

UNIVERSITY OF GHANA, LEGON

**A COMPARATIVE STUDY OF LEGAL AID INSTITUTIONS IN
THEIR PURSUIT OF SOCIAL JUSTICE IN GHANA**

The image features a large, semi-transparent watermark of the University of Ghana crest in the background. The crest is a shield-shaped emblem with a light blue background and gold-colored symbols. At the top, there are three stylized palm trees. Below them is a horizontal band. The lower half of the shield contains a complex, symmetrical gold-colored design with a central cross-like element and swirling patterns. The entire crest is set against a light blue background that also serves as the background for the author's name.

BY

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**THIS DISSERTATION IS SUBMITTED TO THE UNIVERSITY OF
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DECLARATION

I hereby declare that this research work is my own and that neither a part nor a whole has been submitted anywhere for an award of any academic degree. All references have been duly acknowledged.

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DEDICATION

Being part of the first cohort on this programme, I would like to dedicate this thesis to all future students of Master of Research and Public Policy.

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Firstly, I would like to express my utmost gratitude to God for his tender mercies, which propelled me to finish this programme. I would like to thank a few individuals and institutions: Shamwill Issah who encouraged me to sign up on this programme and has encouraged me throughout this 2-year programme; Prof. Ellen Bortei-Doku Aryeetey who helped me to fine tune the topic as a researchable area; Linus Tannor for his invaluable steer and professional support in my research work; my research assistant Reynolds Acquah for his desire to support me to achieve my goal. The Legal Aid Scheme and FIDA Ghana were highly supportive and ready to provide me with any data I needed for this work; and to my family members for such flexibility and awesome support which enabled me to complete this task.

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MAY GOD BLESS THE CENTRE FOR SOCIAL POLICY STUDIES.

ABSTRACT

Accessing justice has been challenging, particularly for the poor due to the cost involved in seeking legal services. This has resulted in the recognition of the need for legal aid in improving access to justice for marginalized, excluded and impoverished groups. The purpose of this research was to compare two legal aid schemes with respect to their capacity and delivery of social justice. Theoretically, the arguments of this study are grounded in the justice theory, vertical equity theory and access rights theory. Methodologically, this research adopted a case study design using two legal aid providers. These were the International Federation of Women Lawyers (FIDA) Ghana and the Legal Aid Scheme (LAS). In all, 15 Paralegals, 2 Alternative Dispute Resolution Officers (ADRs) and 59 beneficiaries across the legal aid centres were interviewed for the study, using an interview guide. The research was conducted in the Greater Accra Region. Sampling of the ADRs and Paralegals was done purposively. A multi-stage sampling technique was used in sampling beneficiaries. Both thematic and trend analyses were used. Generally, there is a high demand for legal aid services from both LAS and FIDA. The services of these two organisations - FIDA and LAS have helped their beneficiaries to access justice. However, the lack of follow-up on cases by the two legal aid providers; the low engagement in public awareness creation on the availability of legal aid; dependence on donor funds and limited coverage will affect the promotion of meaningful justice. To promote social justice, legal aid institutions need to constantly monitor and evaluate the welfare of their beneficiaries who access justice using an effective feedback mechanism. Additionally, accessibility across all geographical areas should be increased by creating legal aid zones.

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LIST OF ABBREVIATIONS

ADR	Alternative Dispute Resolution
AWDF	African Women Development Fund
CHRAJ	Commission for Human Rights and Administrative Justice
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CSO	Civil Society Organization
DOVVSU	Domestic Violence & Victims Support Unit
DIHR	Danish Institute for Human Rights
FIDA	International Federation of Women Lawyers
GLSS	Ghana Living Standards Survey
ICCPR	International Covenant on Civil and Political Rights
JHS	Junior High School
LAS	Legal Aid Scheme
NSPP	National Social Protection Policy
NGO	Non-Governmental Organization
NTC	National Tripartite Committee
OECD	Organization for Economic Co-operation and Development
OSIWA	Open Society Initiative for West Africa
PILnet	The Global Network for Public Interest Law
SCEF	Street Children Empowerment Fund
SDG	Sustainable Development Goals
SHS	Senior High School
UN	United Nations
UNICEF	United Nations Children Fund
UNDOC	United Nations Office on Drugs and Crime
UNDP	United Nations Development Program

CHAPTER ONE

INTRODUCTION

1.0 Background

Social vulnerability and poverty involve the deprivation of one or more elementary capabilities essential for individuals to achieve minimum functioning within their society and to live the lives they value (Thomas, 2010). One of such elementary capabilities is access to justice, a basic principle of the rule of law and a fundamental human and democratic right of every individual irrespective of their background. The importance of providing all people with formal legal recognition has long been recognized. Undeniably, it was declared by the Universal Declaration of Human Rights that the right to a fair trial belongs to everyone. In 2012, Member States of the United Nations clearly recognized the importance of legal aid in the context of increasing access to justice.

Access to social justice has been a challenge for the poor and marginalized because of the cost involved in seeking legal services. This, according to UNDP (2016) has resulted in the recognition of the need for legal aid in improving access to justice for marginalized, excluded and impoverished groups. In other words, it is reasonable that legal aid schemes are established to reduce social injustice in societies. Legal aid is a free or minimum legal service provided for the socially and economically disadvantaged, who are unable to afford the full cost of legal service but require it to obtain equal access to justice. It is a medium through which people can claim their basic human rights within the justice system and get their criminal and civil legal issues resolved (UNDP, 2016). There are various legal aid service providers such as Government, civil society organizations, international donors, universities, law clinics, legal professional associations, paralegals and other informal justice mechanisms (UNDOC, 2011). There are also state-sanctioned legal aid services such as legal advice, legal

counselling, legal representation, access to information about legal rights and responsibilities and other legal advocacy services that should be easily accessible to all (Atuguba et al., 2006).

Besides Ghana, some African countries have established legal aid schemes, including South Africa, Nigeria and Cameroun, to name a few. South Africa has a national legal aid scheme and a legal aid board in place including mechanisms for delivering legal aid using public defenders, paralegals, private lawyers, and pro bono lawyers. Nigeria has the formal legal aid scheme provided by the Legal Aid Council and other state and non-state delivery mechanisms for legal aid. Cameroun has a Legal Aid Commission exclusively responsible for the approval of legal aid applications, but citizens are not able to access legal services because at the sub national levels, they have few high court and magistrate courts and also, the majority of the population are rural dwellers. In Sierra Leone, due to shortage of lawyers, community-based paralegals are providing basic legal services (Penal Reform International, 2007).

On the other hand, research findings on delivery of legal aid in other countries prove that Governments have shown little commitment in providing legal aid to the poor and vulnerable. In Kenya, the legal aid policy is yet to be adopted by the State. Zanzibar has no legal aid law nor regulation. The same experience is encountered in mainland Tanzania where it is NGOs and paralegals that are providing legal aid to the indigents. Uganda has a state legal aid initiative, but there is lack of political will to allocate funds to legal aid. Although Sudan's legal aid has been established, it is unknown to people in rural areas and small urban communities because their personnel are concentrated in major cities (The Danish Institute for Human Rights, 2011).

The challenges in providing legal aid in Africa are mainly a result of the unavailability of lawyers to provide legal services. Pro-bono clients do not receive quality of service as paying clients while lawyers are not willing to take on pro bono cases. Various legal aid schemes are unable to accommodate increase in cases due to inadequate staffing and administrative structures; lack of proper accounting systems for claims and quick disbursement of funds; lack of interest of law interns to take up paralegal work, budget constraints, among others (Penal Reform International, 2007). Courts are situated far from the people and the high cost of accessing legal aid services and lawyer unavailability has made legal processes very cumbersome and distasteful to Africans especially the poor (Penal Reform Institute, 2007).

In Ghana, legal aid provisions are highlighted in the 1992 Constitution and the Ghana Shared Growth Development Agenda. Article 294 (2) of the Constitution states that ‘Parliament shall regulate the grant of legal aid’ and (4) that ‘legal aid shall consist of representation by a lawyer, including all such assistance as is given by a lawyer (Republic of Ghana, 1996). The Ghana Shared Growth Development Agenda 2014 – 2017, outlines policy interventions to enhance the legal aid system such as making some services free through the Alternative Dispute Resolution and promoting access to rights and entitlements (GSGDA, 2014: 170).

A number of legal aid institutions have been established in Ghana since the adoption of the 1992 Constitution to ensure the delivery of legal aid service to its citizens. One of these is the National Legal Aid Scheme, set up as a public service organization to offer legal aid to socially and financially disadvantaged persons. It offers them access to both lawyer and non-lawyer solutions in civil and criminal matters. It was enacted by Parliament, Legal Aid Scheme Act 1997 (Act 542), and has been in operation for more than 20 years.

There are also non-governmental organizations, faith-based organizations and charities established to offer legal aid to complement the national legal aid scheme in Ghana. One such non-state institution is the International Federation of Women Lawyers (FIDA). FIDA Ghana is a major advocate for the poor and vulnerable particularly women and children. Its legal aid started over 30 years ago in January 1985 and they offer legal assistance to this target group and recently men. FIDA largely deals with civil cases.

1.1 Problem Statement

Fundamentally, every legal aid scheme draws mainly on two fundamental principles, efficiency and equity. However, discussions of equity are often distanced from the practical world of development policy, yet, equity in the assessment of legal aid services is essential for meaningful access to social justice (Ness & Strong, 2014).

A comparative research study of legal aid schemes in Ghana and Tanzania by Mmbando (2008) showed that the schemes in both countries lacked the structure and financial resources required to achieve their objectives and had no policy and program to deliver legal aid, resulting in staff using their discretion to deliver legal aid services. One of the gaps identified in the research conducted by Mmbando (2008) is the kind of segment of population demanding legal aid. In other words, it is currently unclear from the literature the specific groups of society that seek legal aid services and the type of legal aid service demand that legal aid institutions or centres often received. As a result, determining which group of beneficiaries need legal aid services and the specific legal aid services they require has always been difficult (Baker & Friedman-Nimz, 2013).

Identifying the segment of population requiring legal aid is important for service providers to know the level of demand and type of legal aid services required. The two most important

principles in the management of legal aid schemes are equity and sustainability (Adato & Bassett (2009). However, from an equity perspective, persons with different economic and social needs should be given different amounts of resources so that each may be given equal opportunity to access social justice (Baker & Friedman-Nimz, 2013). Yet, the specific targeting mechanism(s) used by legal aid schemes in the identification of their beneficiaries is unclear. This has made it difficult in the provision of accurate and equitable distribution of legal aid services to the appropriate population in a targeted manner. This study will therefore help to identify the population demanding for legal aid services, the type of legal aid service they require, how to properly target the identified population to ensure equitable distribution of legal aid services.

There appears also to be some differences in the demand for legal aid services between the state and non-state providers in Ghana. In other words, issues of demand, accessibility and targeting seem to differ across state and non-state legal aid providers in Ghana. Therefore, to guarantee that the poor and vulnerable are enabled access to quality legal aid, to ensure equity and sustainability in the delivery of legal aid services, it is necessary to carry out a comparative analysis among the providers of legal aid in their pursuit of legal aid services.

Against this background, this study seeks to explore how legal aid service is enhancing access to social justice among the vulnerable in the Greater Accra Region of Ghana. The study will examine the specific nature of the demand and the level of demand for legal aid services, the pull and push factors inhibiting/facilitating the demand and provision of legal aid services and ultimately, the equitability of the targeting mechanisms for legal aid services.

1.2 General Objective

The main objective of this study is to explore how legal aid schemes deliver legal aid services in Ghana with respect to their strengths, weaknesses and linkages in the effort to meet the legal needs of their clientele and to deliver social justice.

1.2.1 Specific Objectives

- i. Examine the capacity of selected legal aid schemes to provide assistance to disadvantaged groups to gain access to the justice system.
- ii. Investigate the nature of demand for legal aid, beneficiary knowledge of their rights to legal aid and targeting instruments used to select clients of the schemes

1.3 Research Questions

Following the objectives of the study, the following research questions are formulated to guide the study.

Objective 1:

1. What is the capacity of the legal aid organizations in relation to lawyers, clients, paralegals and office space?
2. How is the scope of work defined in terms of the category of people they cover (men, women, children, etc.)?
3. Which segment of the population are they able to reach (rural, peri-urban or urban)?

Objective 2:

1. How does the nature of demand differ across the state and non-state legal aid institutions?
2. How is beneficiary targeting done?
3. What are the mechanisms for delivery of legal services?

4. How in-depth are the outreach programs and the level of legal awareness of beneficiaries?

1.4 Relevance of the Research

The study will also help identify the trends in access to justice and legal aid provision in Ghana and linkages between the different legal aid providers. For practitioners, this study brings a field-tested, evidence-based perspective to the wide range of issues of demand, accessibility and targeting confronting legal aid in Ghana. This will help strengthen the policy framework and state-led legal aid system, as well as the capacity of non-state legal aid providers.

1.5 Scope

In spite of the fact that there are many groups of people seeking social justice and accessing legal services, this study focuses on the vulnerable and poor in the Ga South Municipal, Shai-Osudoku District and Ashiedu Keteke District. The scope of this study deals with the issues of demand for legal services, the pull and push factors and, the targeting mechanisms for accessing legal aid services.

1.6 Operationalization of terms

Social Justice: Equal and equitable delivery of justice systems especially to the poor and vulnerable.

Access to Justice: Equal and equitable delivery and access to legal services, legal personnel and legal structures

Legal aid: Free or subsidized funding for eligible individuals or groups who want to access any justice system.

Legal advice: Professional advice provided by a lawyer or paralegal which will help to empower the poor to know what rights they have and to be able to assert them.

Legal representation: personal representation by a qualified lawyer in a court or tribunal for an aggrieved litigant or group of litigants who do not have the means to secure the services of a lawyer.

Legal education / information: this is free education for individuals who want to either become quasi legal professional or require the information or education to gain the knowledge and skills necessary for empowering them to know their right.

1.7 Organization of the Dissertation

The research report is organized as follows: Chapter 1 is the background and introduction to the study, problem statement, objectives of the study, justification of the study, scope and limitation, and organization of the study; Chapter 2 is the literature review which comprises introduction, background, empirical literature review and theoretical perspectives; Chapter 3 is the methodology of the study and this comprises introduction, research design, study area/target population, sampling technique and sample size, data collection methods, data analysis and relevance of the research. Chapter 4 is the findings and discussion section where the objectives of the study is triangulated with the data collected and the literature that was reviewed. Chapter 5 concludes the research study and provides policy recommendations.

CHAPTER TWO

LITERATURE REVIEW

2.0 Introduction

This chapter is a review of literature on legal aid schemes in their pursuit of social justice. The chapter draws on the previous work of researchers to help enhance a unified conceptual and theoretical framework on access to social justice suitable for use in this study. Generally, the literature is reviewed from the theoretical, conceptual and empirical perspectives by comprehensively reviewing the relevant publications to the subject of study. Case studies on legal aid schemes in their pursuit of social justice are also presented in this chapter to help develop a good conceptual framework for the research design. A synthesis of the literature which comprises limitations and gaps, and the specific gaps that are to be addressed by this study are also discussed. The review is guided by the research objectives and questions.

2.1 Theoretical Framework

In order to address the research objectives of the study, the theoretical frameworks and philosophies underpinning social justice are examined in this section. Although a number of different theoretical positions can contribute to an understanding of access to justice and social justice, the vertical equity theory, justice theory and the theory of access rights are important theories under which the arguments of this study are grounded. Justifications for the choices are given in the subsequent sections.

2.1.1 The Justice Theory

Vannier (2001) outlined the conceptions of justice which are also grounded in the justice and vertical equity theory to include equal treatment of people. Thus, all people taken into

account, must be treated in the same way, without regard to any of their distinguishing particularities such as income levels or social status.

The United Nations Development Program, UNDP (2008) defined justice as an ideal of accountability and fairness in the protection and vindication of rights and the prevention of wrongs and use of correctional strategies rather than the punishment of wrongs.

The application of social justice requires a geographical, sociological, political and cultural framework within which relations between individuals and groups can be understood, assessed, and characterized as just or unjust. Social Justice is defined as an equality of rights between all people and people groups, regardless of their gender, ability, age, faith, ethnicity, culture, or socioeconomic status (UN, 2006). The UN's definition of social justice is adopted for this study. According to (Applebaum, 2001), for social justice to be meaningful, there must be a critical analysis of dominant beliefs, values and standards so that the supposedly good intentions are exposed for what they promote and genuine socially just alternatives are found. Ideally, a government should ensure more equitable and fairer access to social justice.

The theory of justice was pioneered by Rawls (1971). The theory stipulates that humans see attempts at rendering services as either just or unjust. The dimensions of justice include distributive, procedural and restorative justice. The perceived fairness of the actual outcome of how social justice is distributed constitutes distributive justice. According to Orsingher et al. (2010), when people have a feeling of injustice, they make a complaint to receive a proportional answer to their costs while they wish to be treated with consideration and respect.

Tyler, Gonzalez, Shapiro, Trevino and Deinhart (2008) defined procedural justice as fair decision-making process and respectful treatment of individuals and their concerns. In other

words, procedural justice is the fairness of the procedures in making and implementing legal decisions. Equal access to justice according to Rhode (2001) is more procedural justice than substantive. However, the concepts ‘access’ and ‘equality’, lack practical content as the outcome of any trial is dependent on one’s financial worth, leaving the poor unserved.

2.1.2 Vertical equity theory

Fundamentally, every legal aid scheme draws mainly on two vital principles; efficiency and equity which are explained by the vertical equity theory developed by Rawls and Sen in the 1970s. The major argument surrounding the theory is the equity of interventions on individuals with differing levels of vulnerability (Duclos, 2006). Conceptually, generating a consensus position on the definition of equity from individual points of view has been challenging.

However, the common understanding of equity is that everybody should be treated equally with regards to accessing social justice. The principle of equity is grounded in two major concepts; horizontal and vertical equity. Horizontal equity argues that people with different socio-economic background should be treated the same. Thus the ‘equal treatment of equals’. The equal treatment of persons irrespective of their socio-economic background results in discrimination and that persons with limited economic ability may not be able to benefit from legal aid services. On the other hand, vertical equity argues the essentiality to give unequal treatment to persons with unequal economic abilities in the allocation of social protection resources like legal aid. This, according to Adato and Bassett (2009) gives more of the resources (legal aid) to the poorest who need them most.

In order to meet the legal needs of the disadvantaged and ensure that they are not made worse off, Domelen (2007) argues that they should be identified and given special consideration in

the targeting process. Equity in the targeting mechanisms of legal aid schemes is essential to minimize the errors of exclusion and inclusion. Thus, effective targeting ensures that legal services are directed to target beneficiaries to minimize the coverage of those not intended to be beneficiaries and the non-coverage of those intended to be beneficiaries. This throws light on the argument by Martens, Golub and Robinson (2012) that equity should increase typical accessibility and reduce the gap between the lowest and highest accessibility levels for different groups of beneficiaries of legal aid.

However, Gjaja, Puckett and Ryder (2014), argue that the allocation of legal aid in many states appear not to follow the principles of vertical equity. With vertical equity, beneficiaries of any legal aid scheme with different poverty levels would benefit unequally. Here, persons with different economic and social needs are given different amounts of legal services so that each may be given equal opportunity to access social justice. This clarifies the argument by Toutkoushian and Michael (2007) that to accomplish vertical equity, nations must adapt their legal services to offer adequate legal services to those who are more vulnerable.

It would not be a surprise that some persons accessing legal aid would not have the economic power to finance the extra cost of accessing legal services if what government and other legal aid schemes provide is inadequate. Therefore, in providing legal aid schemes, participation would still be contingent on economic ability using poverty indices as proxy. About 6.8 million people are poor in Ghana; this is inferred from the Ghana Living Standard Survey (2017) that 23.4 percent of the citizens, in 2016/2017, are poor.

In spite of the application of the vertical equity principle in the allocation of legal aid schemes to beneficiaries, determining which group of beneficiaries need additional legal services and how much legal services they require has always been difficult (Baker & Friedman-Nimz,

2003). This requires that a scientifically tested-methodology is used to determine persons that need legal services to access social justice. Thus, the vertical equity theory is used in this study to help explore the equitability of the targeting mechanism for identifying the beneficiaries of legal aid schemes in the Greater Accra Region.

2.1.3 The theory of access right

The theory of access right was propounded by Breger (1982) to address access challenges among the poor, including, access to legal aid. Access rights guarantees a person access to free legal aid regardless of one's social, economic or political status. Access rights ensure that a person has access to free legal aid irrespective of the person's socio-economic status. In this context, access refers to the degree at which the user and the service (legal aid) fit; stipulating that if their fit is better, then there is better access.

To promote access, the theory argues that there must be different dimensions of access including availability; accessibility; acceptability; affordability; and adequacy in service design, implementation and evaluation (Saurman, 2015). A key limitation of the theory as far as the dimensions are concerned is awareness. Logically, these dimensions of access are interconnected, though independent of each other. For the purpose of this study. with the exception of acceptability, all the other dimensions of access were investigated in this study.

Contextually, resources for the provision of legal aid is the responsibility of the State, hence, funding should be made available to provide accessible, adequate and affordable legal services to meet the demands of its citizens, particularly the poor. Individual needs and requests should be treated equally, uniquely, and respectfully, on no occasion should a person's claim be denied irrespective of its benefits or not to the wider society (Breger, 1982).

In relating the arguments of the theory to legal aid services, three major assumptions are made:

- i. The legal system should be a social good.
- ii. There should be equal opportunity and equity in any legal system and its delivery.
- iii. Individuals should define the kind of legal system they want based on their world view, association and interactions and operationally define what principles they choose to apply.

Application of the access right theory in this study is to help explore the push and pull factors facilitating/inhibiting access to legal aid services among the vulnerable in the Greater Accra Region, within the context of the dimensions of access.

2.2 Background of Legal Aid

Globally, persons living in poverty face significant barriers including cost that seriously impede or discourage them from seeking justice (Carmona & Donald, 2013). The philosophy surrounding legal aid, according to the Turkish Bar Association (2017) is promoting the right to fair trial for those who cannot afford the cost of legal services. The Danish Institute for Human Rights, DIHR (2011) argued that legal aid is either a free or subsidized service to eligible individuals or groups, mainly poor and vulnerable people, provided as a means to strengthen their access to justice. Unlike the Turkish Bar Association (2017), the DIHR (2011) further argues that legal aid could also include subsidized legal services rendered to the poor. Figure 2.1 shows a legal aid pyramid often used by legal aid providers.

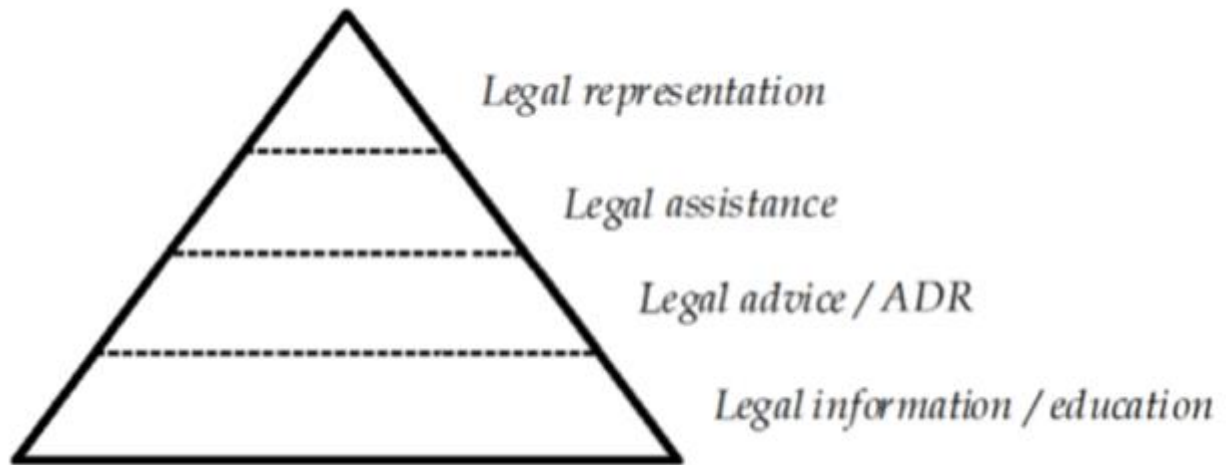


Figure 2.1: The legal aid pyramid

Source: Adopted from the DIHR (2011)

In Figure 2.1, legal advice involves explaining to a person what the law means and how to exercise it in relation to a concrete problem, while legal assistance is helping a person to take the right legal steps to protect their rights (UNDP, 2014). Legal services can start with legal information and education, giving people knowledge that they have rights under the law and how to exercise them. According to DIHR (2011), such knowledge and confidence can help to resolve legal problems outside of the courts proving to be an empowering and cost-effective strategy.

Legal aid organizations often receive funds from government and philanthropists who are normally tasked with taking on cases concerning the poor and impoverished (Houseman & Minoff, 2014). In accordance with this principle, individuals who do not have sufficient income are exempted from court fees and expenses and assigned a paralegal or lawyer free of charge. Determining such individuals require the unequal treatment of the unequals, as argued by the vertical equity theory.

Legal aid service providers play a significant role by assisting people, particularly the vulnerable (women, children, the elderly, disabled) to access social justice (UNDP, 2016). In

other words, legal aid is provided by state legal aid bodies which often operate as departments of government ministries and any other public agencies, with a mandate to carry out state legal aid initiatives. Legal aid is also provided by some lawyers, legal professional associations and Jurists. Generally, legal aid services are expected to be provided primarily by the legal professional body. However, due to the low lawyer population across the world especially in Africa, other non-lawyer personnel have been sought. These are legal assistants, paralegals and law students who provide additional support in the provision of legal aid services (UNDOC, 2011).

From a social justice perspective, a functioning legal aid system is vital to make sure that the justice system is fair, efficient and effective. However, issues on legal aid such as who qualifies to benefit from legal aid, who is responsible for the funding and provision of legal aid are matters of concern for countries across the world who have legal aid schemes. This is because, evidence from literature shows that access to justice lacks equity and equality. To ameliorate this, legal aid has been widely accepted and implemented but in certain countries this is yet to be legislated or fully implemented (UNDOC, 2011).

It is concluded by UNDOC, 2011 that access to justice is currently not meeting the needs of the poor, thereby requiring the need for governments to promote the development of legal aid schemes. A precondition to exercising such rights and an important safeguard that ensures fundamental fairness and public trust in the justice system is legal aid.

2.3 Institutional Capacity

Resource allocation for legal aid across the world seems a challenge. Rhode (2001) has realized that legal aid provisions in the US have suffered badly as a result of huge cuts to the federal government's budget. According to Rhode (2001), this has compelled restrictions on

cases and clients that government-funded programs can accept, with outrageous capping of indigent criminal defense budgets (Rhode, 2001). Hazard (1999), wonders whether legal aid should be abolished because these reductions coupled with high political interference makes it difficult to justify quality counsel for the poor in criminal matters.

Generally, legal rules thus require litigants to use lawyers. However, Anderson (2003) notes that lawyers are often in short supply. This often results in the delay in accessing social justice. This is to say that, the shortage of lawyers, paralegals, jurists, etc. could be seen as the reason for poor people's lack of access to justice. Most legal aid offices are centralized in the urban cities, though a few are now adopting the concept of decentralization. However, most poor people reside in communities that are in rural areas where there are no lawyers, far away from urban centres. This, according to the UNDP (2014), prevents many from accessing the services of legal aid. Additionally, there is a limited coordination of the legal aid work undertaken by NGOs and paralegals. This, according to UNDP (2014), inhibits the process to meaningful access to justice.

Generally, the framework for reviewing the institutional capacity of legal aid institutions, according to the OECD (2006) rests on the availability of resources (human, financial, technical) and the efficiency and effectiveness with which such resources are deployed. However, the World Bank (2009) argues that effectiveness and efficiency with which resources are acquired and used are driven by related and legal policy frameworks. In this study, UN principles and guidelines on access to legal aid formed the basis for assessing the legal and policy framework of legal aid in Ghana.

2.4 Nature of Demand

Deducing from the philosophy surrounding the formation of legal aid schemes, it is clear that legal aid schemes do not cover criminal cases, but rather civil cases (UNDOC, 2011). It has been noted by the UN that, all through Africa among those in need of legal aid, only a tiny proportion have access to it. As stated by the UNDP (2014), quite a number of people, especially poor people contend with legal issues like housing, family, debt recovery, and other matters that affect their well-being.

Kahn-Fogel (2012) also observes that although the demand for legal aid services in Africa is rising rapidly largely due to the social injustice in societies, there are few legal aid providers. This has resulted in the promotion of the development of paralegals, which first started in England, the United States and the Netherlands (The Open Society Foundation, 2010).

In Ghana, the lack of available statistics makes it difficult to determine the lawyer to population ratio. But as Prempeh (2015) commented the fact that only 250 out of 1000 students graduating with Legum Baccalaureus (LLB) annually are admitted into the Ghana School of Law (GSL) every year is an indication of the restricted supply of lawyers in the society. Srem-Sai (2015) estimated that with about 7000 lawyers in Ghana and a population of about 26 million, the lawyer to population ratio is roughly about 1:4000.

According to FIDA Ghana (2015), court processes are frustrating for their clients, especially the women because of the long due process to be followed in filing a case and inability of persons with disabilities to access legal aid. The Ghana Living Standard Survey (2015) also reports that informal Alternative Dispute Resolution (ADR) is the preferred option by citizens in any mediation process. However, Crooke (2011) established that state-owned ADRs at the district levels such as Commission for Human Rights and Administrative Justice (CHRAJ),

reflect popular local values and beliefs more than the informal ADRs such as the Customary Land Secretariat (Crook, 2011).

The PILnet (2009) has proposed a holistic defence approach to justice for the poor where the interest of the poor rather than the case at hand is being sought. The article proposes a network of lawyers doing criminal and civil representation who can have easy access to social workers, mental health professional and investigators and can make a difference in the lives of poor people and advocates who represent them (PILnet, 2009).

Although legal aid providers often handle cases from a variety of issue areas, the common cases according to Schroer (2013) include: marital dispute, family dispute, and housing and employment disputes. Marital issues often involve situations of domestic violence, divorce, custody battles, or advocating for women who need protection from an abuser.

According to the UK Legal Services Corporation (2013), the largest share of cases closed (32.9%) were in the area of family law in 2013. These cases involved a wide range of disputes, but 5.7 percent of the total cases closed, involved domestic abuse. On the contrary, Houseman and Minoff (2014) argue that housing is the most widely studied area of legal aid services practice, and that tenants who are fully-represented in eviction cases are more likely to be able to stay in their homes.

Litigation disputes, according to McLellan (2008) can be resolved without resorting to the court. Disputes are settled through negotiation based on interests but prior to that, an agreement in a form of a contract is reached with a disqualification clause to begin the dispute resolution process. This ensures that cases are resolved amicably but if that fails, the lawyer withdraws from the case.

There are several factors that are facilitating or inhibiting people from accessing legal aid services. The pull factors are those that inhibit people from accessing legal aid services, while the push is those that facilitate their access to legal services. Consistent with the UNDP (2014), the challenges in providing legal aid and the overall barriers to accessing justice on the Africa continent are interconnected. In other words, their exclusion or inclusion from the justice system is both a cause and consequence of a number of factors which are:

- **Geography of legal aid systems**

Most legal aid offices are centralized in the urban cities, though a few are now adopting the concept of decentralization. However, most poor people reside in communities that are in rural areas where there are no lawyers, far away from urban centres. This, according to the UNDP (2014) prevents many from accessing the services of legal aid.

- **Stigma**

It has become common knowledge that in many cultures, the people especially the poor are usually reluctant to be involved with legal issues, particularly the kind that leads to the court. This, according to Anderson (2003), is linked to the strong stigma attached to any encounter with the law, no matter how innocent a person maybe. To prevent further social discrimination or abuse by the authorities, the vulnerable may refrain from claiming entitlements or challenging abuses (Carmona and Donald, 2013).

- **Socio-economic subordination**

Generally, the vulnerable are often economically dependent on or socially subordinate to other groups or persons. This level of dependency, according to the UN Women (2011) could prevent the vulnerable from bringing justice claims relating to such groups or persons (UN Women, 2011). From a domestic perspective, women may be unable to take legal actions

against abusive husbands due to their economic dependency on them. In Nepal, Dalits may be unwilling to pursue justice claims against non-Dalit groups due to their economic dependence on them (Carmona & Donald, 2013).

- **Limited Legal Awareness**

According to Carmona and Donald (2013), persons living in poverty are often unaware of the existence and content of their legal rights and entitlements, and how to secure the assistance they need. This lack of awareness is explained by the fact that legal aid institutions do not engage in enough information dissemination regarding their existence (UNDP, 2008). This, according to Njupouen (2005) sometimes results in limited legal literacy, among the poor.

In Thailand, research found that women survivors of sexual violence are often not aware of procedural rules stating that they do not have to confront the alleged perpetrator in Court or that they are entitled to be interviewed by female police investigators. This lack of information may make women hesitant to pursue complaints or prosecution, and therefore perpetuates impunity (UNDP, 2005). Blunt and Turner (2005) also noted that information may only be available in written format, creating obstacles for those with low levels of literacy and persons with disabilities, published only online or in commercial newspapers, or only in one official language.

Jagannath, Phillips and Shah (2011) therefore proposed a 'rights-based' approach to the Haiti justice system for displaced communities in the aftermath of the 2010 earthquake that struck Haiti. Human rights violations that occurred were sexual abuse of women and girls in the camps, citizens who suffered various forms of physical abuse and tenants who were unlawfully evicted from their homes. With this approach, beneficiaries of legal aid schemes are well informed of their rights in order to make any claims of human rights violations. This

approach also aims to consult and listen to victims share their perspectives on an issue in a meaningful way.

- **Lack of coordination among paralegals**

There is a limited regulation and coordination of the legal aid work undertaken by NGOs and paralegals and even other social workers. This, according to UNDP (2014) inhibits the process to meaningful access to justice.

- **Capacity of legal aid schemes**

Resource allocation for legal aid across the world seems challenged. Rhode (2001) has realized that legal aid provisions in the US have suffered badly as a result of huge cuts to the federal government's budget. According to Rhode (2001), this has compelled restrictions on cases and clients that government-funded programs can accept, with outrageous capping of indigent criminal defense budgets (Rhode, 2001). Hazard (1999), wonders whether legal aid should be abolished because these reductions coupled with high political interference makes it difficult to justify quality counsel for the poor in criminal matters.

Generally, legal rules thus require litigants to use lawyers. However, Anderson (2003) notes that lawyers are often in short supply. This often results in the delay in accessing social justice. In other words, the inadequacy of lawyers, paralegals, jurists, etc, could be viewed as an important source of lack of access to justice for the poor.

2.5 Targeting Mechanisms

Within the constraints of limited resources, targeting in resource allocation is essential to ensure that scarce social protection resources such as legal aid schemes are more efficiently conveyed to the poorest and most vulnerable. Several targeting instruments are used in the

implementation of legal aid schemes. The first one is geographical targeting which ranks geographical areas on the premise of some poverty measure and then assigns benefits to the vulnerable groups (Slater & Farrington, 2000). The second one is household targeting which involves testing the means of survival of an individual or household with procedures which verify the individual's or household's assets or revenue (Sampson et al, 2005). The third is direct or categorical targeting. It requires the identification of distinct groups of people who are more vulnerable than others or generally poor (Ellis et al., 2009). UNICEF (2009) however admits that this targeting is prone to exclusion errors due to its tendency of including persons who are not needy. The final targeting is universal targeting which has the potential to reduce all the limitations of the other targeting mechanisms presented including exclusion errors, fostering social solidarity and reduced stigma.

2.6 Empirical Literature Review

On the grounds that there is unequal access to justice in many societies characterized by an imbalance between the poor and rich, Njupouen (2005) analysed the prominent principles of the rule of law and democracy for the poor, in order to ensure equity in the access to social justice in Cameroon. The study concluded that legal aid schemes in Cameroon helps more than it hinders access to justice, and that the state should give to the schemes more involvement in the organization of legal aid.

In Poland, PILnet (2009) examined the role of non-governmental organizations in reforming legal aid. The study found the following: lack of reliable statistical data on access to justice; no state legal policy, lack of criteria for granting legal aid, limited access to legal aid, insufficient lawyers, poor quality of legal aid, and no standard operating procedures for provision of legal aid.

The DIHR (2011) presents a comparative analysis of access to justice and legal aid in Kenya, Uganda and Tanzania. The study used a comparative approach, where data concerning the main legal aid providers in East Africa is analysed. This includes an examination of questionnaires completed by 10 informants from legal aid in Kenya and Uganda. The study found out that NGOs and paralegals play important roles for access to justice across the region. As opposed to the legal aid initiatives managed by state bodies and the legal profession, the legal aid services offered by NGOs and paralegals are usually much more accessible for the poor and vulnerable in rural areas.

In Australia, the connection between legal aid, legal representation and the right to fair trial has been examined by Flynn, Hodgson, McCulloch and Naylor (2016). The study specifically examined who deserves legal aid; the eligibility criteria are priorities decided; and who decides those criteria? The Australia common law definition of fair trial makes provision for only contested trial, therefore posing a challenge for the coverage of legal aid to include police interrogation and pre-trial stage. As a result, the police do not and are under no obligation to provide the required legal services at pretrial stage not even legal advice.

2.7 Legislation, Conventions and Treaties

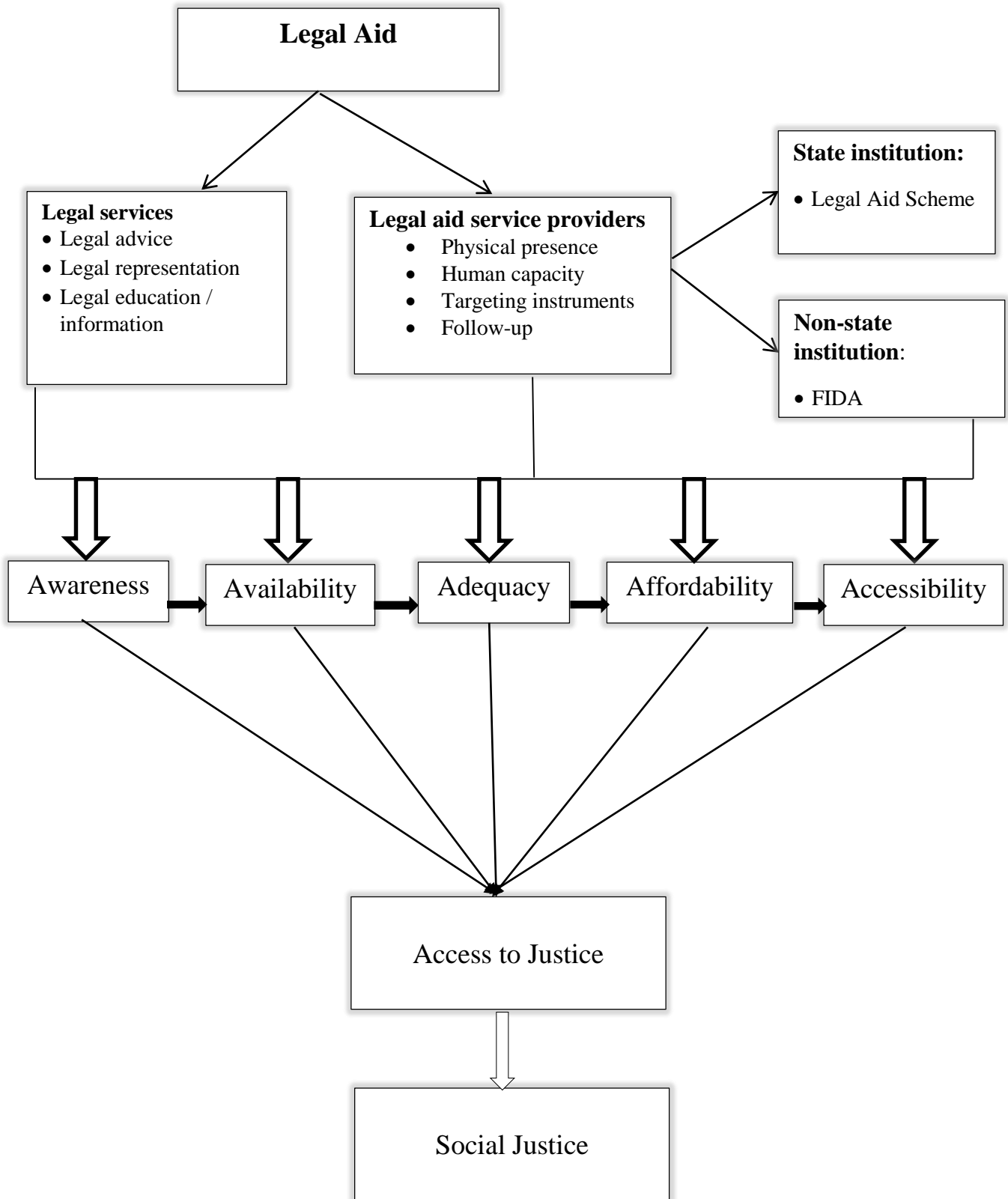
According to UNDOC (2011), countries can achieve meaningful development when its citizens' rights are upheld, they are empowered and capable of accessing legal services. These rights have been captured in various covenants and legislation internationally and are binding to countries that have ratified them (UNDOC, 2011).

The International Covenant on Civil and Political Rights (ICCPR), Article 9 and 14 (3d) makes provisions for everyone among other rights that nobody should be unlawfully arrested nor detained, be tried in his presence, and to defend himself in person or through legal

assistance of his own choosing; to be informed, if he does not have legal assistance, of this right and to have legal assistance assigned to him and without payment if he does not have sufficient means to pay for it (ICCPR, 1996). Several other human rights commissions around the world make provision for legal justice such as the European Convention on Human Rights, Article 6 (c) on the Right to Fair Trial (European Convention on Human Rights, 1998).

Similarly, the African Commission on Human and People's Rights, 1987, has certain principles related to legal aid and penal reform that have been adopted in human rights documents such as the Dakar Declaration and Recommendations (1999); the AU Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (2003); the Protocol of the African Charter on Human and People's Rights on the Rights of Women in Africa (2003) and the Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice in Africa (2004). These principles are reflected in national legislation across Africa (UNDOC, 2011).

2.8 Conceptual Framework



In this study, the key determinants of access to justice as shown in the framework includes availability, adequacy, affordability and accessibility of legal facilities and awareness of the population of the facilities. In other words, it is deduced that the poor and vulnerable need to be aware of the existence (availability) of legal aid services through public education across rural and urban areas. Public education, legal aid centres and its services must be in sufficient quantity (adequacy) and should be affordable in order to be accessed. It is assumed that, meaningful justice can only be achieved when all these dimensions are in place.

In practical terms for this study service providers are compared based on the physical and human resource capacity they have, as well as the nature of services they provide. Clients of legal aid services are assessed based on their awareness and satisfaction with the services.

Access to social justice is a complex, universal concern and is identified as a basic human right. However, it is clear from the review that there is unequal access to justice by the most disadvantaged in many societies. Thus, access to justice is currently unmet needs of the most disadvantaged, thereby requiring the need for governments to promote the development of legal aid schemes. Therefore, to ensure equality in seeking access to justice, the promotion of legal aid for the socially and economically disadvantaged is essential since legal representation constitutes the core of access to justice. However, the literature regarding access to justice is evident that earlier scholars and researchers focused primarily on the role of institutions such as the judiciary rather than legal aid schemes, limiting the literature on how legal aid services are promoting access to social justice.

CHAPTER THREE

RESEARCH METHODS

3.0 Introduction

This chapter outlines the research methods that were used to address the research questions. The major components of the chapter are the research design, study population, sample and sampling technique, data collection methods including sources of data, data collection instrument, procedure for data collection and ethical considerations. The methods used for analysing the data from the field are also discussed in this chapter.

3.1 Research Design

This research is an exploratory study and adopted the case study design which involves an in-depth study of a small geographical area, and relatively small number of individuals as the units of analysis (Zainal, 2007). The design is largely concerned about investigating phenomenon through detailed contextual analysis. It is the most appropriate for exploratory research that seek to gain explanations of a social behaviour like access to social justice through legal aid scheme and in investigating the experiences of persons accessing legal aid schemes. FIDA and the Legal Aid Scheme were selected as case studies to determine if there are any differences in the demand for legal aid services.

In spite of the strengths of the case study design, data collection and analysis may be labour intensive and time-consuming. Also, the approach lacks generalizability of results to larger populations. According to Yin (1994), results from case studies using either single or multiple designs cannot be generalised.

3.2 Mixed Research Approach

The study's research questions and objectives give a clear indication of the need to use a mixed approach (combining both qualitative and quantitative approaches). This is necessary because of the wide range of data needed to draw the necessary conclusion on effective legal aid provision in Ghana. According to Jennifer and Mihas (2013), the term, "mixed methods" usually refers to contexts in which a researcher collects, analyses, and integrates both qualitative and quantitative data and methods within a single study.

To explore how legal aid schemes are enhancing access to social justice, the qualitative research approach was used through the conduct of open-ended interviews with different participants. Most studies that investigated access to justice relied on the qualitative research approach (Njupouen, 2005).

Additionally, to assess the nature of demand for legal aid services requires the use of statistical data on demand over a period of time. This, according to Tannor (2014) requires the use of the quantitative approach. In determining the level of demand for legal aid services, secondary data was obtained from both institutions for a period of three years (2014 to 2016) which covers civil cases for LAS and FIDA. The statistical data was triangulated with that of the qualitative data.

With mixed research approach, researchers are able to validate research findings through the triangulation of the findings (Creswell, 2005). Application of the mixed research approach in this study was relevant to help triangulate secondary data relating to the trend of demand for legal aid services with the primary data from the interviews. The triangulation in this study further provided a trade-off between the breadth and depth of the field data.

3.3 Study population

Considering the assertion of Njupouen (2005) that there seems to be differences in the level of demand, access, and the targeting mechanisms used in state and non-state legal aid centres, there was the need to include a government-owned legal aid centre (the Legal Aid Scheme) and a non-governmental led legal aid centre (International Federation of Women Lawyers, FIDA-Ghana) in the study. Three other state institutions that were included in the study were Ministry of Justice which is the policy institution in the delivery of justice, CHRAJ which focuses on the human rights of the individual and Department of Social Welfare which has the legal mandate to protect society with basic welfare services. The key units of analysis studied in the legal aid centres were heads of the institutions, head of administration at LAS and programme officer at FIDA, ADR officers, paralegals, beneficiaries and non-beneficiaries. By logical extension, the beneficiaries were limited to persons that have accessed the legal services of FIDA Ghana and the Legal Aid Scheme. The study population is limited to the Greater Accra region due to the fact that most of the legal aid schemes are concentrated there. FIDA Ghana legal aid schemes are concentrated in Accra. The National Legal Aid Scheme is largely concentrated in Accra and Shai-Osudoku District. Shai-Osudoku District is the district in which the ADR centre was first launched.

3.4 Study areas

While there are currently legal aid services in all the 10 regions of Ghana, ADR started from the Shai Osudoku district of the Greater Accra Region (LAS, 2015). Additionally, non-state institutions providing legal aid services are effectively operational mainly in the Greater Accra Region. This informed the choice for the selection of Greater Accra Region for this study. In the Greater Accra Region, three out of the five districts (La Nkwantanang, Ga South Municipality, Accra Metropolitan, Shai Osudoku and Ashiedu Keteke) were purposively chosen because they provide legal aid services. The three districts are Ga South

Municipality, Shai Osudoku District and Ashiedu Keteke District. The three districts were chosen because they include a governmental and non-governmental legal aid centre, and also represent areas where there is a concentration of beneficiaries of legal aid services. For Shai Osudoku district, this was the first district in which the National Legal Aid Scheme established an alternative dispute resolution centre.

Ga South Municipality

The Municipality is one of the ten districts in the Greater Accra Region of Ghana. Its capital is Weija. According to the 2010 Population and Housing, the municipality has a population of 411,377 representing about 10.3% of the region's total population. Females constitute 51.1% and males represent 48.9%. Almost nine out of 10 persons live in the urban localities. About 45% of the population aged 12 years and older are married, 42.1% have never married, 5.3% are in consensual unions, 2.8% are widowed, 3.0% are divorced and 1.9% are separated. Of the population 11 years and above, 87.9 percent are literate and 12.1% are non-literate. The proportion of literate males is higher (92.6%) than that of females (83.6%). A FIDA paralegal centre is in this municipality.

Shai-Osudoku District

The Shai-Osudoku District is situated in the South-Eastern part of the Greater Accra Region. The district has Dodowa as its capital and has a population of 51,913 (2010 Population and Housing Census). Of this, 48.7 percent are males and 51.3 percent are females. Also about 76.7 percent of the population resides in rural communities. A little over 40.7 percent of the population 12 years and older have never married, 39.8 are married. Of the population 11 years and older, 70.7 percent are literate. Also, 69.2 percent of the population is economically active, with 72.8 percent representing males and 66.0 percent representing females. Regarding housing, 49 percent of all dwelling units in the District live in compound houses,

35.8 percent in separate house and 0.1 percent in other dwelling. About 57 percent of the District's population live in houses owned by a household member. The findings further show that 57.4 percent of male headed households own their dwelling units whilst 56.9 percent of female headed households also own their dwelling units (Ghana Statistical Service, 2010). There is a Legal Aid Scheme alternative dispute resolution centre in this district.

Ashiedu Keteke District

The district falls under the Accra Metropolitan area and has James town as its district capital. The 2010 Population and Housing Census shows that the population size of the district is 117,525. Out of this total number, 25.1 percent of the population above 11 years and older are not literate. The World Bank (2010) also shows that 30 percent of the population has at most primary education while almost 30 percent of the population earned less than 100 cedis a month. The major occupation in the district is fishing. A FIDA paralegal centre is in this District.

3.5 Sampling Procedure and Techniques

This section explains the sampling procedures and techniques that were used in selecting the legal aid providers, its personnel and the beneficiaries.

3.5.1 Sampling of the legal personnel

The sampling of the legal personnel in the legal aid centres first required the need for the selection of the legal aid centres. For the purpose of this study, the International Federation of Women Lawyers (FIDA) and the Legal Aid Scheme (LAS) were purposively selected because they are the institutions from which the best can be learnt as far as the objectives of the study are concerned. Specifically, the heads of the institutions, administrative head, program officer, paralegals and Alternative Dispute Resolution (ADR) officers were

purposively selected. These are specialized personnel that complement lawyers' efforts in the delivery of legal aid services. There were other state institutions which were relevant in the pursuit of access to social justice, therefore one key personnel each within Ministry of Justice and the Department of Social Welfare, Ministry of Gender and Social Protection were included.

3.5.2 Sampling of the beneficiaries

The multi-stage sampling technique was used in the sampling the beneficiaries.

- Stage 1: A beneficiary list was obtained from the two institutions that were purposively selected for the study. This list contained the names of the beneficiaries and the type of cases.
- Stage 2: The study then employed stratified sampling to segment the beneficiaries into groups to ensure that the relevant cases were captured in the study. In other words, the population of beneficiaries was divided into mutually exclusive sub-groups using the type of case as the basis. From each sub-group, a quota sample was selected. Generally, Ashley (2014) defined quota sampling as a non-probability sampling in which units are selected into a sample on the basis of pre-specified characteristics so that the total sample has the same distribution of characteristics assumed to exist in the population being studied. In this study, the characteristic used was the type of legal case.
- Stage 3: Purposive sampling technique was then used to select a mixture of male and female beneficiaries from each group.

Non-beneficiary selection was done by liaising with legal personnel at the legal aid centres to know those who fail to qualify for legal service. That was used as a starting point to snowball the rest.

3.5.3 Sampling size

Regarding the sampling of the respondents, different sample sizes were allocated for each of the respondents. In other words, the beneficiaries had a different sample size from that of the institutional personnel. According to Crouch (2006), in the case of qualitative research especially for interview-based research, small samples of less than 20 enhances the validity of fine-grained and in-depth inquiry. Therefore, a researcher should always aim at having samples by obtaining more referrals in case some of those approached do not participate. In all, there were 59 beneficiaries and 23 institutional personnel across the two institutions.

The following points were considered in the determination of the sample size:

- i. Diminishing return due to saturation (as data collection progresses, more data does not necessarily translate into more information)
- ii. Larger sample would result in data becoming repetitive and, eventually, superfluous

3.6. Data Collection

3.6.1 Sources of data

This study employed both primary and secondary sources of data. The primary sources of data were obtained directly from the study's unit of analysis (beneficiaries, non-beneficiaries, legal aid institutions) through the use of interview guides. The primary data collection method provides original data directly from the study population and un-biased information, although the method was time consuming.

Secondary data on the other hand were from the reports of the institutions regarding the level of demand for legal services. The use of secondary data in this study made the primary data collection more specific since the researcher was able to make out the gaps and deficiencies and any additional information that needed to be collected.

3.6.2 Data Collection Instruments

Collection of the relevant qualitative data for this study was done using interview guides where open-ended interviews were conducted with the respondents. Specifically, interviews were conducted with legal aid personnel in the management and administration of legal aid, and the beneficiaries, and non-beneficiaries of legal aid. This presented the respondents the opportunity to voice their opinions on access to legal aid services.

Open-ended interviews are a data collection method that is usually conducted face to face between the interviewer and the participants allowing the researcher to control the process and allowing freedom for respondents to express their thoughts (O'Leary, 2004). In-depth interviews were used in this study based on Guion, Diehl and McDonald (2013) assertion that qualitative interviews are excellent tools to use in planning and evaluating program because they use an open-ended, discovery-oriented method.

To ensure that the interview guide contains relevant items that can answer the research questions and objectives, the instrument was structured into sections with each section focusing on one of the objectives of the study. The first section however elicits the demographic characteristics of the respondents. The major demographic variables include age, gender, occupation and educational background. These demographics were relevant in exploring how they related to the research questions and objectives of the study.

The interview guide covered a wider range of items relating to the research questions including

- i. Institutional capacity of the legal aid schemes.
- ii. A description of the legal system in each institution and the general access to justice situation.
- iii. A description of how legal aid mechanisms are organized and monitored
- iv. Information on geographical coverage, the number of individuals involved in legal aid and other statistical information like demand statistics
- v. Information on the type of legal aid provided
- vi. Information on eligibility criteria and requirements

3.6.3 Procedure for data collection

Prior appointments with the key informants were secured. At the meeting with each official, the purpose of the study was explained, and all questions in this regard were answered. The interviews were tape-recorded with the permission of all the key informants and supported with notes taken by the researcher. Each interview lasted about 30 minutes to avoid interviewer fatigue.

Data collection was carried out in English and a local Ghanaian language depending on which language the beneficiary understood. The interviews took place in private rooms selected by the respondents, considering the sensitive nature of most of the cases. A research assistant with experience in data collection was recruited and trained by the researcher to assist in the field work.

3.7 Ethical Issues

Ethical matters or considerations are very important for every research adventure or study (McNamara, 1994). This is most important for studies that involve the use of human subjects. Specifically, the significant ethical issues that were considered in this research process include respondents' consent and confidentiality. To secure the consent of the selected participants, the researcher shared with the respondents, the aims and purpose of the study. Specifically, the consent of the respondents was obtained by giving a written explanation of the study for their perusal before signing among the participants who could read and write. However, those without formal education received a verbal explanation of the study to ensure that they agreed before giving their consent. Participants who had difficulty reading the consent form and those who opted also gave verbal consent.

To ensure the confidentiality of the participants who gave written consent, codes were used on the form instead of their names. All participants had the right to withdraw from the interview before completion. Participants were asked not to mention their names during the interview so as to be anonymous.

According to Creswell (2005), gaining access to research sites involves obtaining permission to sites and individual and negotiating approval with these individuals at a site which can facilitate the collection of research data. To gain access into the institutions, a letter of introduction was obtained from the University, explaining to the heads of the institutions that the researcher is a student on academic research assignment and should be accorded the needed assistance.

3.8 Data Analysis

Inductive thematic analysis was performed on the qualitative data. In inductive thematic analysis, coding and development of themes are dependent on the data content (Braun & Clarke, 2006). Specifically, after the field study, both written and recorded materials were immediately transcribed. The actual analysis began with reading through the transcribed responses and listening to the audio records in order to have a good grasp of all the data.

Categories of responses from the interviews were identified and coded using emerging themes from the interviews. Different themes were derived for each research questions. For research question one, the major themes identified from the qualitative data included availability of staff and office space, funding and targeting instruments. The major themes identified from the qualitative data for research question two included family issues, child defilement, beneficiary awareness of legal aid services and impact of legal aid services.

Descriptive statistical analysis using percentages and absolute figures were performed on the secondary data to determine the demand for legal aid services. Trend analysis which involves identifying patterns in the demand for legal aid services was also used to present annual changes in demand for legal aid services. The major variables analysed included the number of beneficiaries of legal aid services, and the type of legal aid services offered to beneficiaries. The qualitative and quantitative data were integrated at the point of interpretation of the findings for validation purposes.

3.9 Limitations of the study

Limiting the study's population to only the Greater Accra suggests that the findings cannot be extended to other regions. The use of the purposive sampling also implies that the sample

is non-random hence, limited to generalisation of the findings. However, the findings are relevant in highlighting how access to legal aid shapes access to social justice.

Several challenges were also encountered in the data collection stage. Major among them was getting access to the beneficiaries. Although seeking the consent of the beneficiaries was not a challenge, making time for the interviews by personnel of the legal aid offices was difficult since they were geographically dispersed.

CHAPTER FOUR

FINDINGS AND DISCUSSION

4.0 Introduction

This section presents the analysis and discussion of the results from the interviews and the secondary data. In discussing the results, attempts were also made to relate the results to the pertinent theories and concepts discussed in the literature review.

The results are presented in relation to the objectives of the study. The first section of the chapter explores the characteristics of the respondents; background of the institutions, the human and financial capacity of the legal aid agencies. The other sections assessed the demand for legal services, the targeting mechanisms for legal aid services, and how access to legal aid services has impacted on access to social justice.

4.1 Background analysis of beneficiaries and non-beneficiaries

In all, 59 beneficiaries were sampled from the Legal Aid Scheme (LAS) and the International Federation of Women Lawyers (FIDA) within the Greater Accra Region. Of the 59 beneficiaries, 32 were from FIDA while 27 were from LAS. Out of the total number of beneficiaries 45 have had their cases mediated and settled by the centres, while 14 were in the process of mediation.

The major demographic variables analysed for the beneficiaries include gender, age, educational background, marital status and type of occupation. Of the 59 beneficiaries across the two legal aid centres, 17 were males while 42 were females. For Legal Aid Scheme (Shai-Osudoku District), out of the 27 respondents (beneficiaries and non-beneficiaries), there were 16 females and 11 males. For FIDA Ghana (Ga South Municipal and Ashiedu Keteke

District) there were 26 females and 6 males. It is therefore clear that the sample was largely dominated by females from both legal centres. This suggests that the most vulnerable, particularly women are the highest clientele base for legal aid. Therefore, targeting women in any legal aid scheme as currently done by FIDA and to a less extent by LAS could be the most optimal means of enhancing access to justice among the vulnerable.

According to Schetzer, Mullins and Buonamano (2002), different legal issues and problems will be relevant at different stages of an individual’s life. Against this background, the age distribution of the respondents was also analysed. Averagely, the respondents were aged 35.5 years with minimum and maximum ages of four years and 67 years respectively. Table 4.1 shows the age groups of the beneficiaries in absolute figures.

Table 4.1: Age distribution of beneficiaries, in completed years.

Age	0-10	11-20	21-30	31-40	41-50	51-60	61+	Total
Legal Aid Scheme (Shai Osudoku District)	0	0	2	9	12	3	1	27
FIDA Ga South Municipal/Ashiedu Keteke District	4	10	6	3	5	2	2	32
Total	4	10	8	12	17	5	3	59

Source: Field Data (2017)

A review of the age distribution of the beneficiaries shows 57.6% are less than 41 years. Relating the ages of the beneficiaries to the National Youth Policy of Ghana (2010) which defines a youth as a person within the age bracket of 15 and 35, it means that the beneficiaries are largely young and youthful. This is consistent with Schetzer et al. (2002) that young people may be more vulnerable to issues relating to their rights as a result of their lack of knowledge of their rights. Furthermore, 23 of the beneficiaries were above 40 years

suggesting that middle-aged people also seek for the services of legal aid. There are also indications of some of the beneficiaries being children considering the Children's Act, 1998 of the 1992 Constitution of the Republic of Ghana that defined a child as a person below the age of 18 years. It is therefore clear that the quest for legal aid cuts across all age groups and sexes in Ghana (children, youth, women and the elderly). This is consistent with the assertion of the Danish Institute for Human Rights, DIHR (2011) that legal aid services are particularly provided to the vulnerable irrespective of the age.

However, there was generally no child beneficiary from the Legal Aid district office as shown in Table 4.1, though both centres recorded young and elderly beneficiaries. The predominance of children beneficiary among FIDA could be explained by the fact that FIDA promotes and protects the rights of children and women, unlike Legal Aid whose target population is wider.

The complex nature of legal issues surrounding children and juveniles could explain why LAS has been non-responsive to children. A key informant from Social Welfare explained:

Juveniles sometimes need legal aid, but LAS is unable to support them because they think children's cases are cumbersome. When they apply they are not successful [DSW, 2017]

Regarding the types of occupation of the respondents, most of the beneficiaries were persons with insufficient income to seek for legal services. This supports the Turkish Bar Association (2017) that legal aid should provide legal services to such persons who cannot afford the cost of legal services

According to Carmona and Donald (2013), understanding of the existence of rights and adjudicatory mechanisms, is fundamental to the enjoyment of human rights. However, this

assertion is largely dependent on the literacy level of the person seeking justice. Against this background, the study further explored the educational background of the beneficiaries.

The respondents' educational backgrounds ranged from tertiary (6), middle school (6), SHS (11), JHS (5), primary (11) and no education at all (20). SHS, Primary and no education was the dominant educational level. Generally, the beneficiaries had lower educational backgrounds, particularly those from FIDA. The low educational background of the beneficiaries is a reflection of the type of economic activity they are engaged in. Therefore, considering the fact that legal aid institutions do not engage in enough information dissemination as noted by the UNDP (2008), the low educational background among the beneficiaries could result in their limited legal literacy.

4.2 Capacity of Legal Aid Institutions

This section presents a background analysis of the two institutions that participated in the study as part of research objective 1. This was made up of a government's own legal aid centre (LAS) and a civil society organization, International Federation of Women Lawyers, (FIDA-Ghana). The capacity of the institutions was analysed with regard to their legal and policy framework, staffing, physical presence (location), financial resources, targeting instruments, provision of legal services and ability to follow up on clients.

- **Legal and Policy Framework**

As a member of the United Nations, Ghana is bound by the conventions and treaties it has ratified under the declaration of human rights. Therefore, globally, the UN principles and guidelines on access to legal aid formed the basis for assessing the legal and policy framework of legal aid in Ghana. In addition, the Lilongwe Declaration on accessing legal aid in criminal justice in Africa, and the Legal Aid Scheme Act 542, 1997, were reviewed in the assessment.

The Legal Aid Scheme (LAS) is a statutory body that was established by PNDCL184 in 1987. The Legal Aid Scheme Act, 1997 (Act 1987) formed the legal framework for the establishment of the Legal Aid Scheme. The Scheme provides legal assistance to persons who earn the Ghanaian minimum daily wage or less, as well as persons in the prosecution and defence of their rights under the Constitution of Ghana (Legal Aid Scheme, 2014). The Scheme has a 12-member board, charged with the administration of the Scheme. According to the National Tripartite Committee, NTC (2017), the minimum daily wage would be increased from GH¢8.80 to GH¢9.60 effective January 1, 2018. This will afford people who ordinarily could not access justice the opportunity to have access. Considering the fact that 24.2 percent of the citizens in Ghana are poor as indicated by the GLSS (2014), the policy framework establishing the Scheme is essential in promoting constitutional democracy, rule of law and access to justice for the poor and vulnerable. However, the important question in this study is the extent to which these legal aid schemes have the capacity to promote social justice among the poor.

The policy framework backing the promulgation of the LAS is the Ghana National Social Protection Policy, NSPP (2015). The type of cases that the vulnerable present at legal aid centres are mostly civil cases. The ultimate goal of the policy is to promote access to social justice among the poor and vulnerable, so it is essential to use the nature or type of case in providing legal aid services to the poor

FIDA Ghana (*Federacion Internacional de Abogadas*, founded in 1944 in Mexico City) is an affiliate of the International Federation of Women Lawyers. It is a non-governmental organization launched in Ghana in 1974 and established the first legal aid program in Ghana in January 1985. A group of lawyers established it when they realized the need for women

to have access to free legal aid services which is in line with FIDA international's aims and objectives. This vision relates to the Turkish Bar Association (2017) that the legal aid should be provided free to the poor and vulnerable. FIDA has a 15-member board in place to provide general oversight of its operations. The UN Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) to which Ghana is a signatory is also binding on the operations of FIDA.

- **Availability of Office Space: Physical presence**

An operational gap regarding office space was identified for LAS. The interview shows that LAS currently has no permanent office location in Accra and shares office space with Council for Law Reporting. This has resulted in overcrowding of clients who come to seek legal aid services, long queues and ineffective case management. An informant at LAS lamented:

You can see my office, look at the small space, sharing it with 2 other staff. There is no decent waiting area nor sufficient seats for clients, no rest rooms and these sometimes account for client frustration when presenting their case [LAS hdqrs, 2017].

FIDA Secretariat has moved into its permanent office location on the Madina estate road and according to the informant, locating this place has been a challenge for their very old clients:

Even though banners have been placed everywhere on our new location, it takes a while for clients to find this new place [FIDA Secretariat, 2017]

- **Availability of Staff**

For LAS, the head office team comprises the Director, 11 staff in administration, 12 national service personnel and one ADR coordinator. The Greater Accra Regional office has four state lawyers and four ADR officers. The legal aid district office in Shai-Osudoku District has two ADR officers and two national service personnel. For the purpose of this study, the

national service personnel were excluded since they are not permanent staff, and therefore not abreast with the operations of the Scheme.

An informant at LAS affirmed:

The Greater Accra regional office including headquarters and Shai-Osudoku District has 4 lawyers, 6 ADR officers and 2 national service personnel offering legal aid services for both civil and criminal cases in Greater Accra Region. [LAS hdqrs, 2017].

According to the Head of Administration, each legal aid district office requires at least a lawyer to resolve cases that go beyond mediation to avoid deferring cases to the regional capitals and the regional offices require not less than five lawyers to manage the level of demand. This means that the gap in staffing level therefore implies that it is difficult for LAS to handle the influx of cases that are reported.

FIDA Ghana has 10 staff in administration and 10 active female volunteer lawyers called legal aid officers. FIDA and its paralegal centres operate in three districts in Greater Accra Region namely Ga South Municipal (Weija), Ashiedu Keteke District (James town) and La Nkwantanang (Madina). However, for the purpose of this study, the study population for FIDA was limited to beneficiaries from the Ga South Municipal in Weija and Ashiedu Keteke District in James town. This is because the La Nkwantanang paralegal centre, according to FIDA has not been very active in recent times, due to shortage of personnel.

These paralegal centres were established under an Open Society Initiative for West Africa (OSIWA) and African Women Development Fund, (AWDF) 5-year project with FIDA. However, these projects ended in 2015. Both centres have 15 active paralegals in total, seven at Ashiedu Keteke District and eight at Ga South Municipal.

Unlike LAS that uses either national service personnel who are trained to become ADR officers, or persons who have been trained as mediators, FIDA uses paralegals who are selected from state and non-state institution for mediation purposes. These institutions are the Court, DOVVSU, Health and Education representatives, CHRAJ, Municipal or District Assembly, Market, Social Welfare, faith-based organization and CSO.

The use of paralegals by FIDA and ADR officers by LAS could be explained by the argument of UNDOC (2011) that due to the low lawyer population across the world especially in Africa, other non-lawyer personnel have been sought such as legal assistants, paralegals and law students to provide additional support in the provision of legal aid services. There are no lawyers assigned to FIDA paralegal centres nor LAS ADR centres. However, clearly, ADR centres at the district need more mediation officers. The shortage of lawyers requires for the development of paralegals as proposed by the Opens Society Foundation (2010).

An informant at Ministry of Justice buttressed the lack of staffing by indicating:

Limited human resource is inhibiting the work of the Legal Aid Scheme. The net freeze on employment nationwide is having a negative impact on their work delivery. Employing trained mediators was cost effective to handle some of the cases that lawyers would have handled [MoJ, 2017]

The high level of under-staffing in LAS could be explained by Prempeh's (2015) assertion that Ghana is grossly under-lawyered. Relating the shortage of legal aid staff to Anderson (2003), it is clear that the inadequacy of lawyers, paralegals and other legal personnel could result in a lack of justice for the poor, considering the numerous social injustices that many have to cope with (Kahn-Fogel, 2012).

- *funding*

According to key informants at LAS, advocacy requires money but unfortunately, legal aid funding has been dwindling and has affected all the budget lines under the Scheme including public education. According to the Head of Administration, the 2016 budgetary allocation was approximately GHC2,500,000 while 2017 was approximately GHC1,000,000. He further indicated that funds often disbursed are lower than budgeted and often delayed. As a result, an annual national legal aid week which was supposed to have happened this year failed due to lack of funds.

A key informant at LAS lamented:

In 2016, only Ghc7,000 was disbursed for goods and services and this is for operational work for 30 offices i.e. head office, 10 regional offices and 19 district offices. All our vehicles are grounded. The only functioning vehicle is the Director's and Greater Accra Regional Director's vehicle [LAS hdqrs, 2017]

Limited funding to LAS halted its yearly sensitisation activities in the Greater Accra Region. Undertaking monitoring activities has also been highly challenging due to the lack of funds to procure vehicles.

The lack of engagement by the legal aid centres in awareness creation and sensitization could be explained by the lack of funds as indicated by an informant at LAS:

We always budget for public education, sensitization and awareness creation, but the funds simply don't come [LAS hdqrs, 2017].

According to ADRs at Shai-Osudoku District, they have sought for funding from the district assembly and headquarters but to no avail. Although there is a charge for the application form which is Ghc5 and they charge 10% for total debts recovered from clients for debt

recovery cases, these monies are sent to Accra to be lodged in headquarters' project account and they are reimbursed as and when funds are available.

When I verified from LAS about reimbursement of claims, this is what an informant said:

Some district claims have been here for over two to three months. Most of the districts and regional offices are pre-financing their activities. About 2 or 3 years ago there were budget lines for each region to cater for every expenditure, but this time the money comes to head office and they later get reimbursed [LAS hdqrs, 2017]

The financial constraint was also supported by a key informant at Ministry of Justice.

Legal aid is one of ours but even budget for headquarters is not enough and so what we get is what is provided LAS [MoJ, 2017].

- **Accessibility: Targeting Instrument for LAS and FIDA**

LAS and Legal Aid office in Shai-Osudoku District has no eligibility criteria for civil cases because according to the ADR officers in the district, mediation is for both the rich and poor, except for criminal cases. Thus, the principles of horizontal equity are the main guiding mechanism in the provision of legal services. Thus, the legal aid institutions have ignored the principles of 'unequal treatment of the unequals' as explained by the vertical equity theory in the provision of their services.

However, for criminal cases, there is eligibility criteria to be met and that some attempts are being made in applying the principles of vertical equity. Firstly, the person should earn the government's minimum daily wage. Secondly, that person will have to pass a means test which requires the completion of an application form and this is what is used in assessing clients in the informal sector. Answers provided to questions help in determining whether one qualifies or not. However, for this study, only civil cases were of interest.

For FIDA universal targeting is the norm whereby everybody is entitled to legal aid whether rich or poor. But the main target groups are women and children until recently in 2015, when they decided to include men. This may explain why majority of the clients for the legal services were women. For Ashiedu Keteke District, because their target group is children, the targeting instrument identifies children from 6 to 18 years.

- **Awareness: Provision of legal services**

Generally, when donor funding ceases, sustainability of any development program becomes a challenge. Since the OSIWA/AWDF project ended in 2015, the paralegals have not been able to embark on any wide-scale public legal education. This is what a paralegal and an informant at FIDA said:

We are ever ready to undertake any public education but financial constraints prevent us [FIDA Ashiedu Keteke District, 2017]

Since our external funding stopped, we have not done any public education. We have begun writing proposals for new projects to get donor funding [FIDA Secretariat, 2017]

Similarly, LAS and the Legal Aid office in Shai-Osudoku District have been unable to undertake any public education since the completion of the setting up of 19 Legal Aid district offices in 2014 by UNDP which catalysed an extensive public education in these districts.

An informant at LAS said:

State funds are minimal such that we are unable to do any community sensitization. Since UNDP funding finished, we have only distributed our flyers and stickers as part of public education [LAS hdqrs, 2017]

FIDA and LAS provide instant legal information and legal advice to clients who visit their office premises. FIDA unlike LAS coaches its clients to enable them to appear in court without a lawyer. This is what an informant at FIDA said:

Sometimes the clients don't have the money to pay for the lawyer's fuel to go to court. FIDA will prepare the legal documents for the client and how to respond to questions when asked in court [FIDA Secretariat, 2017]

Legal aid funding is largely driven by international donors with minimal contribution from the Government of Ghana.

Therefore, since such funding is provided for specific project duration, sustainability of projects become a challenge while operational activities also cease because the project has come to an end.

- **Adequacy: Follow up**

Overall, both LAS and FIDA have been unable to follow up with clients who have benefitted from legal aid services to ascertain their welfare. However, due to the NGO representative on the FIDA Ashiedu Keteke District paralegal network, called Street Children Empowerment Foundation (SCEF), this is being done but on a small scale. They rescue street children and provide them with basic learning through their learning hub facility in James Town or place them in selected shelters they work with such as the John Bosco shelter in Tema and Village of Hope. They get regular volunteers from overseas who provide them with financial assistance to support this project and together with SCEF officials, follow up on their clients to check on their welfare.

Table 4.2: Summary of institutional capacity in Accra

Agency	Policy Framework	Staffing/office location	Funding	Coverage	Targeting
LAS	NSPP, 2015	2 ADRs /2 National Service personnel at Shai-Osudoku District 33 staff in total. Shares temporal office space with Council for Law Reporting	<ul style="list-style-type: none"> • Donor funding • Government funding • Gifts and donations 	National office in Accra, 10 regional offices and 19 district offices across the country	Men, women and children
FIDA	CEDAW, 1979	Paralegals at Ashiedu Keteke District and Ga South Municipal Permanent office at Madina estate road	<ul style="list-style-type: none"> • Donor funding • Philanthropists 	Accra and Kumasi	Focus on Women and Children

Regarding the policy framework for LAS, an almost equal quota is given to both males and females in terms of accessing their services, unlike FIDA that has a specific target of clientele (women and children), with a clientele ratio of male to female ratio of 95:5. LAS operate on the principles of the National Social Protection Policy which provides a framework for delivering social protection services including legal aid, in a manner that is holistic and properly targeted. On the other hand, the policy framework for FIDA emanates from the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) promulgated in 1979. Regarding personnel, while LAS uses ADR officers and National Service personnel due to the shortage of staff, FIDA has sufficient Paralegals. While LAS receives financial support from the Government of Ghana and international donors, FIDA receives financial support from philanthropists and international donors.

4.3 Nature of Demand for Legal Aid (Level of Demand and Type of Demand)

This section of the chapter seeks to examine the demand for legal aid services among the vulnerable in the Greater Accra Region. In this regard, the level of demand for legal aid services and the type (s) of legal aid services reported to legal aid providers were analysed in this section.

4.3.1 Level of Demand

In determining the level of demand for legal aid services, primary documents were obtained from both institutions for a period of three years (2014 to 2016) which covers civil cases for LAS and FIDA. Over the three years, while FIDA had 1661 cases, LAS had 9059 cases. In other words, LAS had recorded 7398 more cases than FIDA over the same period. This is an indication that LAS is more inundated with cases compared to FIDA. The discrepancy could be explained by the fact that FIDA's demographic scope is very limited with a bias towards women and children. The overwhelming demand on LAS has several implications for quality

of the services finally offered to the beneficiary. It was noted from the interviews that FIDA is unable to refer cases that should be handled by LAS when reported to them because of the overwhelming demand for legal aid services. An informant at FIDA admitted:

Hardly does FIDA refer cases to LAS because we know they are overwhelmed. For some cases, we usually do upon referral, but some come back to say they are not comfortable and tell us what they are going through with LAS [FIDA Secretariat, 2017]

Figure 4.1 shows the distribution in terms of coverage across the two institutions over the past three years in absolute figures.

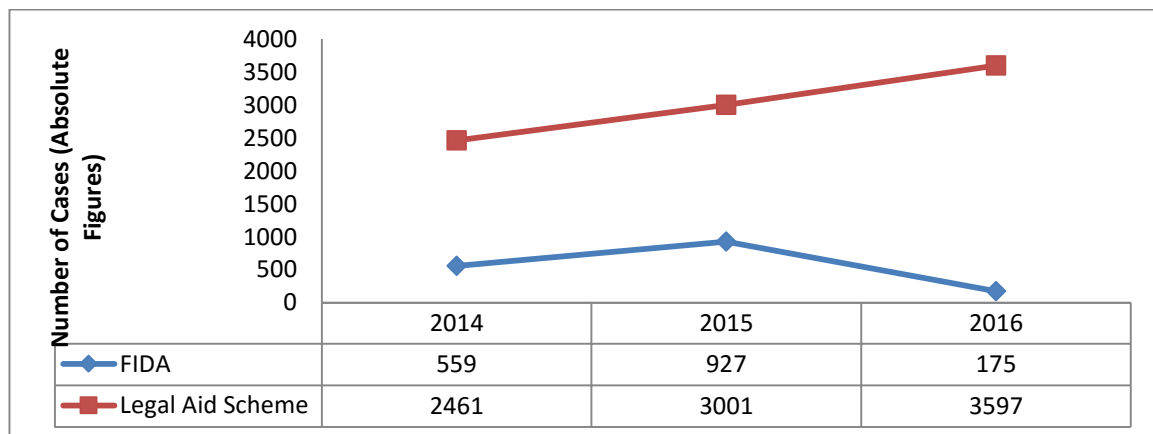


Figure 4.1: Demand for legal aid across FIDA and LAS in Greater Accra Region

Source: Data from FIDA and LAS (2017)

Figure 4.1 shows that since 2014, the demand for legal aid from the LAS has consistently increased. From 2014 to 2016, there has been an increment of 46.2 percent in the demand for legal aid from the LAS. On the other hand, for FIDA, with the exception of 2015 which recorded 65.83 percent increase in the level of demand from 2014 to 2015, there had been over 80 percent (81.1%) decrease in the level of demand for legal from 2015 to 2016. This is because since donor funding ceased about two years ago, FIDA has been unable to embark on public education nor awareness creation.

There are therefore clear indications that level of demand for legal aid services from LAS within the Greater Accra Region has consistently increased over the three years, while that for FIDA has dwindled badly. One of the major reasons for the overwhelming majority of cases being reported to the LAS could be explained by the varied nature of cases handled (both civil and criminal), unlike FIDA that handles only civil cases.

From the interviews, the beneficiaries prefer LAS because it is less expensive and less frustrating than the court. This is consistent with FIDA's (2015) observation that court processes are frustrating for their clients especially the women. Regarding the expensive nature of the court, a paralegal explained:

At the court they will pay minimum of Ghc60, but National Legal Aid Scheme it cost only Ghc5 (FIDA Ga South Municipal, 2017).

The study again explores coverage in terms of client numbers for legal aid services in the two institutions across gender. Table 4.4 shows the results across gender for each of the two institutions in absolute figures.

Figure 4.2 shows the distribution of cases across gender for the two institutions in absolute figures.

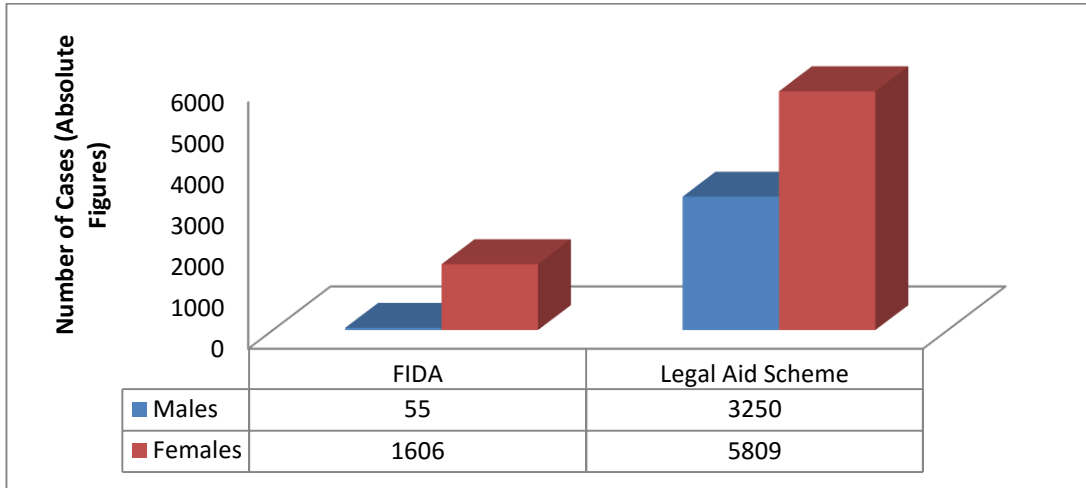


Figure 4.2: Demand for legal aid across gender for both institutions

Source: Data from FIDA and LAS (2017)

Figure 4.2 shows that a significant proportion, 96.7% of the beneficiaries of FIDA are women. This is expected since the core mandate of FIDA is to provide legal support to women and children. Similarly, 64.1% of LAS beneficiaries are women although LAS covers men, women and children and this shows the demand on legal aid services by women.

Disaggregation of the yearly analysis of coverage for legal aid across the two institutions over the three years is shown in Figure 4.3.

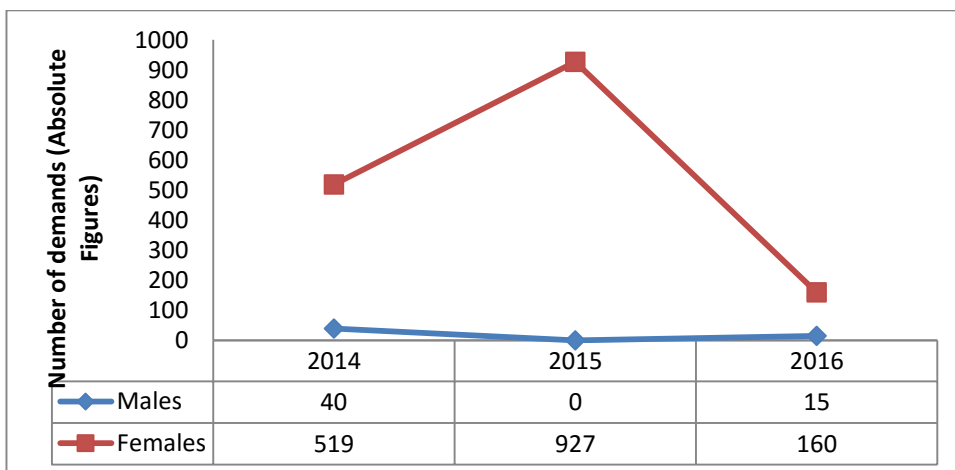


Figure 4.3: Demand from FIDA across gender in Greater Accra Region

Source: Data from FIDA (2017)

Figure 4.3 shows that though the majority of the beneficiaries of FIDA are women, the proportion of coverage decreased sharply from 2014 to 2016 (69.2%) for women, and 62.5 percent for men for the same period. Specifically, there was no demand from a male in 2015. However, there was a marginal increase in demand by men from 2015 to 2016. Figure 4.3 also shows that while demand from 2014 to 2015 increased by 78.6 percent for women, there was no demand for men for the same period. Generally, there seems to be fluctuations in the level of demand for legal services across both gender, though demand is predominant among the females.

Figure 4.4 also shows the demand from LAS across gender over the past three years in absolute figures.

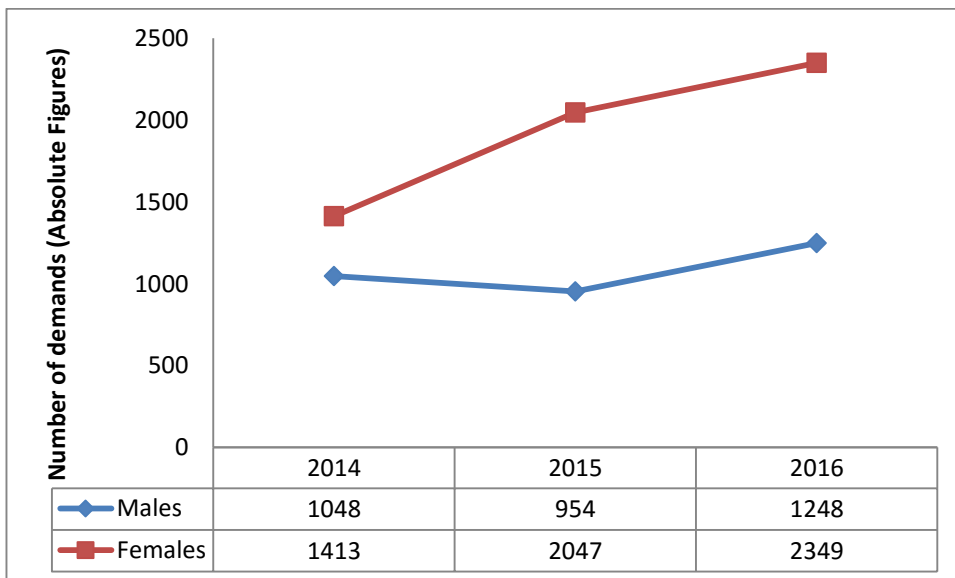


Figure 4.4: Demand from LAS across gender in Greater Accra Region

Source: Data from LAS (2017)

It is clear from Figure 4.4 that there has been a consistent increase in the demand for legal aid services across the three years. From 2014 to 2016, there has been 19.1 percent increase in demand from males, while for the same period, demand from women increased by 66.2 percent. Generally, there has been a consistent increase in the demand for legal aid services from women over the three years.

Despite the improvements in the level of demand, there is still a challenge with the distance to legal aid centres, particularly for those commuting from rural areas. One of the beneficiaries lamented:

The poor people stay very far away in remote villages and travelling all the way here could deter them from pursuing their case. It took me one hour 30 minutes to travel. If mediation is rescheduled, moving back and forth will be too much for somebody from a rural community [Beneficiary 7-LAS, 2017]

This buttresses the point by UNDP (2014) that the lack of mobile legal aid clinics in most rural areas could be limiting a lot of people from accessing the justice system. Generally, LAS has a wider coverage than FIDA and the use of mobile legal aid clinics will make legal aid service delivery effective.

4.3.2 Type of Demand

This section analysed the specific types of legal aid demands that are received by the legal aid institutions in the Greater Accra Region and the level of awareness of the beneficiaries in order to make the right demand for legal aid services. There was no secondary data on the types of cases from LAS, hence Table 4.5 shows the distribution of the cases for only FIDA for 2014 and 2015 in absolute figures. Data for 2016 was not available.

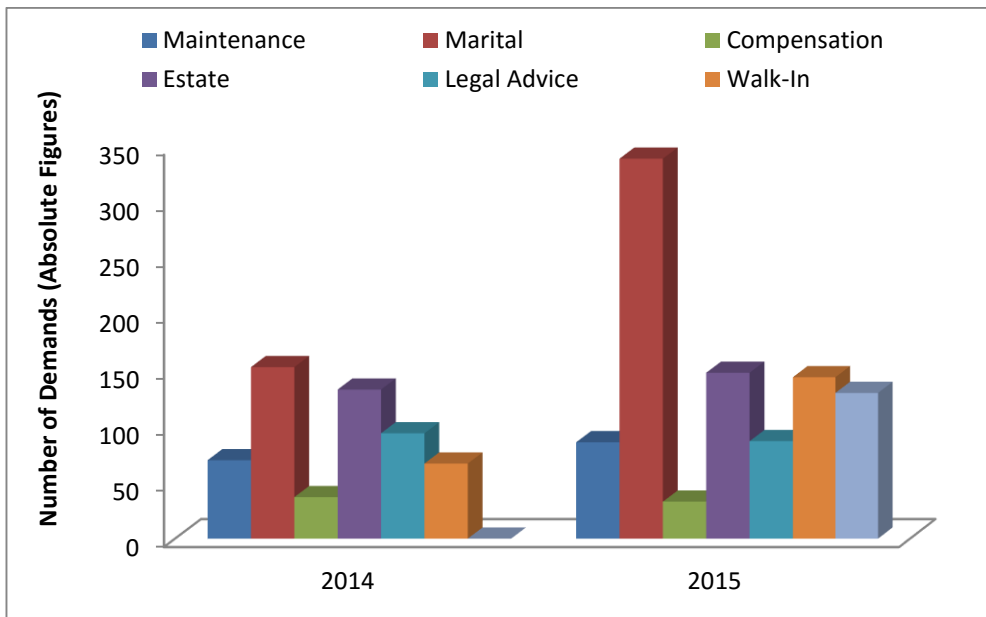


Figure 4.5: Types of cases from FIDA (2014 to 2015)

Source: Data from FIDA (2017)

Figure 4.5 shows that over the three years, marital and housing related cases dominated. In 2014 and 2015, marital status represented 27.4 percent and 36.6 percent respectively. Similarly, though there were no statistics from LAS, the interviews also show similar types of demands ranging from marital, maintenance, and employment. These cases are consistent with Schroer (2013) that the common cases handled by legal aid centres include marital dispute, family dispute, and housing and employment disputes.

LAS like FIDA, handles persons coming for legal information and education including walk-in cases. Available statistics from FIDA shows that of the 927 cases reported in 2015, 114 were people who simply walked into the legal aid office to seek for legal advice. In 2014, ‘walk in’ cases were 67 out of 559. Therefore, legal aid services can start with legal information and education, giving people knowledge about their rights under the law and how to use them, as recommended by DIHR (2011).

Another key demand is legal education. Generally, even for clients that FIDA is unable to provide lawyers, they are coached thoroughly on the laws before appearing in court without any legal representation. This suggests that FIDA believes in the philosophy of people getting empowered and equipped to be able to present themselves in court unaided as suggested by Rhode (2001). A case was won by a 63-year-old client of FIDA who through legal education and coaching, went to court without a lawyer. She narrated:

I lost my husband some years back, later all my children also passed on. I was taken to court by my late husband's family to vacate the house and the case was ruled in the family's favour. One day, my brother heard of FIDA's radio discussion on intestate and advised me to appeal. With FIDA's coaching, I went to court again, but this time was successful [Beneficiary 4-FIDA, 2017].

This evidence, according to FIDA was used as a case study for the International Women's day held on 7th March 2015. The above case is consistent with Carmona and Donald (2013) argument that awareness and understanding of the existence of rights, and ways in which such rights can be invoked before and enforced by judicial and adjudicatory mechanisms, is fundamental to the enjoyment of human rights.

As part of further exploration, the beneficiaries were also interviewed regarding the specific cases. Following the thematic analysis generated from the research questions sequentially, four major cases were identified from the interviews across the institutions as shown in Table 4.3.

Table 4.3: Cases reported at FIDA and LAS in Greater Accra Region

	Family Issues	Landlord/Tenancy	Medical negligence	Labour Issues
FIDA	34	0	1	0
Legal Aid Scheme	10	11	0	3
Total	44	11	1	3

Source: Field Data (2017)

Of the 59 beneficiaries, 44 (74.6%) had family issues of which the majority were related to marital issues and child maintenance, particularly those from FIDA. All the family issues were reported by women. FIDA had most of its beneficiaries reporting family issues which is expected since FIDA's clientele is women. Landlord/Tenancy issues dominating in LAS as shown in Table 4.5 could partly be related to the Population and Housing Census (2010) assertion that Greater Accra is the region with the most migrant population.

- *Family issue*

Family issues related to child defilement and child maintenance dominated. Lack of maintenance issues was the dominant case reported by the women especially at FIDA.

- *Maintenance*

Surprisingly, unlike in divorce or separation, this study found that even in instances where both couples are together, child maintenance can be an issue. Thus, persistent demands from women for child maintenance often result in violent treatment from the men, whether separated, or living together. One of the beneficiaries affirmed:

He slaps me violently when I continually make the demands for the upkeep of the family [Beneficiary 3-FIDA, 2017].

Another case related to maintenance is an eight-month pregnant woman whose husband stopped taking care of the home by absconding and changing his mobile number. According to the woman, several attempts have been made by the assembly man and even the chief, yet to no avail. Following this development, she was advised by the assembly man to bring the case to legal aid. Her case was being processed at the time of my visit.

Another typical case of maintenance issue is women not receiving any maintenance support from the families of their deceased husbands. One woman said:

The children are with me because the family members say they are my responsibility. I have become the family head now [Beneficiary 18-LAS, 2017]

Most of the women seeking for justice with regards to legal aid were engaged in low income jobs like petty trading. It is therefore clear that such women need a legal aid system that has no cost implication as recommended by the Turkish Bar Association (2017) assertion that legal aid should be free.

A key consequence noted to have resulted from the child maintenance issues was child 'streetism' where children turned the street into a home, making them prone to all vices on the streets. According to Department of Social Welfare, DSW (2016), there is an estimated 90,000 street children in Greater Accra Region alone.

The interviews show that FIDA Ghana's paralegal network at Ashiedu Keteke District specifically in James town supports vulnerable children from 6 to 18 years on the streets. The paralegals rescue them either from the streets during their community advocacy especially the very young ones or sometimes concerned citizens bring them in.

The study also discovered a CSO paralegal on the Ashiedu Keteke District paralegal network who works with Street Children Empowerment Foundation (SCEF). When any of the paralegals rescues these children, they liaise with the CSO paralegal to explore how this can be managed. The CSO also works with some orphanages such as Village of Hope, Assemblies of God Relief Training Centre and Beacon of Hope. Some of these children are placed in these shelters but re-integration requires the approval of social welfare of which the social welfare paralegal facilitates.

It is clear that FIDA has a very effective coordination network with all the relevant actors concerned in the justice process. This, according to UNDP (2014), facilitates the process to meaningful access to justice.

- ***Child defilement***

The phenomenon of child defilement is so prevalent in the Ashiedu Keteke District. One of the paralegals affirmed:

According to the Ga mashie (paramount chief), if we decide to pursue cases of child defilement, then half of the men in James town and its environs will be jailed [FIDA Ashiedu Keteke District, 2017]

Child defilement cases are so sensitive that the parents/guardians were rather interviewed, though in some few cases, there was the need to verify some information from the children.

One of the children who was defiled by her own father explained:

The father was the perpetrator, defiling his own daughter and this started when she was 11, but 16 years now. We reported the case to FIDA. The father has been sentenced to jail for 25 years. The child was moved into a shelter due to stigmatization by her own family members. SCEF later got my daughter a scholarship and she is in secondary school almost completing. SCEF has also bought me a container filled with provisions so am working now [Beneficiary 11-FIDA, 2017].

This case happened in Ga South Municipal but had to be moved to Ashiedu Keteke District because of the good coordination between both paralegal networks and SCEF's readiness to support.

Another typical case of child defilement was reported at the Ga South Municipal involving a 4-year old child who had been defiled thrice by the security man in her school. According to the child:

I left the class to go and urinate and the security man followed me to the toilet and pulled down my pant and ... [Beneficiary 1-FIDA, 2017]

This case has now been passed on to Ashiedu Keteke District to be handled.

There were also few civil cases that were more of the state becoming more socially responsible towards the needs of the disabled. One of such cases is the inability of both legal aid and social welfare to offer assistance to an unemployed widow with an eight-year disabled son with behavioural disability. According to the woman:

I have an eight-year old disabled son who needs medication to control his erratic behaviour. The medicine costs Ghc150 per month and the child is expected to take this continually. Social welfare cannot assist neither can Legal Aid, so I have also stopped following up [Beneficiary 4-LAS, 2017]

This statement is an indication that there could be several disabled persons whose access to justice including state justice is being curtailed, due to their vulnerability.

In summary, family issues were highly reported by FIDA than LAS, though issues of child maintenance dominated across the two institutions. The major family issues reported to legal aid centres involve situations of domestic violence, divorce, custody battles, or advocating for women who need protection from an abuser as supported by Schroer (2013).

- ***Landlord/Tenants***

The second dominant type of case across the two institutions relates to house rents between landlords and tenants, particularly regarding the non-payment of rent and utility bills. Regarding a case relating to the non-payment of rent, one of beneficiaries seeking legal advice from Legal Aid stated:

Following the demise of my father, I rented our family house to enable me to pay my school fees. But the tenant has not paid since 2013 and we are in 2017.

I have been to Rent Control but am asked to pay Ghc400 first, but I don't have money. I went to the Police, but they say I must go to Rent Control. I recently found Legal Aid Centre, so I have come today to seek legal advice [Beneficiary 16-LAS, 2017].

It is clear from this statement that this beneficiary does not know that rent issue is a civil case that is not handled by the police. Additionally, the Rent Control Officer demanding bribe further implies that even state institutions that are mandated by law to promote the well-being of its citizen, could be offering such services at a cost, to the detriment of the poor.

Although Rent Control is the ideal institution for resolving rent related issues, there is a preference for the services of LAS due to its low cost and quick service compared to the undue delays experienced at Rent Control. Generally, LAS has a more effective means of resolution than the Rent Control office. One of the beneficiaries confirmed this by stating:

Even at Rent Control apart from paying transport and spending time to go there, they will waste your time but with legal aid just 5 minutes am done and the way they were friendly with me was like they knew me [Beneficiary 20-LAS, 2017].

Relating the above to Carmona and Donald's (2013) argument that due to the deeply entrenched discriminatory attitude court staff and other justice sector personnel reflect towards persons seeking legal aid services, the friendliness of the services by LAS is expected to give the poor some confidence in approaching legal aid services (UN Women, 2011).

Another case relating to tenancy was the forceful eviction of tenants by their landlords. One of the beneficiaries narrated:

My landlord has decided not to pay me my balance. He ejected me and my five children from his room though my time was not due, and he even said he will not give me my balance and I can take it anywhere I like [Beneficiary 9-LAS, 2017].

There were also instances of non-payment of utility bills by tenants. One of the beneficiaries who sought legal services from FIDA narrated:

I gave my store for rent and the tenant has piled electricity bills. I brought the issue to the paralegals and now she has paid everything [Beneficiary 8-FIDA, 2017].

The above supports McLellan (2008) argument that, disputes should not end up in court for settlement but rather through negotiation based on interests.

Overall, nature of demand was largely dominated by family issues across the two institutions and that child defilement was largely handled by FIDA. LAS reported the highest number of tenancy issues than FIDA.

4.4 Beneficiary Awareness

Media advocacy through panel discussions on issues relating to women and children including family laws, the right of the child and PNDC law 111 have largely been engaged by FIDA. One of their lawyers goes to Peace FM to provide legal advice every two weeks. This platform has expanded FIDA's outreach into the rural areas. However, due to poor connectivity, most rural areas do not have access to radio and TV services, therefore, relying solely on media may not be very productive in awareness creation. This could explain FIDA's reliance on onsite public education within the communities they visit.

Prior to the commencement of any public education, the paralegals explore the prevalent issues which will inform the advocacy. These issues are sometimes acted out people by community members, attracting passers-by especially street hawkers. Community durbars with chiefs, state actors, opinion leaders, the assembly, market women and community advocacy in churches, mosques and schools were done when there was donor funding. These

are done to explain the human rights laws and the need to report any violation of one's rights. Through their media advocacy, a queen mother in Aburi invited one of the paralegals (who is also a sub chief) to come and educate her sub chiefs.

According to officials at FIDA secretariat, before any community advocacy begins, the paralegals do a pre-test to assess the level of knowledge of the community before sensitization is provided. A post-test is also done after the public education to assess the level of understanding. This is relevant in ensuring that education really meets the legal needs of the local people. After the advocacy, they distribute relevant materials on some of the laws to the participants. Some of these training materials are translated into Ghanaian languages. Considering that about 25.1 percent of the population above 11 years and older in the Ashiedu Keteke District are not literate, translation of some of these materials into local language could be very helpful.

According to the paralegals, they can determine that public education has been understood by the types of cases that are presented, the types of questions asked or the transfer of knowledge to somebody else. Typical examples of questions asked by two participants that show their understanding:

Madam paralegal, then it means that if someone even burns rubbish behind my window indiscriminately, can I report it?

Madam I have seen a lot of gang groups springing up in James town and the leaders are a bad influence on the children. Where do I report such menace creeping into our society?

Even though the funding that supported the work of the paralegal network has ended, the DOVVSU paralegal commented on how the training and the outreach activities have equipped her:

It is helping me in my work at DOVVSU as officer in charge. I educate my staff on how to sensitize people, how to go about investigation, and with my knowledge, people come to me personally for advice [FIDA Ashiedu Keteke District, 2017]

The social welfare paralegal however expressed some concern:

Social education can be done without a project, but the implication is that people will come in their numbers and we will have to support them, and we do not have the funding [FIDA Ashiedu Keteke District, 2017]

An observation made by the Social Welfare paralegal was that outreach done in Muslim communities have catalysed an increase in reported cases as compared to previous years.

According to key informants from both paralegal centres, the extensive public education in the communities has enhanced their visibility and because community members have their contact numbers, they know exactly where or who to reach for legal assistance. Educating the people on their fundamental human rights is to equip them and enable them to make the necessary demands for their right. This, according to the DIHR (2011), can start with legal information and education about their rights, just as done by FIDA.

However, LAS at Shai-Osudoku District has been unable to do community advocacy since 2014. The ADR officer explained:

We haven't organized any community outreach on our own. We share our brochure and flyers when our clients come here. We are on the same premise with CID, DOVVSU, and a Police Station. Sometimes clients who visit these offices are given our flyers. Also, whenever the National Board for Small Scale Industry (NBSSI) does any sensitization for their customers in Dodowa, we join to educate them but if it is held outside Dodowa we are unable to because we are under staffed [LAS Shai-Osudoku District, 2014].

Unlike FIDA that has some of its training materials written in Ghanaian languages, Legal Aid office in Shai-Osudoku District training materials are only in English. Available data from

GSS (2010) shows that of the population 11 years and older in the district, 70.7 are literate. This means that the 29.3 percent may be unable to comprehend the content of these materials.

Since donor funding to LAS and FIDA ceased in 2014 and 2015 respectively, their clients have been the main advocacy tool. The deduction therefore is that without external funding, sustainability of legal aid activities especially public education will be a major challenge for legal aid institutions.

4.5 Targeting instruments

This section examines the targeting instruments used by the institutions in the identification of their beneficiaries. For Ga South Municipal paralegal centre, there is no eligibility criteria to be adhered because it offers a universal access service, which means that everybody is entitled to legal aid whether rich or poor, but their focus is mainly on the poor and vulnerable especially women and children. For Ashiedu Keteke District paralegal centre, because their target group is children, the targeting instrument identifies children from 6 to 18 years. For FIDA, a ‘direct or categorical targeting’ as propounded by Ellis et al (2009) is what is being used because it identifies distinct groups of people who are more vulnerable than others or generally poor and, in this case, women and children.

The Legal Aid office in Shai-Osudoku District has no eligibility criteria and they handle only civil cases for both males and females and this is in direct support of UNICEF’s (2012) targeting where everyone is covered by an appropriate and effective social protection mechanism. The key informants mentioned that they have made provision for trivial criminal cases to be handed under civil cases. A lack of eligibility criteria however, could lead to ‘free riders’ according to Moorhead (1998) because in his view, those who are not entitled to legal

aid could be benefitting from it. To curb this, PILnet (2009) argues that a targeting mechanism should be instituted to monitor legal aid needs.

For FIDA secretariat, all criminal matters are deferred to lawyers in their chambers. Criminal matters reported to paralegals are deferred to FIDA for onward transmission to lawyers in their chambers. For the Legal Aid office in Shai-Osudoku District, criminal cases including cases that move from mediation to litigation, are deferred to the Greater Accra Regional office because there are no state-funded lawyers at the district, however, there is eligibility criteria to be met. Firstly, the person should earn the government's minimum daily wage. Secondly, that person will have to pass a means test which requires that you complete an application form and answer certain questions which will enable them to assess your qualification or not. However, the use of a means test, according to Sampson et al (2005), is susceptible to falsifying of information by applicants because to meet the criteria set, applicants are likely to modify their answers to become eligible.

An informant at LAS confirmed a similar situation which was a criminal issue where the client feigned poverty. This is what the informant had to say:

When he came to file his case at LAS, he looked wretched and he was seen like that for a couple of times but when the case prolonged a bit, he started coming in his own vehicle and was spotted by one of the ADR officers who reported so his case was withdrawn [LAS hdqrs, 2017].

For both legal aid centres, the completion of an application form is required, and every client is expected to complete it either on their own or with the assistance of an ADR or Paralegal. However, Shai-Osudoku District's application form attracts a cost of Ghe5 but there is an exception for the very poor and this is determined from the completed application form. For any debt recovery, Shai-Osudoku District charges 10% on total amount recovered. FIDA's legal services on the other hand, in relation to civil cases, attract no charge.

In conclusion, it is clear that there is no standardized targeting instrument for determining who is poor as far as access to legal aid services is concerned. This means there could be people benefiting from legal aid who should not, while others who really need to are not obtaining access. In other words, the allocation of legal aid services is not done on the unequal treatment of persons with unequal economic abilities. Considering the limited resources available, targeting everyone may not be the most optimal.

4.6 Legal Aid Schemes and Access to Social Justice

Theoretically, Rawls (1971) argues that for there to be social justice, three forms of justice - distributive justice, procedural justice and restorative justice must exist. This means that if these three forms of justice do not exist, then no meaningful justice will be achieved. Legal aid schemes are to some extent helping to influence social justice. This has largely been made possible by the institutions that are offering legal aid services and its personnel who are delivering the services to communities within their jurisdictions and beyond.

A typical example of access to justice to the fullest involves a man who was defiling several girls in the Ashiedu Keteke District. Through the coordination of the paralegal network and SCEF's assistance, three girls were willing to take him to court. However, only one told the truth and as a result got the man jailed for 9 years. This is what the girl told me:

Because I spoke about the defilement, I was left isolated, abused and stigmatized within my own family and the community. SCEF rescued me and placed me in a shelter and through their support, I have trained to be a hairdresser and they set up my hairdressing salon and am doing well (Beneficiary 28-FIDA, 2017)

The two mediation platforms established by FIDA and LAS also make it very convenient and less intimidating for the poor and vulnerable who ordinarily would not have been able to

access legal services, now go to a legal aid centre, to seek justice. This is made possible because legal aid services provided at the legal centres handle civil cases which accounts for major cases handled and requires no eligibility criteria, which means everyone has access.

Public education in communities and media advocacy have made the public aware of their basic rights and helped catalyse the demand for legal aid services. There are however a few limiting factors that could be addressed to ensure optimum gain from legal aid delivery. Following up on cases dealt with particularly on family issues and debt recovery is a gap that was identified during the interviews. The ADR officers and the paralegals admitted that they have not followed up on cases. Respondents interviewed confirmed legal aid officers have not followed up to check on their well-being.

A beneficiary said:

My ex-husband refused to come for mediation on a scheduled date and they sent me again with a letter to give to him. He is all the way in Ho but because I don't have money I haven't gone there, and legal aid didn't even call to find out until I had a call to come to the office today. I thought they were following up but didn't know I was coming to meet you [Beneficiary 23-LAS, 2017]

A paralegal also affirmed:

First, we were not tracking but when one of the OSIWA meeting we were encouraged to track the cases, we realized many of the clients were not satisfied [FIDA Ashiedu Keteke District, 2017].

A beneficiary had this to say:

One of my blind colleagues sent his sister to Koforidua legal aid office to report his land that has been sold and his sister and the man were called for mediation but since then my sister has been going but the man has not been reporting so she has stopped, and legal aid office has not even bothered to follow up with us. In his words, 'they are just white elephants' [Beneficiary 3-LAS, 2017].

There are others such as these who due to their social circumstance particularly the very poor in very deprived areas, persons with disability, persons living with HIV/AIDS and mentally handicapped, continue to suffer social injustice. This is because, the legal services available are not equitably and equally distributed as raised by the vertical equity theory.

However, the FIDA paralegal network in Ashiedu Keteke District offers some level of dignity to their clients as affirmed by DESA (2006) in terms of equality of rights for all regardless of one's social and economic circumstances. They have links with a few shelters and have been able to rehabilitate physically challenged persons, defiled children, rape victims and rescued children from the street. The CSO in addition, has set up a bakery and in the processing of setting up other small-scale businesses for parents of survivors to wean them off aid to take over the responsibility of their children. Access to Social Justice in this sense is made meaningful when the full cycle of justice is achieved, and the victim is fully restored.

CHAPTER FIVE

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.0 Introduction

This chapter presents a summary of the findings from the study as well as the conclusions, recommendations, and directions for future research. The chapter focuses on the implications of the findings from the study for policy making.

5.1 Summary

The study explored whether and how legal aid services are enhancing access to social justice among the vulnerable in the Greater Accra Region of Ghana by comparing the services of two legal aid institutions - Legal Aid Scheme (LAS) and the International Federation of Women Lawyers, (FIDA-Ghana).

The first objective of the study examined the capacity of the institutions in their delivery of legal aid and access to justice.

The major findings that emerged is that both institutions have a policy framework that seeks to promote access to justice among the vulnerable. LAS framework is relatively gender neutral and FIDA's is gender biased in favour of children and women. However, the institutions are financially constrained in delivering legal aid services across geographically dispersed locations. There is generally high under-staffing and limited office space in LAS because LAS shares office space with Council for Law Reporting and therefore limited space to host their clients. FIDA has its own office accommodation.

The second objective examined the demand for legal aid services among the vulnerable in the Greater Accra Region.

The main findings were that there is generally a high demand for legal aid services across both institutions, though demand from LAS far outweighs demand from FIDA. Family issues mainly maintenance and landlord/tenancy disputes are the major types of demand received by both institutions though family issues dominate in FIDA and Landlord/tenancy issues dominate at LAS. Female beneficiaries dominate in both institutions.

The second objective also explored beneficiary awareness on legal aid services. The findings were that, the level of public education and advocacy by both institutions has not been sustained particularly LAS due to limited financial and human resources. This is because both institutions are heavily donor dependent and have not done any public education since donor funding ceased. However, they admit that they will face a high risk of increased number of clients should they embark on extensive public education due to limited financial resources and institutional capacity.

The second objective also explored the equitability of the targeting mechanism for identifying the beneficiaries of legal aid schemes in the Greater Accra Region.

The major findings include:

- i. There are no eligibility criteria for clients who access legal aid in both Institutions.
- ii. Categorical targeting is used by FIDA, since it has a particular niche of beneficiaries (children and women).
- iii. While LAS charges Ghc5 for an application form and 10% on total debts recovered, FIDA's services attract no charge.

The last objective examined how access to legal aid schemes has influenced access to social justice among the vulnerable in the Greater Accra Region.

The key findings were that generally, the services of both FIDA and LAS have to some extent helped their beneficiaries to access justice. The coordinated approach of FIDA paralegals to the mediation process seems to have enhanced meaningful access to justice than that of LAS due to the NGO presence on the paralegal network at Ashiedu Keteke District. However, the lack of follow-up on cases to a large extent by LAS but being done on a small scale by FIDA, has resulted in many beneficiaries being dissatisfied with the justice process.

5.2 Conclusions

There is generally limited institutional capacity regarding financial resources in delivering legal aid services across geographically dispersed locations for both institutions and high understaffing in LAS.

There is a high demand for legal aid services from both LAS and FIDA, and that women dominate among the list of beneficiaries across both institutions. Family issues and landlord tenancy disputes are the major types of demand received by both institutions. Minority groups such as persons with disability were still excluded from legal aid provision.

Generally, there is limited awareness of legal aid services in LAS due to limited advocacy. While family laws, the right of the child and PNDC law 111 are important sensitization areas for both institutions, FIDA focuses more on gender related legal education.

For both LAS and FIDA, everybody is entitled to legal aid whether rich or poor, and that there is no specific targeting mechanism in both institutions for determining who is poor as

far as access to civil legal aid services is concerned. The allocation of legal aid services is not done on the unequal treatment of persons with unequal economic abilities, hence there could be people benefiting from legal aid who should not, while others who really need to are not obtaining access.

Making legal aid accessible to citizens is a good social protectionism mechanism but failing to ensure that social justice is achieved has been overlooked by both LAS and FIDA.

5.3 Recommendations

The following recommendations are being proposed as next steps to enhance the delivery of legal aid services in Ghana.

1. **Creating legal aid zones and mobile legal aid clinics:** Funds allowing, the Ministry of Justice with support from donors should initiate the creation of several zones and mobile legal aid clinics in the 10 regions of Ghana. These zones and clinics should be cited strategically to ensure that nobody is left out of the justice process.
2. **Ministry of Justice or LAS to establish a holistic electronic tracking system:** This will ensure effective tracking of civil cases at all state and non-state institutions to ensure clients achieve meaningful justice.
3. **Paralegal concept to be institutionalized and formalized:** This is to complement the work of the ADRs to enable extensive reach. This is currently being done by FIDA but coverage should include all 10 regions and personnel should be existing staff in district, municipal and metropolitan assemblies as done by FIDA.
4. **Formalizing and institutionalizing links between orphanages/shelters and legal aid institutions:** This will ensure quick and smooth rehabilitation of victims of any form of abuse. The electronic tracking system will help track these victims to ensure the needed social justice has been achieved.

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APPENDICES

Appendix A

**COLLEGE OF HUMANITIES
UNIVERSITY OF GHANA
CENTRE FOR SOCIAL POLICY STUDIES
MASTERS IN RESEARCH AND PUBLIC POLICY**

**COMPARATIVE STUDY OF LEGAL AID SCHEMES IN THEIR PURSUIT
OF SOCIAL JUSTICE IN GHANA**

QUALITATIVE INTERVIEW GUIDE

CONSENT STATEMENT: As part of my study for a master's degree at the University of Ghana, I am required to conduct research and write a dissertation. This field work is intended to enable me fulfil that purpose. This is to assure you that any data collected will be secured and the identities of interviewees will not be disclosed nor inappropriate references or disclosures about them made.

HISTORY AND CAPACITY OF FIDA GHANA AND LEGAL AID SCHEME

ORGANISATION

1. In what year did the legal aid scheme begin and what legal framework supports it?
2. Who established the scheme?
3. Where was the scheme initially established?
4. What are the objectives of your legal aid program? Are the objectives the same as today?
5. Does your agency have a fixed office space and address and where?
6. What is your total staff strength?
7. On what terms do you engage lawyers, paralegals, law students, or interns for legal services?
8. How many clients do you have in total? How many men and women and which gender dominates?
9. What is the source of funding of your legal aid program and how sustainable is this?
10. How much does it cost you to provide legal services including court appearance per individual?
11. Describe your working relationship with other state and non-state institutions that ensure the delivery of social justice in Ghana?
12. What has been your major highlights on the program to date?
13. What has been your major challenges on the program to date?
14. Will you conclude that your strengths are your niche areas?

Appendix B

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TARGETING INSTRUMENTS USED TO SELECT CLIENTS

1. What is your eligibility criteria for legal aid?
2. Are there instances where the eligibility criteria have not been applied but other factors have? Please explain.
3. How do you ensure that all the legal aid centers in your mandated districts adhere to the eligibility criteria and process?
4. How do you conduct due diligence on clients before administering legal service?
5. Is there any non-compliant phenomenon at the centres or with clients and how do you treat defaulters? Are non-compliant clients denied access to any of your legal services?
6. What mechanisms have been put in place to keep it to the barest minimum so individual rights and demands are respected?
7. Are there any cost elements associated with this eligibility criteria?
8. Are there any other challenges other than non-compliance that impact on your targeting and how have you dealt with these?

Appendix C

**COLLEGE OF HUMANITIES
UNIVERSITY OF GHANA
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QUALITATIVE INTERVIEW GUIDE FOR LEGAL AID SCHEME

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NATURE OF DEMAND FOR LEGAL AID

1. What is your organization's policy on the kinds of cases that qualify for legal services?
2. How does the locality and targeted population get to know about this policy and the types of cases that qualify for legal services? At what point are they made aware?
3. What is your eligibility criteria and which type of cases will qualify for legal aid?
4. Explain the process for presenting a case?
5. Which type of case(s) do people most commonly seek out for legal services and which is least commonly sought out? Explain the reason for this phenomenon?
6. Which cases are reported by men and women? Provide explanation for phenomenon
7. How wide are the coverage areas for paralegals or mediation officers?
8. Which segment of population come to your centre for legal aid?
9. Are there any unreached areas? What are the reasons for this phenomenon?
10. Are there any challenges beneficiaries encounter in making their demands?
11. If anybody does not get served, what happens to their case? Is there another opportunity provided for them to re-present them?
12. Have there been justifiable claims, but claim has been rejected because criteria not met?
13. Is there a cost to the recipient of legal aid service?
14. Why are some cases transferred or put on hold and what is the reason for the decision?
15. How have you assessed clients' satisfaction levels of resolved cases?

Appendix D

**COLLEGE OF HUMANITIES
UNIVERSITY OF GHANA
CENTRE FOR SOCIAL POLICY STUDIES
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QUALITATIVE INTERVIEW GUIDE FOR FIDA GHANA

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BENEFICIARY KNOWLEDGE OF THEIR RIGHTS TO LEGAL AID

1. Describe your outreach activities and the mechanisms for delivery?
2. Are your outreach programs at inception the same as at today, in terms of content and locality type?
3. How regularly do you undertake outreach activities and sensitize the indigents in the various locations, including the unreached?
 - What is the depth of sensitization or advocacy in terms of content?
4. Which stakeholders at the districts attend such forums and what are their expected roles? – Chiefs, Imams, Opinion leaders, district assembly, social welfare, etc?
5. How engaged are they?
6. Are there any geographical areas that are unreached? Why is this so?

Guiding questions

- *Do you have any plans to begin engaging in this area?*
 - *How will you ensure that those people are reached?*
7. Which segment of population regularly attend your outreach programs – urban, rural, peri-urban, rich, poor, young, elderly, Christian, Muslims, traditionalists?
 8. How do paralegals or mediation officers collaborate with indigents to draw up outreach activities in order to address their challenges?
 9. How are clients educated to curb the ills of society so that they do not end up in human rights abuses?
 10. How do you ensure that outreach activities are understood by clients?
 11. How has your outreach activities impacted on your clients that is, before sensitization and after and how does this reflect in their wellbeing
 12. How do you ensure that client knowledge is shared with others who may not be reached?

Appendix E

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DEMOGRAPHIC CHARACTERISTICS

Sex: M F

Age: years

Educational Attainment:

Occupation:

Marital Status:

Beneficiary or non-beneficiary:

Legal Aid Organization:

NATURE OF DEMAND FOR LEGAL AID

BENEFICIARIES

1. How did you hear about the legal aid?
2. Explain the process for presenting a case.

Guiding questions

What criteria do you have to meet to apply?

What legal services do they provide?

What types of cases do you present for legal aid?

How often have you accessed legal aid?

What has been the success rate for the cases you present for legal aid?

Are there any costs for any service provided and how do you get to pay or is it paid by the legal aid scheme?

3. Did you make others aware of legal aid and how did you do that?
4. What types of cases have you presented to be dealt with?
5. Has there been any occasion that you have re-presented a case that has already been dealt with and why was this so and were you provided legal aid again?
6. Has your case ever been transferred or pending? Why did that happen and what did you do next?
7. How slow or fast was your case resolved?
8. Are you satisfied with the outcome of any case you have presented? Have mediation officers followed up to assess status of resolved cases?
9. What did you like best about the way your case was handled by the mediation officer?
10. What did you not like at all about the way the legal personnel handled your case?
11. Do you know anyone who requires legal aid but has not ventured out yet? How do you make people who have not benefitted from legal aid but require one aware of this service?
12. How has the legal aid programme benefitted you and those in your community
13. What has been your challenge in presenting your case for legal aid?
14. In your estimation how will you rate the legal aid centre – excellent, very good, good, etc.

Appendix F

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DEMOGRAPHIC CHARACTERISTICS

Sex: M F

Age: years

Educational Attainment:

Occupation:

Marital Status:

Beneficiary or non-beneficiary:

Legal Aid Organization:

BENEFICIARY KNOWLEDGE OF THEIR RIGHTS TO LEGAL AID

BENEFICIARIES

1. How have you participated in any legal aid outreach activities?
2. Did you make others aware of this and how did you do that?
3. How has the outreach activities benefitted you and those in your community?
4. How will you assess your knowledge of your legal rights and entitlements currently?
Provide examples of instances where you have exercised your right and what the outcome was or how you will exercise your right going forward.
5. Are you aware of any persons who might have heard about the legal aid program but due to long distance cannot be reached? In your opinion, how do you think they can be reached or served?
6. What are your impressions about the people who do the public education? Are they very accommodating of any challenges you have about the awareness of your rights in certain areas?
7. Are any materials shared during any public education and how have you share any knowledge from these activities?
8. How will you rate public education and the people who embark on these outreaches?

Appendix G

**UNIVERSITY OF GHANA LEGON
CENTRE FOR SOCIAL POLICY STUDIES
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GOVERNMENT – MINISTRY OF JUSTICE AND SOCIAL WELFARE

1. What was the expected results and contribution of the Legal Aid Scheme and are these being realized in your opinion?
2. Explain how you collaborate with the Legal Aid Scheme.
3. What facilitates legal aid and what holds it back?
4. How would you describe the resources available to the Legal Aid Scheme?
5. In your opinion, how will you assess the extent of their outreach?