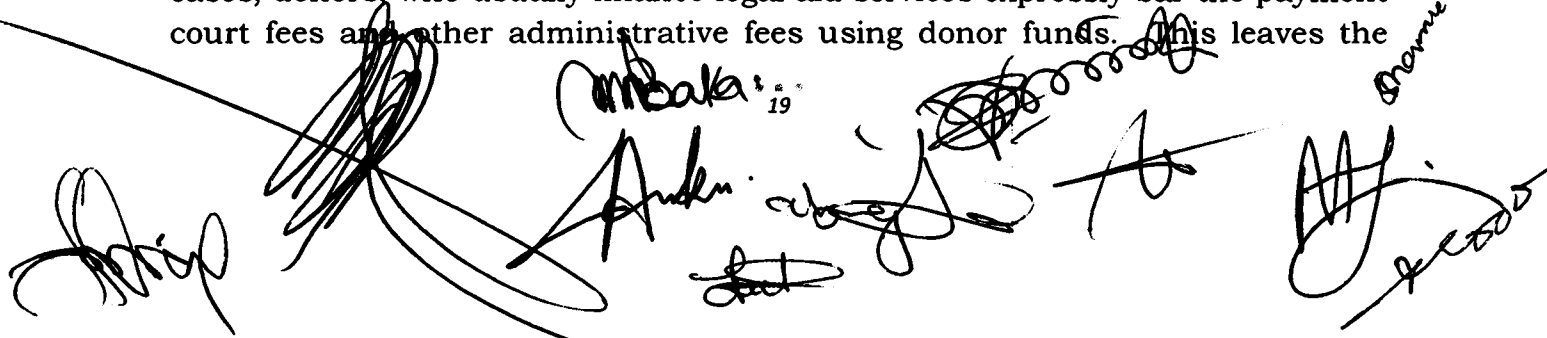
Clause 16 of the Bill deals with recovery of costs, damages and disbursements and requires that where in any suit, costs or damages are awarded to the aided person, the costs awarded shall belong to the legal aid service provider and the damages awarded shall belong to the aided person.

Clause 17 deals with deductions from awards arising from out of court settlement and it requires that a legal aid service provider may, with the prior, written and informed consent of the aided person, deduct a percentage of an out of court settlement made to an aided person as costs incurred by the legal aid service provider in providing legal aid services to the aided person in the settlement.

Clause 20 of the Bill deals with payment of court fees and it requires that an aided person shall not be required to pay court fees unless court is satisfied that there are reasonable grounds for making such an order against the aided person.



The above provisions are intended to remove bottlenecks to access to justice by aided persons by removing court fees and the requirement for security for costs. The provisions which require litigants to pay court fees hinder access to justice by aided persons since court fees, however small they might be, increase the financial obligations on an aided person to access justice. These court fees are usually met by the aided person or the legal aid service provider, which eats into the little resources of the legal aid service provider. In most cases, donors, who usually finance legal aid services expressly bar the payment court fees and other administrative fees using donor funds. This leaves the

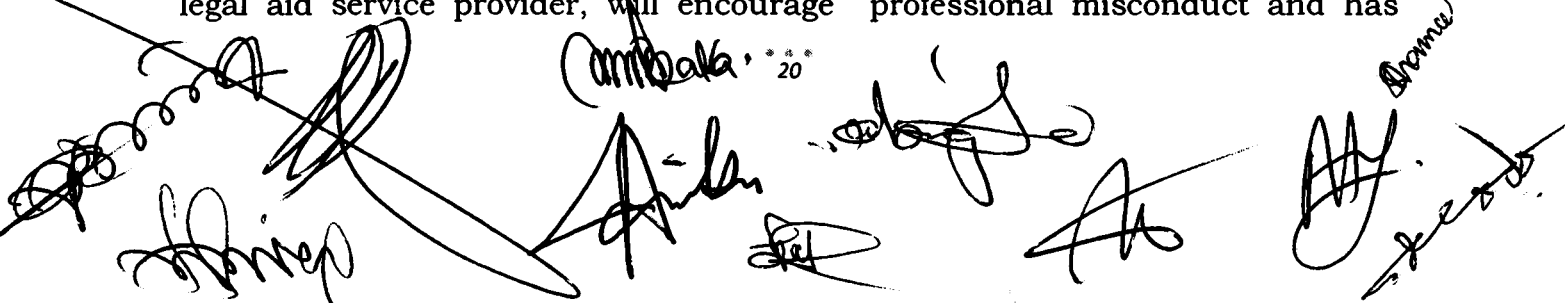


financial burden to be borne by the aided person or the legal aid service provider. The removal of court fees is intended to shield court users with modest means from the obligations to pay court fees, thereby enhancing access to justice.

On security for costs, the general rule in costs jurisdiction is that "costs follow the event". In other words, the loser in legal proceedings must pay the legal costs of the successful party. Where a defendant has a reasonable apprehension that its legal costs will not be paid for by the plaintiff if the defendant is successful, the defendant can apply to the court for an order that the plaintiff provide security for costs. The requirement for security for costs is usually used against aided persons and persons with modest means to deny them justice. Where a litigant determines that the plaintiff is a person of modest means, he or she may apply to court to require such a person to provide security for cost in case the matter is determined in the defendant's favour. The provisions on security for costs under Order 26 of the Civil Procedure Rules do not give any exemptions to legal aid service providers or aided persons.

The Committee observes that whereas the above interventions proposed in the Bill will go a long way in making legal aid meaningful and avert a possible conflict on the sharing of awards as well as the reduction of any monies due from a legal aid service provider to the aided person, the Committee is concerned that the Bill legalizes professional misconduct and the provision may be abused by legal aid service providers.

Clause 17 of the Bill which proposes to allow a legal aid service provider to deduct from awards arising from a settlement made to an aided person legalizes champerty and maintenance, which are all professional offences in Uganda and are specifically, prohibited under Regulation 26 of the Advocates (professional Conduct regulations) SI 267-2 which bars an Advocate from entering into any agreement for the sharing of a proportion of the proceeds of a judgment whether by way of percentage or otherwise either as part of or the entire amount of his or her professional fees or in consideration of advancing to a client funds for disbursements. Maintenance refers to an unconnected third-party assisting to maintain litigation, by providing, for example, financial assistance. Champerty is a form of maintenance, where a third-party pays some or all of the litigation costs in return for a share of the proceeds. The proposal to allow legal aid service provider deduct a percentage of an out of court settlement made to an aided person, as costs incurred by the legal aid service provider, will encourage professional misconduct and has



been litigated upon in the case of **Shell & others Vs. Muwema advocates and solicitors SCCA No.2 of 2013** where court found that an agreement between an advocate and a client to where the advocate was granted a right to share from the proceeds of the matter as champertous in nature, illegal and unenforceable.

The Committee has also considered the effect of clause 18, which proposes to allow a legal aid service provider to enforce a judgment of court or an out-of-court settlement made in favour of an aided person to interfere with the proprietary interests of the aided person since a judgement of court constitutes property to the aided person. This not only infringes Article 26 of the Constitution but it also legalizes champerty which is a professional offence against advocates.

The Committee also finds clauses 19 and 21 which allow a legal personnel to hold monies on behalf of an aided person and allows an aided person contribute to legal aid not only open to abuse but will go against the spirit of legal aid by requiring aided persons to contribute to legal aid provision yet they are indigent, thereby making the provision impractical.

Recommendations

The Committee recommends that;

- I. Clauses 17 and 18 be deleted with the justification that the provisions legalizes champerty and maintenance, which are all professional offences in Uganda and are specifically, prohibited under Regulation 26 of the Advocates (professional Conduct regulations) SI 267-2.**
- II. Clauses 19 and 21 be deleted because they are open to abuse and may, especially clause 19, infringe the property interests of an aided person.**

6.6. Funding of legal aid

One of the objectives of the Bill is to facilitate access to legal aid services by providing credible, accessible, affordable, sustainable and accountable legal aid services to indigent, marginalised or vulnerable persons in Uganda. This objective can only be realized if funding for legal aid services is secured.

Currently, legal aid is funded by both Government and private initiatives, mainly by donors. Government funds the provision of state brief under Article

Handwritten signatures and initials are present at the bottom of the page, including a large signature on the left, a signature that appears to be 'mbala' in the center, and several other initials and signatures on the right side.

28 (3) of the Constitution, the provision of legal aid services under the Poor Persons Defense Act, Law Development Centre Act and the activities of Justice Centres.

The legal aid services provided by accredited legal aid service providers and other interventions by professional bodies such as Uganda Law Society, Justice Centres and institutions of higher learning are sponsored by donors, usually from the countries of Austria, Denmark, Ireland, the Netherlands, Norway, Sweden and the European Union. This therefore calls for the creation of a funding mechanism that is harmonized, coherent and well-coordinated to provide financial and technical support to state and non-state entities to strengthen access to legal aid in Uganda.

To address this challenge, the Bill creates, in clause 23, a Legal Aid Funding Account, an account shall be managed by the Law Council, for the purpose of being a source of funds to support the provision of legal aid services by legal aid service providers. The Bill proposes the following as the source of funds for the Account-

- (a) grants, gifts, loans or other endowments and donations deposited onto the Account from any source within and outside Uganda;
- (b) money received by the Account by way of voluntary contribution;
- (c) income derived from operations of the Account or otherwise accruing to the Account;
- (d) fines and penalties recovered for breach of the provisions of this Act;
- (e) costs awarded to a legal aid service provider in a matter which was funded from the funds contained in the Account;
- (f) fees and charges paid by legal aid service providers to the Law Council for accreditation and other services provided by the Law Council; and
- (g) money appropriated by Parliament for purpose of legal aid.

The Bill also proposes that funds contained in the Account shall only be utilized for provision of legal aid services by legal aid service providers and shall be accessible in accordance with regulations prescribed by the Law Council.

The funding account will ensure that funds from donors and other sources can be accessed by all legal aid service providers and ensure that such funds are only utilized for the provision of legal aid services, thereby guaranteeing sustainability of legal aid services.

[Handwritten signatures and scribbles]

Recommendation

The Committee recommends that clause 23 to 26, do stand part of the Bill, subject to provisions of PFMA ACT 2015, with justification that they will go a long way in making the provision of legal aid sustainable.

6.7. Obligations of Government and duties and powers of Legal Aid Service Providers

Clause 34 of the Bill makes provision for the obligations of Government and obligate Government to, among others, ensure that legal aid service providers are able to provide legal aid services independently, without intimidation, hindrance, harassment, unlawful interference, violence, threats, retaliation, adverse discrimination, pressure or any other arbitrary action as a consequence of their legitimate and lawful exercise of powers granted under this Act or any other law. This obligation is intended to ensure that legal aid service providers can provide legal aid services in a safe environment.

Clause 35 of the Bill makes provision for the duties of a legal aid service provider, including protecting the interests of the aided person, providing the aided person with appropriate information regarding the legal aid services provided, avoiding and taking appropriate action in respect of conflict of interest and maintaining all documents of the aided person and making the documents available to the aided person, upon request. The Bill also imposes measureable obligations on the legal aid service provider to, every three months-

- (a) visit places of detention, including prisons and police stations, remand home for children or other place of custody for purposes of assessing whether a person detained in the place of detention is eligible for legal aid;
- (b) attend court, including a military court, for purposes of assessing whether a person appearing in court is eligible for legal aid; and
- (c) undertake visits to verify the legal needs of vulnerable and marginalised persons, including the elderly, widows or widowers, orphans, children, people with disabilities, internally displaced persons, prisoners on remand and refugees.

These obligations on the legal aid service provider are intended to ensure that legal aid service providers are spread out in the country and do reach as many

[Handwritten signatures and scribbles are present at the bottom of the page, including a large signature on the left, a signature in the center, and several other signatures on the right.]

people as possible rather than concentrating in specific easy to reach areas, which disadvantages people in hard to reach areas.

The imposition of obligations on the State and legal aid service providers is borne out of a need to comply guidelines imposed on States under the Lilongwe Declaration on Accessing Legal Aid in Criminal Justice Systems in Africa, 2004 and the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, 2013 wherein, State are required to, among other measures, ensure that legal aid service providers undertake their work without interfere with the organization of the defence of the beneficiary of legal aid or with the independence of his or her legal aid provider and in particular, States are required to ensure that legal aid providers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; are able to travel, to consult and meet with their clients freely and in full confidentiality both within their own country and abroad, and to freely access prosecution and other relevant files; and do not suffer, and are not threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Recommendations

The Committee recommends that clause 34 and 35 do stand part of the Bill with the justification that the obligations imposed on Government will ensure that legal aid services are accountable and the working environment of legal aid service providers enables the provision of legal aid service without hindrance.

6.8. Harmonization of laws relating to legal aid

As earlier noted, the provision of legal aid services in Uganda is regulated by a number of laws and regulations, all of which did not create synergies for the coordinated provision of legal aid services in Uganda.

This state of affairs means that the individuals who seek to obtain legal aid services had to master various regulations in order for them to obtain legal aid services. The different legal regimes also provide different criteria, meaning there is no uniformity in the services or evaluation criteria to enable the public easily access legal aid services.

The Bill proposes to create uniformity in the legal regime relating to the provision of legal aid services by prescribing standards and criteria applicable

A collection of handwritten signatures and scribbles in black ink, located at the bottom of the page. The signatures are overlapping and difficult to read, but some appear to be initials or names. There is a large scribble on the left side and several smaller signatures on the right side.

to all legal aid service providers in Uganda. This will create legal certainty as to the eligibility criteria and other matters relevant to the provision of legal aid services in Uganda.

The Bill also proposes to amend the Poor Persons Defense Act to clarify the body responsible for providing legal aid as well guiding court on the eligibility criteria for grant of legal aid services.

The above proposals will create fairness and certainty in the provision of legal aid services under the different modes of providing legal aid services to indigent, vulnerable and marginalised persons, thereby enhancing the effectiveness of legal aid provisions in Uganda.

The Committee notes that the proposal to amend the Poor Persons Defense Act as proposed in the clause 50 since the provisions are already taken care of in the proposal in clause 9. Furthermore, the Poor Persons' Act is a purely criminal legal aid Act and yet the proposals in the Bill have some aspects of civil legal aid which might not be easily harmonized in one piece of legislation.

Recommendations

The Committee recommends that clause 50 be deleted with the justification that the provision is redundant in light of the proposals contained in clause 9 of the Bill.

7.0. OTHER MATTERS

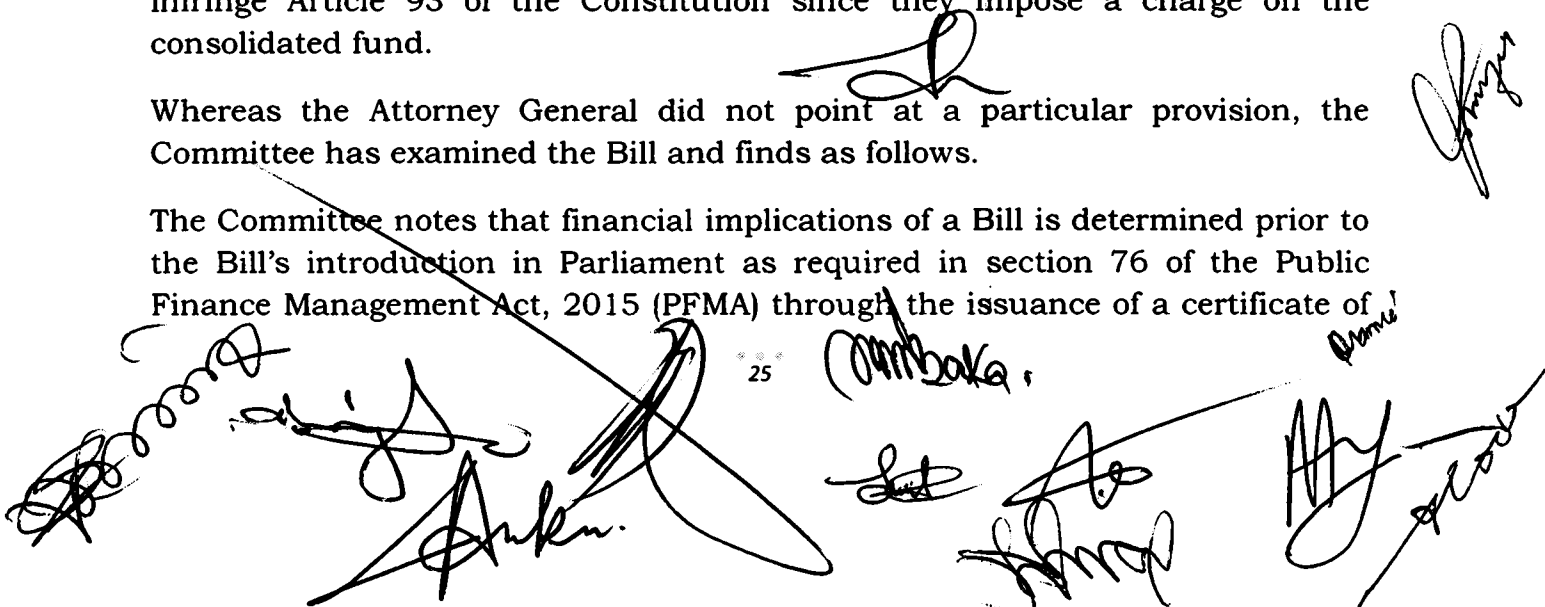
During consultation undertaken by the Committee, a number of cross cutting issues were raised. The Committee has considered those matters and in accordance with Rule 129 of the Rules of Procedure of Parliament and reports as follows-

7.1. Financial Implications of the Bill

The Attorney General raised the issue that some of the provisions of the Bill infringe Article 93 of the Constitution since they impose a charge on the consolidated fund.

Whereas the Attorney General did not point at a particular provision, the Committee has examined the Bill and finds as follows.

The Committee notes that financial implications of a Bill is determined prior to the Bill's introduction in Parliament as required in section 76 of the Public Finance Management Act, 2015 (PFMA) through the issuance of a certificate of

Handwritten signatures and initials are present at the bottom of the page. On the left, there are several overlapping signatures, including one that appears to be 'Anken'. In the center, there is a signature that looks like 'Ombaka'. To the right, there are more signatures, including one that looks like 'Ay' and another that looks like 'Kwame'. There is also a signature that looks like 'John' and another that looks like 'Kwame'.

financial implications. Section 76 of the PFMA therefore governs the grant of a certificate of financial implications and it states:

“76. Cost estimates for Bills.

- (1) Every Bill introduced in Parliament shall be accompanied by a certificate of financial implications issued by the Minister.*
- (2) The certificate of financial implications issued under subsection (1) shall indicate the estimates of revenue and expenditure over the period of not less than two years after the coming into effect of the Bill when passed.*
- (3) In addition to the requirements under subsection (2) the certificate of financial implications, shall indicate the impact of the Bill on the economy.*
- (4) Notwithstanding sub sections (1), (2) and (3), a certificate of financial implication shall be deemed to have been issued after 60 days from the date of request for the certificate.”*

Section 76 of the Public Finance Management Act is reinforced by Rule 118 of the Rules of Procedure of Parliament which also requires a Bill introduced in the House to be accompanied by a Certificate of Financial Implications issued by the Minister responsible for Finance.

Section 76 and Rule 118 require for the issuance of the certificate of financial implications. This obligation is mandatory and the certificate must be issued by the Minister responsible for finance. The above provisions also require that the certificate of financial implications issued by the Minister must comply with section 76 (2) and (3) of the Public Finance Management Act and Rule 118 (2) and (3) of the Rules of Procedure of Parliament which require the certificate of financial implications to indicate the estimates of revenue and expenditure over the period of not less than two years after the coming into effect of the Bill when passed and the impact of the Bill on the economy.

The Committee notes that the Bill was issued with a certificate of financial implications indicating that it was budget neutral.

The Committee is aware that there are additional requirements imposed on a Private Member's bills under article 93 of the Constitution and Rule 124 of the Rules of Procedure of Parliament. Article 93 of the Constitution and Rule 124 of

Handwritten signatures and initials are present at the bottom of the page, including names like 'Anika', 'Baka', and 'Armed'. There are also some scribbles and other marks.

the Rules of Procedure of Parliament bars Parliament from proceeding on a bill or motion which makes provision for-

- (a) the imposition of a charge on the Consolidated Fund or other public fund of Uganda or the alteration of any such charge otherwise than by reduction;
- (b) the payment, issue or withdrawal from the Consolidated Fund or other public fund of Uganda of any monies not charged on that fund or any increase in the amount of that payment, issue or withdrawal;
- (c) the composition or remission of any debt due to the Government of Uganda; or
- (d) the payment, issue or withdrawal from the Consolidated Fund or other public fund of Uganda of any monies not charged on that fund or any increase in the amount of that payment, issue or withdrawal; or
- (e) the composition or remission of any debt due to the Government of Uganda.

This means that a private member's Bill must, in addition to obtaining a certificate of financial implications as required in section 76 of the Public Finance Management Act, comply with the restrictions imposed under article 93 of the Constitution and Rule 124.

The Committee has examined the Bill and found its contents to be consistent with article 93 since it does not impose a charge on the consolidated fund. In this regard the Committee is aware that Government currently funds the provision of legal aid services provided under Article 28 (3) (e) of the Constitution, that provided under the Poor Persons Defence Act, the activities of the Law Development Centre and those of Justice Centres. The Committee was informed by LDC this in the last financial year, Government made available to the Centre UGX 1.032 Billion for legal aid services. Justice Centres also informed the Committee that out of its total operating budget of budget of UGX 4.4Billion, 40% of it comes from Government and has funded it through the JLOS for the past ten years.

Given that Government is already funding legal aid services, the Committee finds no merit in the assertion by the Attorney General that the Bill has financial implications or that it infringes Article 93 since it does not impose any

The bottom of the page contains several handwritten signatures and scribbles. On the right side, there is a signature that appears to be 'Joseph'. Below it, there are several other signatures, some of which are heavily scribbled over. The signatures are in black ink and vary in style, some being more legible than others. There are also some small marks and scribbles scattered across the bottom of the page.

additional charges beyond those that Government is contributing to legal aid services.

7.2. Status of Justice Centres

The Attorney General also submitted that Justice Centres is a project under JLOS that the Bill is seeking to transform into a body corporate.

The Committee finds that Justice Centres, established under Circular Instrument No. I of 2010 to provide legal aid services in civil and criminal matters to indigent persons. Justice Centres were established as a pilot project of the Justice Law and Order Sector to provide the Government with lessons to be taken into account for the provision of quality state funded legal aid and is hosted by the judiciary and has been in existence for the last ten years. Justice centres currently has 14 centres across the country and handled more than 30,000 cases in both civil and criminal matters.

The Committee finds that whereas Justice Centres started as a pilot project, it formalized its existence through the issuance of Circular Instrument No. I of 2010 by the Chief Justice. Article 133 (1) (b) of the Constitution empowers the Chief Justice to issue orders and directions to the courts necessary for the proper and efficient administration of justice. A circular issued by the Chief Justice has the force of law.

Section 14 states that where any Act confers on the President, a Minister or any other authority, a power to make or a power exercisable by making proclamations, rules, regulations, byelaws, statutory orders or statutory instruments, any document by which that power is exercised shall be known as a statutory instrument, and the provisions of this Act shall apply to it accordingly. Indeed section 18 (5) of the Interpretation Act requires that a statutory instrument, by whatever name called, has the force of law and any act done under or by virtue of or in pursuance of a statutory instrument is deemed to be done under or by virtue of or in pursuance of the Act conferring power to make the instrument.

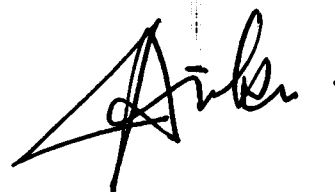
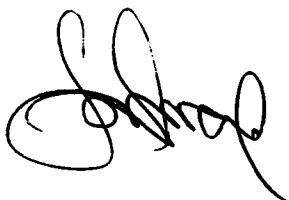

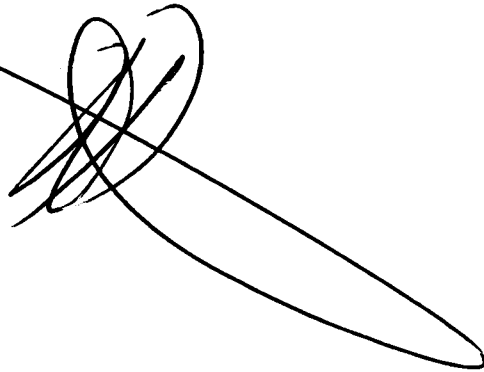
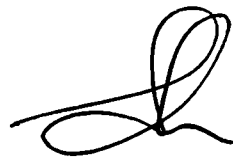
The Attorney General in doubting the existence of Justice Centres not only undermines the exercise of the powers of the Chief Justice under article 133 of the Constitution, but also lessens the effect of statutory instruments in Uganda. This sets a bad precedent.

The bottom of the page contains several handwritten signatures and scribbles. On the left, there is a signature that appears to be 'Aiden'. In the center, there is a signature that looks like 'John'. To the right, there is a large, circular scribble. Further right, there is a signature that looks like 'Ay'. At the bottom right, there is a signature that looks like 'James' and another that looks like 'James' with a long horizontal line extending from it. The page number '28' is visible in the center of the page.

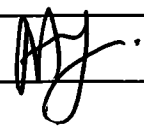
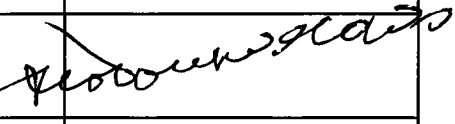
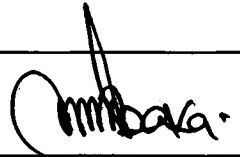
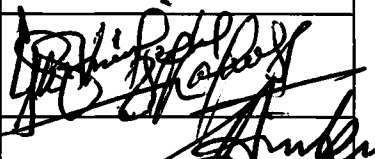
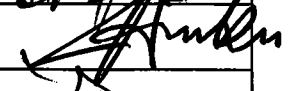
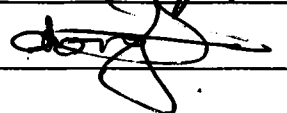
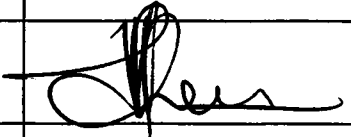
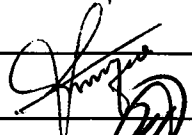
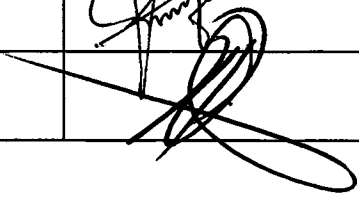
8.0. CONCLUSION


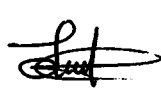
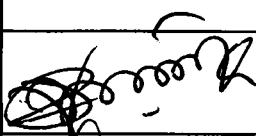
Rt. Hon. Speaker and Honourable Members, the Committee has examined the National Legal Aid Bill, 2022 and recommends that it is read for the second time and passed into law, subject to the amendments attached to this report.

I beg to report.



**SIGNATURES OF MEMBERS ENDORSING THE REPORT OF THE
COMMITTEE ON LEGAL AND PARLIAMENTARY AFFAIRS ON THE
NATIONAL LEGAI AID, 2022**

NO	NAME	CONSTITUENCY	PARTY	SIGNATURE
1	Hon. Rwakoojo Robina Gureme	Gomba West County	NRM	
2	Hon. Mutembuli Yusuf	Bunyole East	NRM	
3	Hon. Okiror Bosco	Usuk County	NRM	
4	Hon. Nkwasiibwe Zinkuratire Henry	Ruhaama County	NRM	
5	Hon. Odoi Benard	Youth Eastern	NRM	
6	Hon. Odoi Oywelowo Fox	West Budma North East	NRM	
7	Hon. Oseku Richard Oriebo	Kibale County	NRM	
8	Hon. Baka Stephen Mugabi	Bukooli County North	NRM	
9	Hon. Cherukut Emma Rose	DWR Kween	NRM	
10	Hon. Kajwengye Twinomugisha Wilson	Nyabushozi County	NRM	
11	Hon. Okia Joanne Aniku	DWR Madi Okollo	NRM	
12	Hon. Obigah Rose	DWR Terego	NRM	
13	Hon. Achayo Lodou	Ngora County	NRM	
14	Hon. Kasaija Stephen	Burahya County	NRM	
15	Hon. Teira John	Bugabula North County	NRM	
16	Hon. Silwany Solomon	Bukhooli Central	NRM	
17	Hon. Kwizera Paul	Kisoro Municipality	NRM	
18	Hon. Werikhe Christopher	Bubulo West	NRM	

19	Hon. Malende Shamim	DWR Kampala	NUP	
20	Hon. Lubega Medard Ssegona	Busiro East	NUP	
21	Hon Ssekitoleko Robert	Bamunanika County	NUP	
22	Hon. Ssemujju Ibrahim	Kira Municipality	FDC	
23	Hon. Adeke Ann Ebaju	DWR Soroti	FDC	
24	Hon. Lt. Gen. James Mugira	UPDF		
25	Hon. Asuman Basalirwa	Bugiri Municipality	JEEMA	
26	Hon. Alum Santa Sandra Ogwang	DWR Oyam	UPC	
27	Hon. Shartsi Musherure Nayebare Kutesa	Mawogola North County	INDEP.	
28	Hon. Abdu Katuntu	Bugweri county	INDEP.	
29	Hon. Acrobert Kiiza Moses	Bughendera County	INDEP.	
30	Hon. Niwagaba Wilfred	Ndorwa County	INDEP.	