



SOUTHERN AFRICAN INSTITUTE  
*for* POLICY AND RESEARCH

## Occasional Papers Series

The Legal Information Needs of Civil Society in Zambia

Marc Masson and Ovais Tahir

#2015/03

## **Abstract**

For a government to ensure access to justice, it is imperative that it first ensure open access to legal information. This research seeks to assess the legal information needs of Zambian civil society. We first determined the major ways in which civil society actors in Zambia, specifically civil society organisations, labour unions, and legal practitioners, access legal information. Secondly, we surveyed the limitations and barriers associated with these paths to accessing legal information. We found that the provision of open access to legal information relies on two factors; the ease of access to information and the capacity of civil society to interpret and understand it. Major limitations to accessing legal information through the government were found to be bureaucracy, financial costs, and the lack of computerisation and internet access. Major limitations to accessing legal information through independent sources included awareness and legal capacity to use that information. Lastly, the major factors influencing the ability of civil society to interpret legal information were found to be donor funding, capacity building services, and the use of paralegals.

## Acronyms

AtoJ	Access to Justice Program
CSO	Civil Society Organization
FFTUZ	Federation of Free Trade Unions of Zambia
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit (German Corporation for International Cooperation)
GLM	Green Living Movement
ILO	International Labour Organisation
JCTR	Jesuit Centre for Theological Reflection
KAS Law	KAS Electronic Legal Library
LAZ	Law Association of Zambia
LDC	Zambia Law Development Commission
LII	Legal Information Institute
NIPA	National Institute of Public Administration
PAN	Paralegal Alliance Network
PAS	Paralegal Advisory Service
PLEED	Programme for Legal Empowerment and Enhanced Justice Delivery
PRISCCA	Prison Care and Counselling Association

SAIPAR	Southern African Institute for Policy and Research
UNZA	University of Zambia
We Effect	formerly the Swedish Cooperative Centre
WLSA	Women and Law in Southern Africa
ZCEA	Zambia Civil Education Association
ZCTU	Zambia Congress of Trade Unions
ZLA	Zambia Land Alliance

## Introduction

Without the ability to access or effectively use the laws that apply to them, civil society organisations (CSOs) cannot benefit from the legal tools at their disposal to advocate for their constituencies. Without reliable and easy access to legal information, even legal practitioners will have difficulty remaining knowledgeable on the evolving provisions of the law. The objective of our research was to survey the legal information needs of both CSOs and legal practitioners in Zambia, and draw insight into how these needs could be better served going forward.

In our results, we analyse how legal information is currently provided by government institutions and compared them to the experiences of CSOs and lawyers in accessing that information. We also look at other sources of legal information available to CSOs, such as private legal databases and networks, and how well those services are filling the gaps in the Zambian government's provision of legal information. As a special category of CSO, we also investigate the legal information needs of unions in Zambia. We look at the issues of donor funding for CSO capacity development, as well as the implications of capacity building services and paralegals as potential avenues for improving legal capacity. Finally, we review the many suggestions that we received for how the current situation in Zambia for access to legal information could be improved in order to reach a wider audience.

After compiling our interviews and identifying trends, we discover that two main factors influence the ability of CSOs and lawyers to access legal information: Firstly, the accessibility of comprehensive and up-to-date legal information; and, secondly, the organisational capacity of civil society to comprehend and understand the available information. Accessibility of legal information was seen to be best facilitated by the use of free and reliable online resources, while the capacity of civil society organisations to interpret legal information was found to depend heavily on donor funding, participation in capacity building services, and the utilisation of paralegals. We conclude that any strategy to improve access to justice through the provision of legal information in Zambia should keep into account these two forces, as well as the local technological capacities and reading culture. It is important to clarify that the policy response that can be implemented will surely vary depending on the country where it is implemented.

# Literature Review

## Access to Justice in Zambia

Improving access to justice in developing countries has been seen by the international development community as the ideal way of improving a country's human rights climate, business efficiency, and governance, among other factors. With an informed and involved civil society, nations would be far less likely to succumb to issues of corruption and citizens are far less likely to be exploited. One of the primary conduits for access to justice is 'legal empowerment', referring to the building of individuals' capacities to access their legal rights. Dr. Sheldrick, from the Center for International Sustainable Development Law, describes the defining factor of this type of access to justice initiative as a focus on individuals 'recognizing and understanding their legal entitlements' and 'having realistic access to some institutional setting for the adjudication and remedying of disputes over those entitlements' (Shedrick, 2012, p.5). According to him, the international development community has in recent years embraced these standards for access to justice, focusing on overcoming barriers for individuals to accessing lawyers and courts. These concerns often lead to initiatives aimed at training legal practitioners, improving the functioning of the judiciary, and the provision of more legal aid to indigent parties.

In the case of Zambia, recent research has focused on the need for this sort of 'legal empowerment' programmes. In a 2012 review by the Danish Institute for Human Rights, the authors point to the Zambian Legal Aid Board and its need for increased staff and related funding in order for it to serve its role of providing legal aid to those in Zambian society who cannot otherwise afford it (Kerrigan, 2012, p.106). They also promote the adoption of 'national legal aid policy', as other developmental organisations have, in order to encourage the recognition of alternative means of accessing justice, including paralegals and legal services provider cooperation (p. 107-108). The DIHR recognized that there needed to be significant improvements made in the strategies for the provision of legal information in order to improve access to justice in Zambia.

In a 2013 review for the Open Society Initiative for Southern Africa, Shezongo-Macmillan pointed to 'low levels of knowledge of rights and the justice system, physical and financial challenges and unreasonable delays in case-handling' as the major impediments to access to justice in Zambia (Shezongo-Macmillan, 2013, p. 14). The situation is particularly dire for Zambians living in rural areas, which constitute the majority of the population and who struggle with high illiteracy rates. Financial constraints are also an important factor preventing the poor from accessing a lawyer and, through that, justice through the formal legal system. Compounding this problem, Shezongo-Macmillan found that the poor also have limited knowledge on the availability of legal aid and their legal rights (p. 15).

Another concern is the limited access to 'primary legal materials such as statutes and law reports', coupled with the fact that not all amendments or changes to the laws of Zambia are distributed to the courts and justice institutions (p. 10). This affects both the lawyers and judges who should logically have the best grasp on legal information and its meaning, as well further disadvantages those who cannot access to justice without contracting an expensive lawyer in the absence of easily accessible, cheap alternatives.

These are concrete policy concerns; however the question is how to implement these in a holistic and change-making manner, and referring back to Sheldrick gives pause to any policy maker who would jump to implement access to justice programmes. Sheldrick is critical of the hopes placed in these programmes. According to him, 'access to justice' programmes have 'generally failed to significantly improve the penetration of formal institutions of judicial decision-making or to increase the willingness and/or ability of individuals to access those institutions'. Sheldrick attributes this failure to the 'host of social, economic, and political processes' that permeate the implementation of the law (Sheldrick, 2012, p. 8-9). In other words, access to justice programmes do not operate in a vacuum and rely on a variety of actors, not just qualified lawyers and judges, to be effective. Sheldrick believes that the flaw in the 'western understanding' of access has been that the term has been understood as 'a bundle of rights', rather than a 'bundle of powers'. Gifting people with powers rather than rights would more effectively empower civil society by giving them the ability to actualize their claimed rights. As such, he calls on researchers to focus 'less on operationalizing access to justice in an idealized 'rule of law' context, and more on the potentialities represented by alternative approaches that are genuinely local, community driven, and tied to real development objectives through more concrete and diverse practices' (p.13). This is a broad mandate, but one that emphasizes the need for new, innovative, community-based solutions rather than solutions based solely on bolstering failing institutions in developing countries.

## **Online Access to Legal Information**

According to some academics, the possibility for cheap and widespread dissemination of legal information made available by the internet help one, bridge the gap between the poorer segments of society and the information they need; and two, reduce the costs related to implementing a legal information development programme. In 1999, Professor Martin of Cornell Law School commented on the possibilities that could be opened by 'digital law'. He envisioned that this form of legal access could bring 'more direct and more effective communication of law to those directly affected; greater potential for direct government/citizen interaction; [and] more direct and more effective communication of essential data and options to official law implementers', among other benefits (Martin,

1999, p. 202). However, one of the most important goals of offering free legal information online was to help resolve the disparity he identified between ‘those lawyers, law teachers and students who have ready access to comprehensive law libraries or costly commercial on-line systems’ and those who ‘must operate under far less favourable terms and conditions’ (p.194). This second category rely on the most easily available and inexpensive alternatives to the legal resources employed by those with the capacity to afford them, and so putting the law at their fingertips for free, online, would be an equalizing boon to their work. As a result, in 1992, Martin and his colleague Thomas R. Bruce founded the Legal Information Institute (LII) at Cornell University, which later launched a world movement of legal information institutes located around the world. In 1996, Martin helped to create one of the first African LIIs, the Zambian Legal Information Institute (ZamLII). However, according to Martin, the most important aspect of this experiment in the provision free online legal information was the impact it could potentially have on the ‘quality of legal decision-making and dispute resolution in the country’ (Martin, 1996, p. 10). Zambia was, and still is, in a very different place both economically and technologically than the United States. The free online access approach to the provision of legal information had not yet been tested in developing countries, and its potential benefits were uncertain.

Unfortunately, the promise offered by this new way of accessing legal information in Zambia never truly materialized. According to Dr. Hinfelaar, Director of Research and Programmes at the Southern African Institute for Policy and Research (SAIPAR), the ZamLII project halted with the death of one of the main drivers of the project, Dr. Chanda of the University of Zambia Law School (Hinfelaar, 2013). However, since August 2012 and with the technical support of AfricanLII, SAIPAR has resumed the operation of the ZamLII online legal database under a new name: ZambiaLII. Because of its break in operation, ZambiaLII is still a relatively recent development in Zambia and, according to its sponsors, still has a ways to go before reaching its full potential.

In a 2004 article, Daniel Poulin identifies the potential of free online access to law in developing countries. In many countries in the developing world, the availability of legal information is restricted either by their cost, the secrecy of that information, or both. As a result, ‘a citizen with little means, subject to a legal proceeding, could neither alone, nor with a lawyer, bring up appropriate legal arguments relevant to a case. A wealthier party, however, could have access to better information sources, whether such sources are commercial or personal’ (Poulin, 2004, p. 3). Poulin writes that ‘the possibility of immediately knowing applicable laws simultaneously constitutes one of the basic tenets of a state governed by the rule of law and is an essential element of legal security’ (p. 2). According to him, the path to take to bridge this legal information gap is the online open access to legal information as the cheapest means of publishing and distributing this information, even in situations where electricity is unreliable and internet use is expensive.



For those with no access to the internet, the information of an online legal database ‘could also be burned on CD-ROMs which can contain over 100,000 pages of information at a reproduction cost of only US\$1 per CD’, making the online barrier to accessing legal information not as wide as it seems for the many who live in rural areas in the developing world or have limited internet access (p. 4).

A 2015 report by Jessica Kerr of the Seychelles Legal Information Institute (SeyLII) identified the key obstacles to the implementation of the provision of free online access to information in the Seychelles, along with its emerging benefits. The ‘eGrey Book’ project launched by SeyLII first faced the problem of collecting the relevant laws and statutes in order to publish them online. According to Kerr, the last consolidation of the laws of the Seychelles was published in 1991 and revised in 1996, meaning that there had been no official compilation of new legislation and amendments into a single text since that date (Kerr, 2015, p. 3). This made the tracking of the disparate pieces of legislation particularly difficult; however this is not much different to the situation of other developing countries, including Zambia. However, once donor-funded consolidation was performed by lawyer, it was possible to collect ‘core pieces of legislation in a single, convenient volume’, and even skip the process of printing the resulting book and instead publish it as an ‘eGrey Book’ available on the SeyLII website (p. 5). Though online publication offers many benefits, namely its low cost and broad accessibility to anyone with an internet connection, the following concern is getting that information into the hands of people who need it. The people of the Seychelles, like in many other developing countries, don’t always have access to the internet, and if they do it is likely to be either slow, unreliable, or both. The solution that SeyLII had to this problem was to make that information available for free download and use while offline (p. 5). With the support of the Seychelles judiciary, they were even able to have the eBook loaded on the official tablets of the country’s judges. Though not all judiciaries in developing countries have the financial capacity to gift their judges with tablets, Kerr also points out that the country’s bar association reported that ‘almost all attorneys who use tablets or smart-phones have downloaded the whole Book, and many use it on a daily basis’ (p. 10). She closes her report by stating that ‘everyone in Seychelles is now able to access and monitor the key laws which apply to them, without cost and with relative confidence, wherever they happen to be’ (p.12).

Although the Legal Information Institute has pioneered open access to legal information, a developing initiative in Uganda has demonstrated particular success in providing open access to legal information. Barefoot Law can attribute this success to its unique utilisation of social media, mobile applications, and virtual counsel services to distribute legal information, in addition to other platforms such as the radio, printed documents, and its website. As with the advantageous use of mobile platforms such as tablets and smartphones by SeyLII’s ‘eGrey Book’, Barefoot Law takes advantage of the growing

accessibility of mobile phones in Uganda. Exploiting the connectivity offered by smartphones through social media, or SMS, barefoot law staffs approximately 10 lawyers that provide pro-bono legal counselling and advisory services to any individual. Little literature exists on the success and breadth of coverage offered by Barefoot Law but according to a digital news agency *takepart*, the civil society organisation has experienced growing success aiding approximately 300,000 people a month and hopes to expand to neighbouring East African nations such as Kenya and Somalia (Fallon, 2015).

While this is undoubtedly a sign of progress for both the Seychelles and Uganda, the question that emerges is whether or not individual citizens themselves are using and directly benefiting from this online legal database. If they are not, it is questionable that the open access to law approach is truly making the law available to the people and not just the few who are in an already privileged position to access it, mainly judges and lawyers. Daniel Poulin is careful to mention in his article the other barrier to accessing legal information, which is the uncertain ability for its users to use that information in addition to accessing it (Poulin, 2004, p. 5). This correlates with a 2014 survey undertaken by the Cornell Legal Information Institute (LII) and the Australian National University, in which over 43,000 individuals assessed the readability of American legal documents available on the LII website (Curtotti, 2015). These individuals were sorted by demographic group, either legal professionals (incl. students), non-lawyers engaged in compliance, members of the public seeking information on their rights, individuals engaged in law reform, and others. Two major findings of this study are relevant to our research: One, the majority of LII website users who responded to the survey were not legally trained. This suggests that the non-legally trained are a substantial audience for legal information. Two, legal professionals by far performed the best in readability tests on pieces of American legislation, as could be expected; however, individuals engaged in law reform had the worst performance among all groups. This means that law reformers, those most involved in the democratic process, have the most difficulty understanding legal information even if it is presented to them in an easily assessable online format. If access to legal information is to be presented as a cure to unresponsive and unaccountable democratic governments, its proponents need to also keep in mind that the public, and especially individuals engaged in law reform, have difficulties understanding legal information.

Responding to this concern, Poulin highlights the importance of an 'intermediary presence', such as a legal practitioner or civil society organisation, in compiling and interpreting documents for those who need them (Poulin, 2004, p. 5). If a citizen cannot understand or use the legal information they are provided, then it is of little use to them. This prompts the question of what are the needs of an 'intermediary presence' in the provision and dissemination of legal information. Civil society organisations in particular have legal information needs, as well as constituencies composed of individuals that they serve, which

make them ideal points of further research in the field of access to justice and legal information.

## **The Role of Civil Society Organisations**

The meaning behind the term 'civil society' has continuously evolved over time, and no single consensus exists as to its definition. Having been used initially as a basis to distinguish a political society from other kinds of society, over time 'civil society' became distinguished from the state as well as the market economy. According to Kaldor, in its contemporary definition, the term 'civil society' may encompass three differing usages. These usages include the activist version, which sees civil society as a means of changing the relationship between state and society through 'self-organized institutions, independent of the state that could challenge the reach of the state'; the neoliberal version, which emphasises the minimised role of the state in providing, for example, social services, that can be substituted by NGOs, NPOs or voluntary organisations seen as more flexible and innovative than the state; and the post-modern version, which seeks to recognise traditional organisations based on kinship or religion that provide alternative sites for power (Kaldor, 2003, p. 8). However, in each usage of the term 'civil society', the common theme is of a people whose voice influences the state, or in other words non-state actors that impact their governing institutions.

Kaldor proposes four categories to encompass civil society actors: social movements, non-governmental organisations (NGOs), social organisations, and nationalist or religious groups. Although each type of civil society actor presents its own influence on broader society, civil society organisations (CSOs) most resemble NGOs in the way that they are voluntary, purposeful, value-driven organisations (p. 14). These organisations may 'provide a social safety net without extending the role of the government. They can provide training in democracy and citizenship. They can check abuses of the state and poor governmental practises' (p. 16). In essence, CSOs can provide advocacy and service to fill the gaps in the state's provision of public services or even provide consultation on specific policy areas where they have built up expert knowledge. Labour unions, professional associations, community-based organisations, and independent research institutes, as well as NGOs, are among the many different kinds of organisations that fall under the broad definition of a CSO.

In Zambia, civil society organisations' advocacy and service provision play an important role to fill the gaps left by the public services of the government. The Ministry of Foreign Affairs in Denmark (MOFAD) in their 2006-2011 evaluation of the Access to Justice Programme in Zambia noted a total of eleven lessons learned from the evaluation. One of the lessons was 'to accept that the CSOs have an important role as both 'gap fillers' and

‘bridge makers’ in Zambian society. They can act to provide resources and capacities to reach out to the whole population as well as bridge the gap between communities and justice institutions (Dolan, 2014, p. 55).

One particular sector that has seen service provision from numerous civil society organisations in Zambia is legal aid. In a 2014 report on the 11<sup>th</sup> European Development Fund Programme ‘Legal Empowerment and Enhanced Justice Delivery in Zambia’ (PLEED) the International Consulting Expertise (ICE) notes that non-state actors in particular have been led to provide legal services in an ad hoc and unregulated manner due to the absence of a comprehensive national legal aid policy in Zambia (Dolan, p. 23). Some of these main legal providers, as noted by the ICE, include the National Legal Aid Clinic for Women, CARITAS Zambia, Paralegal Alliance Network, Young Christian Women Association and Plan International. Yet, this initiative by local stakeholders is not necessarily a negative. Poulin highlights that ‘open access to law efforts must also rely on the initiative and the talent of local legal communities’ for sustainability (2004, p. 12).

## **The Government’s Provision of Legal Services**

Transparency and accountability are the foundations of the development of democracy in any government. If the rule of law governing a State is not subject to scrutiny from its citizens, the State loses its democratic value. Therefore, a government’s provision of open access to justice and law provides leverage to the governed to be able to question the actions of and defend their rights against the State (Poulin, 2004, p. 2). However, the creation of a well-informed public relies not only on the availability of justice and law, but also the civic education and empowerment of the population. According to an analyst at the Zambian Ministry of Justice’s Access to Justice Program, people cannot have access to justice if they have no knowledge of the law<sup>1</sup>. In Zambia, various government agencies are mandated to enforce the open access to justice and subsequently the laws with minimal barriers. Some of these departments include, but are not limited to, the Government Printer, the Legal Aid Board, the Law Development Commission, the Judiciary, and the Ministry of Justice. The National Assembly also provides legal information by uploading the laws onto its website as they are enacted, but according to a representative from the assembly, it is not its mandate to ensure that the laws it enacts are communicated to the public<sup>2</sup>.

---

<sup>1</sup> Access to Justice Program Analyst at Ministry of Justice, July 2015

<sup>2</sup> Legal Assistant Principle Clerk at National Assembly of Zambia, July 2015

The Government Printer is mandated by the Republic of Zambia to publish every Act of Parliament that has been signed by the President in addition to the regular production of a Gazette that includes updated statutory instruments. Gazettes are published weekly by the printer and accessible at a manageable cost, while access to legislation, including the Acts of Parliament, is dependent on the material cost of printing the Act<sup>3</sup>.

The last time the laws of the Republic of Zambia were effectively revised and consolidated was 1996-1997. The consolidation of the laws of Zambia was outsourced and managed by a printer in the United Kingdom prior to 1997, which provided hard copies as well as CD-ROMS of the laws. The Ministry of Justice mandates a revision every 10 years and the British printer had provided this service for a majority of Zambia's past. However, a number of years ago the Ministry of Justice internalised the process of consolidation to ensure national production. The Printer was also appointed to print the consolidated laws as a means of reducing costs. But since 1997, according to the Assistant Commissioner for the Legislative Drafting & Law Revision Departments at the Ministry of Justice, the consolidated laws have failed to be effectively distributed due to the Government Printer's obsolete machinery and lack of financial, technical and staffing capacity. Although in 2007, CD-ROMS with the revised consolidated versions of the laws of Zambia were made available in limited quantity at a cost of approximately 5000KR or US\$685<sup>4</sup>.

Another government agency in Zambia, the Legal Aid Board was instituted by the Legal Aid Act to provide legal services to individuals unable to access representation in the courts by a private legal practitioner. A legal aid counsel at the Legal Aid Board noted that when applying for legal aid services a client must demonstrate financial need by stating their income and assets<sup>5</sup>. In an analysis by the Danish Institute for Human Rights of the *Access to Justice in the Republic of Zambia* the scope of services encompassed by the Legal Aid Board under the Legal Aid Act 'does not include legal information, education, advice, or assistance where there is no suggestion of a dispute.' However, in practice, the Legal Aid Board nevertheless surpasses its mandate by also providing pro-bono advice to clients, even without the presence of a dispute.<sup>6</sup>

Despite the provision of such services, the Legal Aid Board faces a great shortage of professional staff to represent those who cannot afford legal services. As of July 2015, there are only five legal assistants and eight qualified lawyers on staff, from which three were on leave at the time of the interview, to serve the entirety of Lusaka. Furthermore, the Legal Aid Board offices outside of Lusaka also face under-staffing issues with an average of two

---

<sup>3</sup> The Government Printer, Lusaka, July 2015

<sup>4</sup> Assistant Commissioner for the Legislative Drafting and Law Revision Dept. at Ministry of Justice, July 2015

<sup>5</sup> Legal Aid Counsel at Legal Aid Board, July 2015

<sup>6</sup> Ibid.

lawyers seated to represent an entire province<sup>7</sup>. The assistant commissioner of the law revision and legislative drafting departments in the Ministry of Justice noted that the Legal Aid Board dissociated from the Ministry of Justice to stand independently as an under-funded government entity<sup>8</sup>. These financial constraints subsequently hinder the Legal Aid Board's efforts to improve upon its staff capacity.

Another legal agency established by the government of Zambia is the Law Development Commission. The Zambia Law Development Commission Act (1996) mandates this organization to 'make recommendations on, the socio-political values of the Zambian people that should be incorporated into legislation [and] new areas of the law that should be developed which are responsive to the changing needs of Zambian society'. In addition to providing research and advisory services for the government, the Zambia Law Development Commission also functions to aid the public in its mandate to 'hold seminars and conferences on legal issues', as well as 'translate any piece of legislation into local languages'.

The Judiciary of Zambia also plays a major role in bridging the information gap between the government and the governed. The Supreme and High Court have a database accessible by the public for Supreme Court judgements and select High Court judgements to be searched at a minimal fee. The database provides access to the majority of court cases in hard copy. Recently, however, the Judiciary has funded an E-Filing program in the court to create an electronic database and filing system for court cases in addition to keeping hard copies. According to the Deputy Director of the High Court of Zambia, the program consists of 3 phases, the modernisation of the courtroom, the creation of an E-Database, and the creation of an E-Filing system, to expedite the court process and make the judiciary simpler. Although the E-Filing system has yet to be implemented and aims to limit service to users of the court in speeding up judicial proceedings, the E-Database has been active since 2007 to serve the needs of civil society and the wider public<sup>9</sup>.

However, various barriers still exist to accessing court judgements from the E-Database. Although the judiciary provides an electronically searchable database, people would still have to physically visit the court, pay a search fee of approximately 30KR, know the title of a specific judgement and then email it to themselves. Furthermore, any court judgement prior to 2007 has not been computerised and would be even more difficult to access if archived. Despite these limitations, the High Court of Zambia believes that this program is an initial step towards expanding their services to a wider public<sup>10</sup>.

---

<sup>7</sup> Ibid.

<sup>8</sup> Assistant Commissioner for the Legislative Drafting and Law Revision Dept. at Ministry of Justice, July 2015

<sup>9</sup> Deputy Director at High Court of Zambia, July 2015

<sup>10</sup> Ibid.



The Ministry of Justice is one of the biggest actors in the service provision of legal services for Zambian citizens. One initiative under the Ministry of Justice was titled the Access to Justice Programme. Having received support by the Danish government, the European Union and GIZ, the programme aimed to facilitate enhanced interaction among justice institutions for improved service delivery (Kerrigan, 2012 p. 136). According to an analyst at the Access to Justice Program (AtoJ) in the Ministry of Justice, the programme ran for approximately 4 years ending in December 2014 and concentrated mostly on criminal law. Initiatives under the AtoJ programme included community sensitisation to the services provided by government agencies through the annual National Commercial Show and International Trade Fair, and the broadcasting of radio and phone-in programmes<sup>11</sup>. The success of such initiatives was determined under the Monitoring and Evaluation (M&E) section of the Governance department. However, according to a 2014 International Consulting Expertise report on Support to Justice Delivery, the M&E section suffered from a lack of understanding in the justice institutions and poor collection of data, amongst other problems (Dolan, 2014, p. 39).

After the end of the AtoJ programme, a new initiative under the Ministry of Justice titled the Programme for Legal Empowerment and Enhanced Justice Delivery (PLEED) is set to begin in August 2015. As a successor to the AtoJ programme, the PLEED programme seeks to expand services incorporating civil law as well as criminal law while emphasising the role of civil society organisations in the service provision of legal aid. This stronger emphasis on CSOs is demonstrated in the Communication, Cooperation and Coordination Initiative of the Ministry of Justice to involve non-state actors including PAN, CARITAS and PRISCCA to ensure access to justice at the community and grassroots level<sup>12</sup>.

---

<sup>11</sup> Access to Justice Program Analyst at Ministry of Justice, July 2015

<sup>12</sup> Ibid.

## Methodology

We began our research by looking at how civil society organisations (CSOs) are able to access the written laws and related legal information of Zambia. Specifically, we started by studying the development and reach of a free, online legal database known as ZambiaLII (formerly ZamLII). The Zambia Legal Information Institute (ZambiaLII), an international affiliate of AfricanLII, offers consolidated online versions of the laws and statutory instruments of Zambia and court judgements, as well as legal commentary and handbooks. It is currently one of the only legal databases in Zambia freely available to the public, without any errors in the documents it provides. The advantage of launching our project from this platform was the ability to investigate the challenges civil society organisations face in accessing legal information and then consider the impact that free online access to legal information has had (if they used ZambiaLII) or, in the contrary, could potentially have on the way they fulfil their respective missions. This allowed us to develop an insight on the other numerous sources of legal information used by civil society in Zambia, including government entities and private organizations. We were also able to study the perceptions of Zambian government officials and that of various development agencies of the benefits and potential of open online access to law in Zambia.

This research was largely qualitative, relying on semi-structured interviews with a total of 35 civil society organisations, labour unions, professional associations, legal practitioners, government representatives, development agencies, international organisations, and academics. Questions were open-ended and were constructed to allow interviewees to confirm or contradict conclusions made from other interviews, as well as reveal new methods that civil society organisations use to access legal information. The Law Association of Zambia (LAZ) in particular provided important assistance in terms of contacts, interview subjects, and insight. The testimonies of the interviewees was then reviewed to identify trends that brought our research closer to defining the major barriers preventing civil society organisations from accessing the legal information they need. We also compared the status of access to legal information in Zambia to that in two other developing countries, the Seychelles and Uganda, both of which have recently implemented access to legal information programmes with differing levels of success. Finally, we analysed how well ZambiaLII, as a major legal information provider in Zambia, was satisfying the needs of its target users, drawing on interviews as well as quantitative surveys.



# Results

## Legal Information Needs of Civil Society Organisations

### *Access through Government*

Among the representatives of civil society organisations that we interviewed, many expressed difficulties accessing legal information through government agencies. Although these agencies were instituted to ensure public access to legal information, many actors described barriers to accessibility. The Government Printer, the Courts and the National Assembly are some of the resources described as having administrative, financial or technical barriers.

The gazettes provided by the Government Printer, containing statutory instruments and other modifications to legislation, were found to be a source of legal information for many civil society organisations. According to the Programmes Manager at the Young Women Christian Association, the government gazettes offer one of the best sources of legal information for civil society<sup>13</sup>. The National Executive Secretary at the Federation of Free Trade Unions of Zambia (FFTUZ) furthered this view in stating that the gazettes are one of his main sources of legal information, accessible at a reasonable price. Any union affiliated with FFTUZ is also directed to the Government Printer for legal information that the federation cannot readily provide<sup>14</sup>.

Other civil society actors, however, expressed that there is room for improvement for the Government Printer. According to the Social and Economic Justice Officer at Zambia Land Alliance, access to the government printer is limited, as many individuals may not know about its existence<sup>15</sup>. Furthermore, the cost of an annual subscription or single copy of a gazette, although reasonable for some people, may provide a financial barrier for others. The Assistant Labour Commissioner at the Ministry of Labour expressed that publishing legislation and government gazettes online may resolve the many issues of accessibility<sup>16</sup>. However, according to the Government Printer, the agency cannot distribute soft-copies nor can the laws be published online as a measure to improve accessibility due to its limited mandate. Only an Act passed through the National Assembly and signed by the President would allow the agency to make the information available online<sup>17</sup>.

---

<sup>13</sup> Programmes Manager at Young Women Christian Association, July 2015

<sup>14</sup> National Executive Secretary at Federation of Free Trade Unions of Zambia (FFTUZ), July 2015

<sup>15</sup> Social and Economic Justice Officer at Zambia Land Alliance, July 2015

<sup>16</sup> Assistant Labour Commissioner (Legal) at Ministry of Labour, July 2015

<sup>17</sup> The Government Printer, July 2015

Another source of legal information often quoted by members of civil society was the Parliament website. Managed by National Assembly of Zambia, the website publishes copies of the Acts of Parliament online. Many CSOs and lawyers mentioned the parliament website as a good resource for legal information, and for some it was their exclusive source of information. However, the Human Rights Advisor at GIZ stated that though many CSOs use the Parliament website to access legal information, it is often not updated. Furthermore, due to the lack of a search option, the website falls short in terms of user-friendliness<sup>18</sup>. Responding to these concerns, the Legal Assistant Principle Clerk at the National Assembly described that efforts were being made to make the site more user-friendly in providing searchable documents<sup>19</sup>.

One particular source of legal information, often quoted for its limited accessibility, is the Supreme and High Courts. In general, getting access to court judgements was described by different members of civil society as being particularly difficult if going through the Courts. According to the Deputy Director of the Zambia Law Development Commission, people are forced to hunt for information instead of it being provided to them. For the deputy director, finding court judgements is difficult online and resorting to physical methods is time consuming and expensive<sup>20</sup>. A national programme coordinator at the International Labour Organisation (ILO) furthered this point by describing his attempts to collect various court judgements in order to compile and use them. According to him, it is a time consuming and tedious process in which he had to first collect hard copies of relevant cases and then retype them to compile and computerise the information<sup>21</sup>. A lawyer from the Zambia Civic Education Association (ZCEA) also voiced his concerns for acquiring information from the courts as being unnecessarily bureaucratic. In addition, the cost to photocopy a court judgement is expensive and is seen as a major barrier for many members of civil society<sup>22</sup>. The lawyers that we interviewed at CSOs such as Women and Law in Southern Africa (WLSA) and ZCEA shared that they were able to manage the costs, but demonstrated concern for the ability of non-lawyer members of civil society to afford the photocopying costs of approximately 11KR per page, seeing it as a major barrier to accessibility.

Additionally, before even being able to tackle the bureaucratic and financial barriers of the Courts, a number of individuals described additional difficulties faced by an individual lacking legal training. In one case, the Executive Director of ZCEA gave an account of her attempt to access a court judgement in which the staff member at the registry denied her request to locate a court judgement despite the public availability of the records. However

---

<sup>18</sup> Human Rights Advisor at Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), June 2015

<sup>19</sup> Legal Assistant Principle Clerk at National Assembly of Zambia, July 2015

<sup>20</sup> Deputy Director of Zambia Law Development Commission, June 2015

<sup>21</sup> National Programme Coordinator (Zambia Green Jobs) at ILO, July 2015

<sup>22</sup> Project Officer for the CFC Legal Advice Desks Project at Zambia Civic Education Association, July 2015

according to her, if a lawyer from ZCEA had done the same, he would not have faced any difficulties due to his status as a legal practitioner<sup>23</sup>. A lawyer that we subsequently interviewed stated that in her experience she has little difficulty using the courts to access judgements<sup>24</sup>. This point was affirmed by another lawyer, the National Coordinator at WLSA, who stated that a legal practitioner may not face as many hurdles due to their knowledge of the proper name of a legal document<sup>25</sup>. Multiple lawyers from both corporate law firms and CSOs recognized that there were many unnecessary administrative barriers for both lawyers and non-lawyers to accessing judgements from the courts.

Lastly, various individuals also described the court system as lacking technical capacity to ensure efficient functionality and accessibility. A number of lawyers noted that the current court reporting system is slow and published judgements are often incomplete. The Executive Director at Prison Care and Counselling Association (PRISCCA) described that due to the lack of computerisation of the court system, individuals have to rely on old manuals, which creates disorganisation and often results in cases being lost. According to him, a digital system would reduce the backlog of cases by speeding up the appeal process<sup>26</sup>. The National Coordinator at WLSA furthered this point by arguing that the digitisation of court cases, among other pieces of legislation, would benefit organisation and the provision of the same law everywhere<sup>27</sup>. The Deputy Director at the Law Development Commission noted that due to the current court filing system and lack of digitisation, the judiciary even lacks access to their own court cases<sup>28</sup>. A National Programme Coordinator at the ILO furthered this point by mentioning that the judiciary's failure to widely publish Supreme Court judgements has resulted in a lack of accountability among the courts<sup>29</sup>. According to a 2010 working paper by the World Bank Institute titled 'Access to Information and Transparency in the Judiciary', civil society's participation was determined to be imperative in judicial proceedings to serve as an oversight mechanism to ensure transparency in the courts. The paper states that 'Supreme courts have to lead in promoting transparency and citizen participation...to make available to the public, information related to the circulation of case files' (Herrero & Lopez, p. 26).

---

<sup>23</sup> Executive Director at Zambia Civic Education Association, July 2015

<sup>24</sup> Former Advocate at Legal Resources Foundation, July 2015

<sup>25</sup> National Coordinator at Women and Law in Southern Africa, July 2015

<sup>26</sup> Executive Director at Prison Care and Counselling Association, July 2015

<sup>27</sup> National Coordinator at Women and Law in Southern Africa, July 2015

<sup>28</sup> Deputy Director at Zambia Law Development Commission, June 2015

<sup>29</sup> National Project Coordinator at ILO, July 2015

## Access through Independent Sources

Government institutions are not the only source of legal information for civil society organisations. While each CSO had its own way of accessing legal information, mostly using government institutions and/or their websites, some trends emerged among alternative sources of legal information. CSOs interviewed mentioned presentations by law professors and network resources or independent electronic legal databases as sources of their legal information. Rarely did someone mention using one of these resources exclusively or without referral to any of the government-issued legal information.

For two organisations, CARITAS and YWCA, the most important source of legal information were shared personally by law professors invited to speak or through networks of CSOs with more legal information. According to the Head of Programmes at CARITAS Zambia, the catholic justice and advocacy organisation relied on the presentations and PowerPoints of law professors who came to train their organisation's paralegals.<sup>30</sup> This is their primary source of access to legal information, and their trained paralegals now allow CARITAS to remain up to date with new developments in the law. The Young Women Christian Association (YWCA) follows a similar route to access legal information, drawing primarily on their partner CSOs in the Paralegal Alliance Network (PAN) of which CARITAS is a founding member. According to the Programmes Manager at YWCA, the organisation itself is able to satisfy most of its legal information needs through its CSO network, complementing the information it receives with occasional google searches and references to Wikipedia.<sup>31</sup>

For other organisations, most used some form of electronic legal database. This database was either the KAS Electronic Legal Library or the ZambiaLII online database. KAS was not a common source of legal information among those CSOs we interviewed, being used by the Paralegal Alliance Network and the Legal Resources Foundation but only mentioned in passing by others.<sup>32</sup> Interestingly, KAS was only used in organisations with lawyers on their staff, even though it's the primary legal resource for most lawyers in Zambia. It's very high purchasing price suggests that these lawyers most likely purchased the expensive database for themselves, rather than drawing on already cash strapped finances of their CSOs.

ZambiaLII was mentioned in very few interviews as a source of legal information, partly because they ignored its existence or were only aware of the older and outdated ZamLII. However, a few described the free online legal database as their primary source of legal information with a high level of enthusiasm. The Executive Director of the Labour Institute

---

<sup>30</sup> Head of Programmes at CARITAS Zambia, June 2015

<sup>31</sup> Programmes Manager at Young Women's Christian Association, July 2015

<sup>32</sup> Assistant Coordinator at Paralegal Alliance Network, July 2015

of Zambia shared that it was the legal resource of choice for his organisation and its legal staff.<sup>33</sup> A Project Officer at the Zambian Civic Education Association also described regularly using ZambiaLII along with the similar Southern African Legal Information Institute (SAFLII) website.<sup>34</sup> However, both these individuals had a legal background. Those with organisations without lawyers or paralegals on staff were for the most part unaware of ZambiaLII's existence. However, when asked about the idea for a free online legal database being made available to everyone, they were highly supportive of the idea. A Programme Officer at the Jesuit Centre for Theological Reflection (JCTR) thought that such a website with up-to-date and accurate information would be of use to JCTR to keep government and political leaders accountable.<sup>35</sup> The Head of Programmes at CARITAS Zambia also shared a great interest in using such a service, citing the benefits of being able to provide access to free legal information to its paralegal offices in all 10 provinces of Zambia, as long as they were connected to the internet.<sup>36</sup>

This observation suggests that ZambiaLII could become the legal resource of choice for CSOs given more publicity and knowledge of its availability. However, many interview subjects were quick to point out flaws in ZambiaLII that limits its usage by CSOs. The first is the database's exclusively online access. A veteran advocate, who in the past worked at three different Zambian CSOs, explained that there are few computers in rural communities, and little access to the internet.<sup>37</sup> CSOs working in rural areas of Zambia would at least need an offline version of ZambiaLII to be able to take advantage of the service on a mobile computer or tablet. Even those CSOs with access to the internet would appreciate an offline version of ZambiaLII, as internet speeds are often slow.<sup>38</sup>

The second flaw is that the site mainly offers unedited versions of the laws of Zambia, and not much simplified legal information besides a recently published Handbook on Juvenile Law. The Deputy Director at the Law Development Commission emphasized the need for laws to be simplified so that people who have not gone through legal training will be able to understand it.<sup>39</sup> For CSOs without a legally educated person on staff, the legal language employed in laws, statutory instruments, and other legal documents is a severe barrier to their understanding of a documents meaning and applicability. The Social and Economic Justice Officer at the Zambia Land Alliance (ZLA) also supported this view, pointing to its constituency's lack of understanding of the provisions of the new Zambian Lands Act and

---

<sup>33</sup> Executive Director of Labour Institute of Zambia, July 2015

<sup>34</sup> Project Officer for the CFC Legal Advice Desks Project at Zambia Civic Education Association, July 2015

<sup>35</sup> Programme Officer at Jesuit Centre for Theological Reflection, July 2015

<sup>36</sup> Head of Programmes at CARITAS Zambia, June 2015

<sup>37</sup> Former Advocate at Legal Resources Foundation, July 2015

<sup>38</sup> Deputy Director of Zambia Law Development Commission, June 2015

<sup>39</sup> Ibid.

how it could apply to them.<sup>40</sup> Making a law more easily accessible or even enacting a new one is not enough if people don't understand how it impacts their rights.

The third and final major flaw is the 'bad reading culture' in Zambia that according to many individuals leads CSOs to not consult (or invest in capacity to consult) openly available legal information. According to the Human Rights Advisor at GIZ, CSOs might not use ZambiaLII because they don't see the value of reading legal information. He shared the example of a situation where copies of the Zambian constitution were placed as an ad in newspapers, and people simply turned them into handbags without reading it. Ensuring that CSOs access legal information involves more than just making that information easily available to them. A successful legal information dissemination program needs to also sensitize people and CSOs to the value of that information, or face indifference on the part of many CSOs.<sup>41</sup>

## **The Special Case of Unions**

As organisations composed of members of civil society and advocating for the concerns of their constituencies, unions fall under the definition of civil society organisations though they face more specific and different legal concerns. In Zambia, the main organisations representing union workers are the Zambian Congress of Trade Unions (ZCTU) and the Free Federation of Trade Unions of Zambia (FFTUZ). These organisations provide leadership and technical assistance to their affiliated unions, with their technical assistance often taking the form of capacity-building workshops and in-person trainings. The ILO also assists these union formations in their capacity-building efforts through the publication of simplified versions of Zambian labour laws, as well as policy advocacy.

Interviews conducted with these organisations, among others, identified several barriers to accessing legal information by unions in Zambia. A National Project Coordinator at the ILO pointed to the end of the 'one sector, one union' policy in Zambia, and the resulting division of unions, as having caused a loss of legal knowledge among much of the current union leadership. Especially in the new unions that were formed, the knowledge of labour and employment laws is very weak as that information was not inherited from the former leadership. The loss of stability in Zambian union leadership led to even the older unions losing some of their legal capacity.<sup>42</sup> The Assistant Labour Commissioner (Legal) at the Ministry of Labour & Social Security is the contact person for unions trying to obtain legal

---

<sup>40</sup> Social and Economic Justice Officer at Zambia Land Alliance, July 2015

<sup>41</sup> Human Rights Advisor at Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), June 2015

<sup>42</sup> National Project Coordinator (Promoting Fundamental Principles and Rights at Work in the Mining Sector) at ILO, July 2015



information from the ministry. Based on the letters and phone calls she receives, she estimated that only about 70% of unions have enough knowledge of Zambian labour law to be effective. That percentage is even lower for unions who know enough about Zambian employment laws, which according to her is around 60%.<sup>43</sup> No studies have confirmed these exact numbers; however, the commissioner's observation that union knowledge of employment laws is generally lower than the knowledge of labour laws was repeated in other interviews with representatives of labour organisations.<sup>44</sup>

The Executive Director of the Labour Institute of Zambia (LIZ) also pointed to a general lack of legal capacity among unions. According to him, that lack of capacity is strongly tied to the limited financial resources of unions in Zambia, which face declining memberships and dues payments. In this situation, investing in legal education or legal staff is not a sufficient priority for unions to warrant their cost. Some individual unions have tried investing in legal departments, but have not been able to maintain them. However, that legal knowledge, and capacity to use that knowledge, is essential for unions to act effectively against employers who, very often, have more legal knowledge and financial resources to draw upon to hire a legal expert or experts. This leads to employers using the law to their advantage, quoting sometimes inapplicable or outdated sections of the laws of Zambia to justify their abusive practices.<sup>45</sup> Without the capacity to access legal information, unions and their members are highly vulnerable.

Even the main union federations, ZCTU and FFTUZ, have not established programs to build legal capacity in their member unions, or even in their own organisational structures. While multiple sources of legal information are used by these federations, primarily the ministry of labour website, personal contacts within the ministry, and the government printer for statutory instruments, it is difficult for unions to make use of this information to its fullest capacity without legal minded people. FFTUZ is supposed to have multiple assistants to assist the general secretary in legal matters, but these do not exist because of financial constraints. Their goal at the moment is to train one of its existing personnel in labour and employment law as a 'federation specialist'.<sup>46</sup> Meanwhile, ZCTU has a member of staff who, though not a lawyer, happens to have some interest in law and is the person who by-default reviews complicated legislation.<sup>47</sup> In the absence of a legally-trained individual on staff, both FFTUZ and ZCTU have relationships with private lawyers who are hired if they need representation in court, and sometimes provide legal information at a cost. This situation enables the federations to respond to their most important legal needs.

---

<sup>43</sup> Assistant Labour Commissioner (Legal) at Ministry of Labour, July 2015

<sup>44</sup> Director for Research and Economics at Zambia Congress of Trade Unions (ZCTU), July 2015

<sup>45</sup> Executive Director of Labour Institute of Zambia, July 2015

<sup>46</sup> National Executive Secretary of Federation of Free Trade Unions of Zambia(FFTUZ), July 2015

<sup>47</sup> Director for Research and Economics at Zambia Congress of Trade Unions (ZCTU), July 2015

There are multiple barriers that need to be overcome in order for unions to fulfil their legal information needs. The first is legal practitioners being out of reach of many unions for day-to-day legal advice. The Director for Research and Economics at ZCTU explained that the financial cost of maintaining a legally-trained person was the main reason why their member unions do not invest in legal departments.<sup>48</sup> Paralegals have been pointed to as the solution to this problem by many CSOs; however their use by unions is a new concept. According to the Executive Director of LIZ, their level of education is generally too low to be useful and they don't have enough visibility to be accessed. However, the director also explained that degree-holding paralegals that have been standardized and accredited would be very useful for unions, who would benefit from adding a legal person to their staff for a cheaper rate than a lawyer.<sup>49</sup> FFTUZ in particular has made steps in that direction, with its plan to train a federation specialist to perform a function similar to that of a paralegal.<sup>50</sup> The Assistant Coordinator at the Paralegal Alliance Network (PAN) believed that Zambian unions are beginning to take notice of their need to have a trained paralegal on their staff to help interpret relevant employment and labour laws.<sup>51</sup>

The second is access to legal information. While ZCTU and FFTUZ are equipped with internet access and connections within the Ministry of Labour, smaller unions are less able to cheaply access legal information. Because of financial constraints, most have no internet access in their offices and are usually limited to one computer used by their secretaries. Offline sources of legal information are currently limited to costly print versions of the labour and employment laws of Zambia from the government printer or a lawyer with their own offline legal information system. According to the Assistant Labour Commissioner (Legal) at the Ministry of Labour, a free offline legal database such as ZambiaLII could potentially be very useful in filling that legal information gap.<sup>52</sup> A representative from ZCTU also mentioned that the organisation would be in a position to include the use of such a database as part of the workshops it currently conducts.<sup>53</sup>

Making simplified legal information available to unions can additionally serve a role in overcoming the comprehension barrier, allowing unions to self-serve some of their needs. In this vein, guides to the laws pertaining to the Zambian construction sector and domestic labour have been produced by the ILO and local partners.<sup>54</sup> However, the Assistant Labour

---

<sup>48</sup> Ibid.

<sup>49</sup> Executive Director of Labour Institute of Zambia, July 2015

<sup>50</sup> National Executive Secretary at Federation of Free Trade Unions of Zambia (FFTUZ), July 2015

<sup>51</sup> Assistant Coordinator at Paralegal Alliance Network, July 2015

<sup>52</sup> Assistant Labour Commissioner (Legal) at Ministry of Labour, July 2015

<sup>53</sup> Director for Research and Economics at Zambia Congress of Trade Unions (ZCTU), July 2015

<sup>54</sup> National Programme Coordinator (Promoting Fundamental Principles and Rights at Work in the Mining Sector) at ILO, July 2015



Commissioner (Legal) at the Ministry of Labour explained that no formal assessment of the effectiveness of these guides has been done. If they prove to be effective in informing unions about the relevant laws in their industries, the publication of guides may expand to include other employment sectors.<sup>55</sup>

## **The Legal Information Needs of Legal Practitioners**

While civil society organisations and unions may struggle to find legal information, lawyers are often the most knowledgeable about the law and different sources of legal information. When interviewed, lawyers often pointed to the use of the private legal database KAS Law as their primary resource for legal information, in addition to the physical statute books and government gazettes that might be held by their law firm. This correlates with a 2013 survey of 44 lawyers where more than  $\frac{3}{4}$  of respondents indicated that they used the KAS Electronic Library to access court judgements, while  $\frac{2}{3}$  indicated that they used it to access the Laws of Zambia (Martin, 2013). The Parliament website was also cited as a primary source for accurate laws of Zambia. Otherwise, accessing court judgements from the judiciary, especially the most recent ones, was the most significant hassle lawyers identified to their practice.

A lawyer close to the ZambiaLII project explained that the KAS Law compilation of the laws, statutory instruments, and court judgements of Zambia is the most used legal resource for lawyers, though the only reliable consolidated version is from 1996. The subsequent 2006 update is so full of grammatical errors that it has not been endorsed by the Zambian government.<sup>56</sup> Another lawyer described KAS Law as being as accurate as Wikipedia in terms of accuracy: 'An 'or' in a clause of a printed law of Zambia can easily become an 'or' in its KAS Law version'.<sup>57</sup> If a lawyer wants to use any legal information from KAS Law, they are forced to also verify its accuracy in the print statute books themselves or the Parliament website. Furthermore, KAS Law costs 2000 USD to install on two computers, making it both an expensive and flawed legal resource. Despite these flaws, lawyers still tend to use KAS Law because of its user-friendly search system, the comprehensiveness of its information collection, and the ability to use it while offline. Law students and those lawyers from less successful law firms apparently often use pirated copies KAS Law to avoid the hefty financial cost.

ZambiaLII was mentioned in a minority of our interviews as an effective alternative to KAS Law, though some individuals seemed confused between the now-defunct ZamLII which

---

<sup>55</sup> Assistant Labour Commissioner (Legal) at Ministry of Labour, July 2015

<sup>56</sup> Lawyer at Chibesakunda & Co., June 2015

<sup>57</sup> Partner at Simeza, Sangwa & Associates, July 2015

had been run out of UNZA and the current ZambiaLII which began operating in 2012. Much of the criticism we heard of ZambiaLII referred to it being out-of-date, though those who raised this point used ZamLII and ZambiaLII interchangeably. In contrast, a number of lawyers pointed to ZambiaLII as being the most reliable source for new legal information. A lawyer at the Legal Aid Board explained that he had become very interested in using ZambiaLII because of its accuracy and the newer court judgements available on the site; however he still thought that KAS Law was more easily searchable than ZambiaLII.<sup>58</sup> Another lawyer at the Labour Institute of Zambia described ZambiaLII as the primary source of legal information for the lawyers in his organisation, as they could find all the information they needed online at no cost.<sup>59</sup> A lawyer at the Ministry of Labour further added that the database allowed her to forego investing in a personal collection of legal materials.<sup>60</sup> However, a concern with ZambiaLII that was expressed in all interviews where it was mentioned was that it required a relatively fast internet connection to be used effectively, pointing to the need for an offline version to avoid slow loading times.<sup>61</sup>

In regards to accessing the most recent court judgements from the judiciary, lawyers described a tedious, time consuming, and expensive system. The judiciary website, at the time of this research, is currently down, but according to a lawyer at ZCEA the court judgements available there were incomplete.<sup>62</sup> Another issue with these uploaded judgements is that they are in PDF format and so cannot be searched. This hampers lawyers from quickly identifying if certain judgements apply to their current case and is time consuming.<sup>63</sup> In order to get official versions of judgements, lawyers have to go to the courts themselves, but the courts indexing system presents significant challenges as well. Most of these documents are only available in hard copy and are often locked behind bureaucratic hurdles or misplaced. However, if a lawyer knows what they are looking for, and especially if they have a contact in the court, they can usually be retrieved if given time. The recent funding of an E-Filing system may solve many of these administrative hurdles for lawyers. Aimed to target judges, lawyers and other staff within the court system, the E-Filing system seeks to expedite the judicial process and would allow lawyers to more easily find specific updated court judgements; although, it has not yet been implemented<sup>64</sup>.

A final concern of lawyers is the lack of access to new Zambian legal research. The Deputy Director of the Law Development Commission argued that there was a wealth of new legal information being produced in Zambia, and the problem is that isn't being published or

---

<sup>58</sup> Legal Aid Counsel at Legal Aid Board, July 2015

<sup>59</sup> Executive Director of Labour Institute of Zambia, July 2015

<sup>60</sup> Assistant Labour Commissioner (Legal) at Ministry of Labour, July 2015

<sup>61</sup> Deputy Director of Zambia Law Development Commission, June 2015

<sup>62</sup> Project Officer for the CFC Legal Advice Desks Project at Zambia Civic Education Association, July 2015

<sup>63</sup> Lawyer at Chibesakunda & Co., June 2015

<sup>64</sup> Deputy Director at High Court of Zambia, July 2015

otherwise made available to the public.<sup>65</sup> Currently, she and the organisation she works for relies largely on decade old research papers that do not offer the same value as contemporary research. Sometimes she can gain access to UNZA undergraduate and graduate theses, but these are not always available and are relatively expensive. This is what she sees as the most untapped resource of new legal information, as making the best university research theses freely available to the public online would lead to easy access for lawyers to new legal commentary, analysis, and critique.

## **Civil Society Organisation Capacity**

Although one may expand accessibility of legal information for civil society, the expansion would be of no avail if civil society is incapable of utilising and comprehending that information. As civil society organisations seek to fill the holes in governmental provision of services; the effectiveness of these organisations in advocacy and service provision is partly dependent on their legal capacity. Without sufficient legal capacity a civil society organisation may be hindered in their ability to carry out their mission and advocate for their constituency. For effective advocacy, it is important for CSOs to have the legal capacity to challenge the government. As noted in a report by GIZ on *CSO Alliances in Zambia*, it was found that it is important for CSO alliances to be well prepared during their interactions with the government by building their own capacities and skills in policy engagement (GIZ 46). A former-GIZ governance expert explained that a CSO needs to be able to hold the government accountable using research-based advocacy as opposed to simply ‘making noise.’<sup>66</sup> The Executive Director of PRISCCA furthered this point by asserting the importance of a CSO’s capacity to understand the legalities of the government in shaping a constructive relationship to challenge and influence policy<sup>67</sup>. The National Coordinator at WLSA noted that not only does legal knowledge allow a CSO to demand changes, it can also help the organisation sensitise its constituents on relevant issues to progress their mission statement<sup>68</sup>. The Assistant Coordinator at the Paralegal Alliance Network, stated that CSOs may often sensitise their constituents to laws where their expertise lies, but in order to simplify the laws and act as a bridge for communities, they need legal capacity<sup>69</sup>. In one example, the inability of member CSOs under an alliance to understand the African Peer Review Mechanism, led to the dissemination activities undertaken by the CSO Alliance to be evaluated ‘as a total failure because people still did not fully understand what APRM means’ (GIZ, p. 47). In numerous interviews, donor funding, capacity building services, and

---

<sup>65</sup> Deputy Director of Zambia Law Development Commission, June 2015

<sup>66</sup> Former-GIZ Governance Expert, July 2015

<sup>67</sup> Executive Director at Prison Care and Counselling Association, July 2015

<sup>68</sup> National Coordinator at Women and Law in Southern Africa, July 2015

<sup>69</sup> Assistant Coordinator at Paralegal Alliance Network, July 2015

the use of paralegals were pointed out as matters influencing a civil society organisation's capacity.

### *Donor Funding*

Most civil society organisations being non-profit are dependent on their funding sources for functionality. For this reason, the source and amount of donor funding for an organisation is inextricably linked to its capacity to function. More often than not, the donor organisations that supply a CSO with funding are not the same as the beneficiaries targeted by that CSO. According to Kaldor, problems of accountability arise in such cases where 'it is argued that growing dependence on particular donors may distort the priorities or mission of NGOs' (Kaldor, 2003, p. 21). The Executive Director of the Law Development Commission notes this exact problem stating that, the problem with CSOs in Zambia is that they chase donor money instead of focusing on the needs of their constituents<sup>70</sup>.

Individuals with experience dealing with prolific donor agencies in Zambia such as GIZ have expressed concerns about their method of financial support. An analyst at the Access to Justice Programme in the Ministry of Justice expressed that the funds received from GIZ for the AtoJ programme had stringent accountability requirements. For example, after the implementation date of the AtoJ programme had ended on December 31<sup>st</sup>, a lot of the allocated funds for the programme had remained with the Access to Justice Department. However, instead of allowing those funds to be used for further implementation of the programme, GIZ retracted the funds. According to the AtoJ analyst, such stringency is not always good and ideally donors would be more flexible<sup>71</sup>. The governance expert we interviewed furthered this view by stating that funding from Western Donors such as GIZ is only aimed to achieve certain indicators and leaves out a CSO's own agenda. For example, he explained that American donor agencies often focus on health issues and exclude governance in the allocation of their funds<sup>72</sup>.

Due to such strict requirements from donor agencies, a civil society organisation without an overlapping agenda with major donors is limited to two options: either to sacrifice their mandates to appease donors or to sacrifice receiving sufficient funding. Various representatives of interviewed CSOs described this concern. The Deputy Director of the Law Development Commission noted that CSOs with legal mandates have no money. In her former non-profit organisation, she described difficulty fulfilling their mandate to simplify

---

<sup>70</sup> Deputy Director of Zambia Law Development Commission, June 2015

<sup>71</sup> Access to Justice Program Analyst at Ministry of Justice, July 2015

<sup>72</sup> Former-GIZ Governance Expert, July 2015

and translate the laws because that's not where the donor money was anymore<sup>73</sup>. Similarly, a representative of another civil society organisation, the Green Living Movement, expressed difficulties with the lack of resources and challenges to raise funds to tackle legal issues due to disinterested corporate donors<sup>74</sup>. The Social and Economic Justice Officer at Zambia Land Alliance demonstrated similar concerns of the lack of finances received from donor organisations and emphasised ZLA's dependence on such funding for the provision of services<sup>75</sup>.

Although the stringent accountability requirements from certain donor agencies hinder a CSO's functional capacity to for example provide legal services, other donor organisations have attempted to resolve this issue. We Effect is a Swedish donor agency that emphasises their recipients' agendas in the allocation of their funds. An assistant programme coordinator at We Effect explained that, as a development agency, We Effect is an 'open door organisation' that offers technical and financial support for CSOs to fulfil their mandates. CSOs approve their strategic plans with We Effect who subsequently allocates funds and capacity training for the organisation to reach their goals.<sup>76</sup>

### *Capacity Building Services*

In one interview, a representative from the Green Living Movement exemplified the importance of capacity building workshops. He described the challenges his small CSO faced in interpreting legal information when it needed to file an injunction against a proposed mining operation in the Lower Zambezi National Park. At the time of the case, GLM had been relying on laws and reports published in PDF format by the Zambian Environmental Management Agency for their legal information needs. That proved to be insufficient due to the legal nature of the documents. Ultimately, they hired a lawyer with no previous experience in environmental law. Though GLM is an environmental-advocacy CSO, none of its staff were legally trained and had difficulty interpreting environmental laws. The GLM representative also regretted the fact that he learned only later in the case that certain provisions of the Mining and Minerals Act contradicted the Environmental Management Act, which could have offered GLM another avenue to block the mining company<sup>77</sup>. In this state, GLM was ill equipped to argue its case against a team of five lawyers hired by the opposition. The case of GLM demonstrates that all civil society organisations have a need for legal capacity, even if their core mission may not be legal in

---

<sup>73</sup> Deputy Director of Zambia Law Development Commission, June 2015

<sup>74</sup> Team Leader at Green Living Movement, June 2015

<sup>75</sup> Social and Economic Justice Officer at Zambia Land Alliance, July 2015

<sup>76</sup> Assistant Programme Coordinator of Rural Development at We Effect, July 2015

<sup>77</sup> Team Leader at Green Living Movement, June 2015

nature. According to the Human Rights Advisor at GIZ, very few CSOs have the legal capacity to access legal information, use it, and effectively support the aspirations of their constituencies.<sup>78</sup>

When inquired about his difficulties in interpreting the environmental laws and the option of being provided simplified legal information, the representative from GLM noted that although simplified laws may help, a public forum or workshop on environmental law for civil society would help even further in expanding legal knowledge. However, an ideal situation for GLM would be for an organisation to provide a legal practitioner that could offer personal training in explaining the specific provisions of relevant Acts<sup>79</sup>. The Executive Director of ZCEA also noted that providing legal information to civil society is often difficult due to the 'bad reading culture' in Zambia<sup>80</sup>. The Human Rights Advisor at GIZ reiterated this point stating that due to the 'bad reading culture' of Zambians, one needs to go further than just providing legal information by showing them the relevance of that information<sup>81</sup>. The AtoJ Analyst at the Ministry of Justice offered a similar perspective stating that people are not always interested in accessing legal information, but will often choose to attend a workshop, or listen to radio and TV programmes to build legal knowledge<sup>82</sup>.

In our research, we identified numerous organisations that provide capacity building and legal aid services to sensitise civil society to be more legally informed. The ILO has recognised the value of CSOs to reach desired constituencies, especially employers in the informal sector, as mentioned by a national programme coordinator at the ILO<sup>83</sup>. For this reason, the ILO responds by using experts or professionals to provide capacity training programs based on a CSO and its constituency's needs. Secondly, the ILO also recognises the potential of partnerships among CSOs to inform each other, and therefore often organises platforms for CSOs to interact as well<sup>84</sup>. Furthermore, donor agencies such as GIZ and We Effect, not only provide financial assistance to certain CSOs but also assist them in terms of capacity. In addition to providing funds, GIZ supports governance CSOs through legal empowerment, capacity building workshops and facilitating the creation of coalitions to have their voice heard in the government<sup>85</sup>. We Effect also offers capacity assistance. For agriculture or land based civil society organisations, We Effect may provide guest speakers

---

<sup>78</sup> Human Rights Advisor at Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), June 2015

<sup>79</sup> Team Leader at Green Living Movement, June 2015

<sup>80</sup> Executive Director at Zambia Civic Education Association, July 2015

<sup>81</sup> Human Rights Advisor at Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), June 2015

<sup>82</sup> Access to Justice Program Analyst at Ministry of Justice, July 2015

<sup>83</sup> National Programme Coordinator (Zambia Green Jobs) at ILO, July 2015

<sup>84</sup> *Ibid.*

<sup>85</sup> Human Rights Advisor at Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), June 2015



or organise platforms for different CSOs to interact<sup>86</sup>. Other CSOs such as CARITAS, WLSA or ZCEA also offer capacity building workshops run by legal professionals or experts to train any member of civil society on specialised information. These workshops are usually oriented to train members of marginalised communities as paralegals but are often open for other members of civil society to attend.

For unions, capacity building services were seen as a particular need by different organisations. According to the National Executive Secretary of the FFTUZ, little is being done by unions to build their capacity. Calling for many of FFTUZ's member unions to educate their leadership, the Executive Secretary stated that the unions did not follow up due to a lack of interest in capacity building<sup>87</sup>. Another national programme coordinator at the ILO further indicated that the legal knowledge of newer unions is generally weak and that their leadership needs to be educated<sup>88</sup>. The Executive Director of the Labour Institute of Zambia (LIZ) described that unions need to be taught to appreciate the benefit of open access to legal information in addition to being provided that information<sup>89</sup>. The Director for Research and Economics at ZCTU reiterated that unions need workshops with a trained individual to guide them through information instead of just providing print or online materials<sup>90</sup>. For this reason organisations such as the ILO, FFTUZ, ZCTU or LIZ offer numerous workshops for workers education and general capacity building training for unions.

However, some members of civil society have questioned the effectiveness of such workshops. A Senior Research Officer at the Law Development Commission stated that although his organization conducts many workshops under their mandate to educate civil society on legal matters, these workshops are ineffective<sup>91</sup>. Although it is not possible to generalize this statement beyond the workshops conducted just by the Law Development Commission, it is important to note the lack of effectiveness of many capacity building services. As stated earlier, GLM's ideal situation would be to have a legal expert to offer one-on-one training by walking him through the laws. A study completed in the Philippines by Canares, Marcial and Narca titled Enhancing Citizen Engagement with Open Government Data, instigated methods to improve capacity building programmes for CSOs in using open government data. Specifically, a total of eight CSOs were selected from two provinces to be offered either classroom based training or targeted mentoring to evaluate the most effective aspects of both methods. It was concluded 'that for capacity building programs to

---

<sup>86</sup> Assistant Programme Coordinator of Rural Development at We Effect, July 2015

<sup>87</sup> National Executive Secretary at Federation of Free Trade Unions of Zambia, July 2015

<sup>88</sup> National Programme Coordinator (Promoting Fundamental Principles and Rights at Work in the Mining Sector) at International Labour Organization, July 2015

<sup>89</sup> Executive Director of Labour Institute of Zambia, July 2015

<sup>90</sup> Director for Research and Economics at Zambia Congress of Trade Unions (ZCTU), July 2015

<sup>91</sup> Senior Research Officer at Zambia Law Development Commission, June 2015

be effective, they should be relevant to the condition of the CSOs and the individual needs of learners; conducted with a long-term view of ensuring use and actual impact [as opposed to short term, sporadic, one-time trainings]...and targeted to achieve whole-of-organisation awareness, appreciation, and motivation to use data' (Canares, 2015 p. 1).

### *Paralegals*

The use of paralegals has steadily become more popular in Zambia as indicated by the rise of organisations under the Paralegal Alliance Network. Initially formed by a group of 4 organisations, CARITAS, the Legal Resources Foundation, the Young Women Christian Association, and the Zambia Civic Education Association, the Paralegal Alliance Network (PAN) has now become an independent agency while its members comprise of more than 10 organisations. This expansion in the usage of paralegals is especially pertinent to Zambia as it currently faces a major shortage in legal practitioners. Zambia has fewer than 1,000 licensed legal practitioners for a population estimated at nearly 16 million in 2015. According to the Law Association of Zambia's treasurer report, in 2013 there were only 885 dues paying members for an organization to which membership is required to practice law in Zambia. Since then no more than 150 law graduates have passed the bar exam, with only a very low six out of 250 takers passing the exam<sup>92</sup>. In a 2012 study on the shortage of African lawyers, Zambia is described as having approximately one lawyer for every 18,000 people. As a comparison, the report states the same ratio to be one for every 260 people in the United States. To make matters worse, these few lawyers are heavily concentrated in major urban centres, creating additional geographical and financial barriers to legal representation (Kahn-Fogel, 2012, p. 737).

Various members of civil society raised similar concerns regarding the limitations to accessing representation by a legal practitioner. According to a lawyer we interviewed, the scarcity of legal practitioners in Zambia often leaves them unable to attend to every case<sup>93</sup>. The Head of Programmes at CARITAS Zambia further noted that in addition to having time constraints, lawyers are also expensive<sup>94</sup>. In the experience of the Green Living Movement, representation from a lawyer in an injunction against a mining company left the small civil society organisation in debt, which was still being paid off at the time of the interview<sup>95</sup>. Some individuals also raised the concern of the centralisation of lawyers and their lack of understanding of customary law, which is prevalent in rural areas<sup>96</sup>. The Executive Director of PRISCCA furthered this point stating the difficulties to access a lawyer in the rural areas

---

<sup>92</sup> Peter W. Martin, October 2015

<sup>93</sup> Lawyer at Chibesakunda & Co., June 2015

<sup>94</sup> Head of Programmes at CARITAS Zambia, June 2015

<sup>95</sup> Team Leader at Green Living Movement, June 2015

<sup>96</sup> Former-GIZ Governance Expert, July 2015



of Zambia<sup>97</sup>. Due to such limitations, paralegals have increasingly been employed to fill the gaps left unfilled by lawyers.

As an alternative to legal service provision, paralegals have also carved out a particular niche, as they are even able to accomplish tasks where lawyers would face difficulty. Eva Diehl in a Tanzanian study on the use of paralegals to enhance access to justice states: 'Paralegals are said to improve access to justice not only due to their geographic accessibility and their free or inexpensive services, but also because of their 'embeddedness', i.e., their knowledge of the local language and the cultural context.' (Diehl, 2009, p. 189). A number of members of Zambian civil society similarly expressed the benefits of training and employing paralegals for a CSO. According to the Head of Programmes at CARITAS Zambia paralegals are often used by CSOs to provide certain applicable laws to individuals that would otherwise have no access to those laws<sup>98</sup>. The Zambia Land Alliance has a community land advocacy committee which staffs paralegals in a number of villages to sensitise communities to land law<sup>99</sup>. The Zambia Civic Education Association also seats paralegals on legal desks to offer advisory services for specific laws<sup>100</sup>. PRISCCA places a trained paralegal, conversant with penal laws, in a number of prisons to receive complaints, give counselling and offer legal advisory services to inmates<sup>101</sup>. Many other organisations also employ paralegals as an inexpensive bridge to provide relevant legal information to underserved communities. Furthermore, trained paralegals can also strengthen a CSOs legal capacity to converse with relevant laws in order to further promote their mission statements.

In other countries and contexts, the use of paralegals has also shown promise. The Paralegal Advisory Service was a project implemented in Malawi in May 2000 to provide legal aid services to young men in conflict with the law. A civil society organisation that partnered with law enforcement agencies, PAS uses paralegals to provide legal aid services on the front line of the criminal justice system. By 2007, PAS had reached approximately 150,000 prisoners and decreased the overall remand population in Malawi from 40-45% to 17.3%. As an unusually effective program demonstrating the importance of paralegals, Kenya and Uganda had adopted similar approaches both showing successes of their own (Stapleton 3-4). In Zambia, a similar program has also been implemented through PRISCCA that, as mentioned earlier, also uses trained paralegals to reach overpopulated prisons where legal aid is especially needed for those awaiting trial.

---

<sup>97</sup> Executive Director at Prison Care and Counselling Association, July 2015

<sup>98</sup> Head of Programmes at CARITAS Zambia, June 2015

<sup>99</sup> Social and Economic Justice Officer at Zambia Land Alliance, July 2015

<sup>100</sup> Executive Director of Zambia Civic Education Association, July 2015

<sup>101</sup> Executive Director at Prison Care and Counselling Association, July 2015

Training for most paralegals is currently done within the Paralegal Alliance Network. PAN and its members provide different training programmes for paralegals and each CSO under PAN conducts workshops shaped by their own expertise as an organisation. However, no standard exists as to the qualifications, length, quality and method of training that a paralegal may receive under these different organisations. And, this lack of standardisation has led to many members of civil society being wary of the proliferation of paralegals. The Law Association of Zambia has long expressed a fear that insufficiently trained or unaccredited paralegals may provide inaccurate legal advice to their clients. As such, the organization would prefer to see more practicing lawyers providing legal advice as opposed to paralegals.<sup>102</sup> Furthermore, a paralegal at the Jesuit Center for Theological Reflection expressed the fear of ill-equipped paralegals with no formal training that may misrepresent the facts. Having been trained in a one-month program at UNZA, he believed that the information provided to him was too shallow to properly advise someone<sup>103</sup>. National Coordinator at Women and Law in Southern Africa also mentioned a similar concern stating that lawyers are always taught the same law, but for paralegals there is no standardisation on which laws they should be conversant<sup>104</sup>. The Social and Economic Justice Officer at Zambia Land Alliance noted how the choice of individuals for paralegal training could also be a problem, as ZLA has no criteria or qualifications for the paralegals they employ<sup>105</sup>.

Despite these concerns, a draft Legal Aid Policy is awaiting approval to create standardised curriculum for the training of paralegals. According to the Assistant Coordinator at the Paralegal Alliance Network, PAN has been working with the government on the Legal Aid Policy to formalise the training of paralegals and involving relevant accreditation stakeholders such as NIPA and UNZA<sup>106</sup>. Although paralegals can play a role as intermediaries between legal experts and the legally uninformed, they are often limited to accessing legal information themselves. Many paralegals have trouble accessing the latest information and lack access to the Internet within their respective communities<sup>107</sup>. Although paralegals can never replace lawyers in their capacity and due to their inability to offer representation, they can offer an alternative to CSOs looking to build legal capacity and as well as facilitate the dissemination of legal knowledge in communities.

---

<sup>102</sup> Vice President of Law Association of Zambia, June 2015

<sup>103</sup> Programme Officer Faith & Justice Dept. at the Jesuit Center for Theological Reflection, July 2015

<sup>104</sup> National Coordinator at Women and Law in Southern Africa, July 2015

<sup>105</sup> Social and Economic Justice Officer at Zambia Land Alliance, July 2015

<sup>106</sup> Assistant Coordinator at Paralegal Alliance Network, July 2015

<sup>107</sup> Head of Programmes at CARITAS Zambia, June 2015

## Suggestions for Improvement

While our interview subjects expressed multiple legal information needs, they also often shared their personal opinions on what should be done to improve their situation. Some pointed to the need for more capacity building workshops in order to ensure that CSOs are trained to access legal information and are sensitized to its importance. A representative from the Green Living Movement said that CSOs needed a legally trained individual to guide them through the law and increase their understanding of its provisions, and believed that this in-person training would be more effective than just simplifying the laws or making them more publicly available.<sup>108</sup>

Others saw the potential of ZambiaLII as an important tool for increasing the capacity of their organizations to fulfil their missions. According to the Deputy Director of the Law Development Commission, 'it would be a blessing to be able to find free legal information accessible at the tip of a finger'. Free online access to legal information would save her organisation many trips to the government printer, the national assembly, and the courts in order to access the most up-to-date legal documents. It would save LDC money, and allow her to cut through time-consuming bureaucracy. The National Executive Secretary of FFTUZ also saw the merits of free online access to legal information as a way for organisations to simplify the collection of legal information.<sup>109</sup> However, ZambiaLII should not undertake this role alone. According to a lawyer we interviewed, the council of law reporting, the government printer, and the national assembly should provide information publicly through a more accessible platform such as ZambiaLII.<sup>110</sup> These primary sources of legal information could establish a memorandum of understanding with ZambiaLII in order to upload legal information quickly and efficiently onto the internet.

However, if ZambiaLII is going to be a viable option for the provision of free online legal information, it must also develop a revenue stream to sustain the staff needed to collect legal information from the current government provides as well as the online database itself. Relying on the changing whims of donor organization is not a sustainable model for the creation of what would be effectively national infrastructure for the provision of legal information. ZambiaLII could take example from the success of Kenya Law, a semi-autonomous government corporation in charge of law reporting in Kenya. By developing specialized legal documents and services to be sold to lawyers and the government, ZambiaLII could use the revenue from these sales to sustain free access to its online database. The logistics of selling offline electronic and print versions of the legal information available on the database would also have to be considered, along with

---

<sup>108</sup> Team Leader at Green Living Movement, June 2015

<sup>109</sup> National Executive Secretary at Federation of Free Trade Unions of Zambia, July 2015

<sup>110</sup> Partner at Simeza, Sangwa & Associates, July 2015

potential points of sale (which could include universities such as UNZA or NIPA and the High and Supreme Court libraries). As for the software to be used to produce electronic versions of the database on CD-ROM or USB, Martin pointed out that ZambiaLII could potentially use the same software platform as the KAS Electronic Legal Database employed (Rocket Folio Views), considering the massive success it had among the legal profession.<sup>111</sup> The development of ZambiaLII as an organization technically and financially able to support the legal information needs of Zambian society would involve considerable business planning, with an emphasis on making the operation both financially sustainable as well as affordable to the poorest members of Zambian society. Beyond capacity building workshops for CSOs and the development of ZambiaLII into a an organization able to satisfy the legal information needs of Zambian society the most mentioned policy suggestions for improving access to legal information in Zambia by far were tied to the services and outreach efforts of the Law Association of Zambia (LAZ). This statutory organisation, founded in 1973 by the LAZ Act, is mandated to represent the legal profession in Zambia. Its membership is composed of all the practicing lawyers in Zambia. Over 14 interview subjects, from all categories of stakeholders, identified three specific things that LAZ should be doing in order to expand access to justice and legal information.

The first policy change that LAZ could implement is enforcing the practicing requirements for its member lawyers, especially in their mandate to provide pro bono services. According to the lawyers we interviewed, all legal practitioners in Zambia are supposed to do two pro bono cases during the year to renew their licences to practice, but this requirement is not enforced. A lawyer at the Law Development Commission also noticed the absence of enforcement when it comes to this requirement and that in his knowledge few, if any, lawyers ever fulfil it.<sup>112</sup> One lawyer noted that she could not take time away from the corporation she currently works for if it wasn't a mandated practice to do pro bono work.<sup>113</sup> All ten lawyers we spoke to throughout our research thought that LAZ should actualize this requirement in the interest of providing legal services to organisations or individuals who may not afford the cost. Many CSOs also saw lawyers providing more pro bono services as one way LAZ could increase the legal resources available to them. The Executive Director at PRISCCA, voiced his frustration with LAZ for failing to enforce its pro-bono services requirement for lawyers. According to him, lawyers taking more pro bono cases (in coordination with PRISCCA) would be able to facilitate and complement the work his organisation is doing to educate prisoners about their rights.<sup>114</sup> However, while this policy change would certainly be an improvement upon the current situation, requiring the fewer than 1,000 lawyers in Zambia to offer more pro-bono

---

<sup>111</sup> Peter Martin, October 2015

<sup>112</sup> Senior Researcher at Law Development Commission, July 2015

<sup>113</sup> Former Advocate at Legal Resources Foundation, July 2015

<sup>114</sup> Executive Director at Prison Care and Counselling Association, July 2015

services would do very little to satisfy the legal information needs of a national population of nearly 16 million. It may help the few CSOs who would know how to strategically use the services these lawyers would provide pro-bono, yet other policy measures would also have to be put in place to help fill the significant gap in the availability of affordable legal advice to the general population. The pro bono requirement is not the only LAZ regulation not being implemented. LAZ's continuous development program (CDP) offers short courses for lawyers to refresh their legal knowledge and stay updated on new developments in the law. According to one lawyer we spoke to, lawyers are on paper required to go through the Continuous Professional Development (CPD) in order to renew their license. However, this requirement is again not enforced by LAZ. Attending these courses is important for lawyers to remain legally knowledgeable. It is also important that lawyers attend so CSOs and individuals can receive accurate advice from a legal practitioner.<sup>115</sup> Making it mandatory for a lawyer to attend a certain number of CPD sessions to retain their practicing license would be the second policy change. It would help increase the general quality of the legal profession in Zambia, reducing the likelihood that a lawyer might give outdated legal advice to their clients. This is especially important considering both the high cost of hiring a lawyer and the significant lack of legal practitioners in the country. With only one lawyer for every 18,000 people, those lawyers in Zambia who are employed by relatively poorer members of society have little incentive to compete over the quality of the services they provide, as long as they maintain their license to practice. Without the pressure to stay up to date through CPD, lawyers may easily provide outdated legal advice and ineffective representation in court while still leaving a hefty bill for their unfortunate clients to pay.

However, when invited to comment on both these issues, the Vice President of LAZ explained that it is not a requirement for lawyers to offer pro bono services or attend CPD. However, she explained that LAZ is planning to create a system of incentives for lawyers to attend CPD, and that the organisation submitted draft legislation to the Ministry of Justice over two years ago but it has not yet been passed. This draft legislation does not include any requirements for lawyers to provide pro bono services. According to her, LAZ cannot change its regulations on its own. Changes must go through the National Assembly to be implemented.<sup>116</sup> However, it is confusing, that every lawyer we spoke to during our research believed that both performing pro bono services and attending CPD were official requirements in order to renew their practicing license.

The Vice President of LAZ also responded to suggestions by other interview subjects that LAZ expand its outreach efforts and expand its mandate to include educating individuals about their legal rights and facilitate the provision of legal information. Many people we

---

<sup>115</sup> Lawyer at Chibesakunda & Co., June 2015

<sup>116</sup> Vice President of Law Association of Zambia, June 2015

interviewed said they would like to see LAZ behave more like a CSO, and take action to implement these programs. In response, the Vice President cited financial and staff capacity issues as barriers to LAZ implementing such programs, and explained LAZ relies on the contributions of its member lawyers to operate. She also mentioned that LAZ meets annually with donor organisations to request funding, but the organisation doesn't obtain funds since, according to her, donors are more interested in other issues such as gender-based violence. In the absence of alternative sources of funding, LAZ currently advocates for the people of Zambia by emitting opinions on certain key legal issues that affect all of Zambian society.<sup>117</sup>

However, the Executive Director of PRISCCA refuted the idea that financial resources are a hard barrier to LAZ expanding the scope of its activities. According to him, there is donor funding available for access to justice initiatives, and that LAZ's name on an application for a development grant would carry a lot of weight for donors. LAZ and PRISCCA could, for example, apply jointly to the European Union for a grant to fund a prison legal education project and would be likely to obtain the funding for such an initiative.<sup>118</sup> For the Executive Director of PRISCCA, LAZ needs to change its thinking, look into different ways of obtaining funds, and partner with other CSOs to combine resources and skills to make an impact on law and justice in Zambia.

The third and final major policy change that LAZ could implement is seeing paralegals as partners, rather than as competitors to lawyers, and supporting initiatives to standardize and increase the effectiveness of the paralegal profession in Zambia. The Head of Programmes at CARITAS Zambia, explained that in the past LAZ was against the recognition of paralegals as they believed that their recognition would lead to competition between lawyers and paralegals for the provision of legal services. However, he also clarified that LAZ has changed its view of paralegals and are more receptive to the idea today.<sup>119</sup> According to the Vice President of LAZ, her organization recognizes the usefulness of paralegals in reaching out to local communities and would support a standardized accreditation system for paralegals.<sup>120</sup> However, in LAZ's 2013-2018 Strategic Plan, the 'intrusion of other professional bodies into the legal profession's work e.g [...] paralegals' is indicated as a threat (LAZ Strategic Plan, 2013, p. 9). A professor at UNZA Law School explained that LAZ sees paralegals as a threat since they operate outside their mandate. In her opinion, paralegals should be included in LAZ's mandate in order for the organisation to see them as partners rather than competition.<sup>121</sup> For example, this could take the form of

---

<sup>117</sup> Ibid.

<sup>118</sup> Executive Director at Prison Care and Counselling Association, July 2015

<sup>119</sup> Head of Programmes at CARITAS Zambia, June 2015

<sup>120</sup> Vice President of Law Association of Zambia, June 2015

<sup>121</sup> Professor at UNZA Law School, July 2015

LAZ partnering with paralegal organisations to provide supervision and support to paralegals offering legal advice in rural communities. It could also involve LAZ offering an alternative form of accreditation for the many law students from UNZA and other private law schools who failed to pass the Bar. According to Martin, only six out of 250 takers pass the Bar exam in Zambia<sup>122</sup>. These remaining 244 law students may still be able to use their legal training, as well as their aptitude to read and understand legal information, through work as a paralegal. According to the Assistant Coordinator at the Paralegal Alliance Network (PAN), LAZ is limiting its impact on access to justice in communities where lawyers are not present by not collaborating with paralegals.<sup>123</sup>

---

<sup>122</sup> Peter W. Martin, October 2015

<sup>123</sup> Assistant Coordinator at Paralegal Alliance Network, July 2015



## **Discussion**

The results of our research led us to two conclusions on how information should be provided to CSOs and legal practitioners in Zambia. First, legal information needs to be provided in a way that is easily and widely accessible in order to ensure access to that information to all members of civil society, not just lawyers. Second, the users of this information have to be able to understand its contents in order for access to legal information to lead to usage of legal information. We determined through our literature review that improvement of legal knowledge in members of civil society leads to increased capacity for citizens and their organisations to advocate for themselves using the legal tools made available to them. The question that remains to be discussed is how should our results influence future policy initiatives by both state and non-state actors. The most efficient way to approach this question is to divide the steps to take in two categories: improving the availability of free online legal information, and improving the capacity of civil society to use that information.

### **Improving the Availability of Legal Information**

Most government providers of legal information, specifically the Government Printer and the Judiciary, were critiqued for being bureaucratic and time-consuming. The cost of accessing their legal documents was also cited as a significant barrier for poorer segments of civil society. The Zambian Parliament website is one of the few government institutions who upload legal information, specifically new acts of parliament, online for everyone to consult. However, even it faces its own difficulties in terms of search ability in its law collection as a whole, as well as in individual digitized acts. The fact that the responsibility of compiling and disseminating legal information is spread between multiple government institutions, rather than a single body, in itself makes the search for legal information in Zambia particularly arduous.

Some individuals suggested that ZambiaLII, as an existing online legal information platform, could establish a memorandum of understanding with government providers of legal information in order to have privileged access to their legal documents. These documents could then be quickly and efficiently put online in a single location for the public to consult from a computer or tablet connected to the internet. While this doesn't resolve all the problems related to making legal information available, considering the lack of internet or even computers in many parts of the country, it would be a definite step forward compared to the current situation. No longer would someone have to visit the Government Printer's office in Lusaka to access Gazettes if they don't already have a subscription. The whole country could theoretically be a couple of clicks away from the



latest statutory instruments only available in these documents. Similarly, the court judgements and the laws of Zambia, instead of being scattered in print or electronic copies around different institutions, would be accessible online on a single website.

It remains to be seen if the Zambian government would be willing to delegate some of its authority to distribute legal information to an independent organisation, especially considering that the current governance strategy in Zambia has generally rejected CSO participation beyond a consultative capacity. A partnership between the Law Association of Zambia and ZambiaLII to handle this flow of legal information could make the delegation of authority easier for the government, considering that LAZ is a nationally respected and government-instituted organisation. This partnership and provision of legal information online would be beneficial to both CSOs and legal practitioners, who have the same critiques of government legal information providers and would appreciate the convenience of having all the information they need available online.

If legal information is going to be truly accessible to the public, providers must make special efforts to reach the poor and those living in rural areas. More than half of Zambia's population lives in rural areas, which also tend to be poorer and isolated, making this imperative even more critical to the success of a legal information programme in the country. The online provision of legal information through ZambiaLII seems to be the most efficient way of providing a large amount of people with this information. Yet, online access is not effective for reaching people living in rural areas. Many people we interviewed suggested that an offline copy of ZambiaLII would be the best way to reach these people, and improve the ability of people living even in urban areas to access the information contained on the site (reducing the barrier of slow and expensive internet connections). Hinfelaar, who manages ZambiaLII, shared with us her plans to make the ZambiaLII database available in an offline 'pocket law' format on a USB drive or CD-ROM. The price would hopefully be only the cost of the drive or CD, making it affordable and usable by any individual or CSO with access to a computer. Still remains how this 'pocket law' could be distributed to the people who need it, a colossal undertaking considering the size of the country and the varying quality of the roads leading to those areas.

However, it is also important to note that the translation of legal documents into Zambia's many local languages will have to be included in any legal literacy plan aiming to reach Zambians living in rural areas. This is a point that did not arise often in our interviews, presumably because our interview subjects all worked in urban areas where English is more widely spoken. Nevertheless, it was described as a key barrier to accessing legal information in much of the literature we reviewed in preparation for this study. When translating legal documents came up in our interviews, many of our interviewees either put that responsibility on local branches of CSOs or emphasized the importance of making legal

information easily accessible in English before turning to the time-consuming task of translation. The translation of legal information is an additional issue that will have to be addressed eventually, along with the more immediate problem of accessing this information easily and freely, even if only in a single language.

This is where paralegals can come in. Trained by CSOs or educational institutions such as NIPA or UNZA Law School, and with some form of accreditation, these community advocates could be equipped with a copy of 'pocket law'. They could then use or share the information its contents with the nearest computer-equipped office or government building, as well as use it as an important reference in their own practice of giving legal advice to community members or CSOs. Paralegals are the ideal agents to accomplish this outreach effort. Lawyers do not operate in rural areas, and community paralegals would know best how to transmit legal knowledge to their communities. They would also be more effective in advising CSOs in both urban and rural areas who need the services of an affordable, legally-trained individual to understand and use the law in their activities, and may not have a library or internet connection to allow a paralegal to refer to relevant legal documents in their practice. Pocket law would make ZambiaLII's free legal information available to more people in all parts of Zambia, as well as empower paralegals with the legal information they need to accurately advise people on the provisions of the law.

## **Improving the Legal Capacity of CSOs**

In addition to making legal information available for everyone to access, a legal information policy should also give people the skills to understand that information. Legal education for all is the most comprehensive way of proving these skills to the general population, but also the most expensive and long-term. Many people that we interviewed pointed to the bad reading culture in Zambia as the major reason why individuals and even some CSOs don't access openly accessible legal information. Teaching people about the value of reading when they are already adults is a ineffective, if not useless, policy endeavour. Targeting children, adding more civic education to Zambian school curriculums, and generally improving the weak Zambian education system would be the long-term strategy to resolving this issue. However, we shouldn't wait for the children of today to become the adults of tomorrow to see concrete change happen in Zambia. There are many things that can be done today to improve the legal knowledge and capacity of Zambian civil society.

The first is creating a visible platform that people can access to be connected to the myriad of legal aid providers and sources of legal advice. Specialized CSOs and even government departments offer free legal services to both individuals and organisations, but many of the people we interviewed were not informed of their existence. Legal help is only a phone call

away for certain topics such as employment or labour law, and some CSOs will even provide capacity building workshops if requested. Many people need legal assistance and complain about the lack of such services, but in many cases they do not know that such services already exist and are available to them. One idea to resolve this publicity issue is to include links or advertisements on ZambiaLII, the LAZ website, or any other commonly used source of free legal advice. These would connect the people attempting to consult the legal information that applies to them with the organisations who would be able to assist them in using this information.

The second is providing simplified and even translated legal documents alongside the original versions of these documents. Many of the people we interviewed thought that the laws in their original forms were often too complicated for someone to understand without the help of a legally trained individual. Simplified English versions of the laws and summaries of the provisions of certain laws would allow people who haven't been legally trained to understand how the law applies to them, and perhaps hire a lawyer or paralegal to use it further. Even the translation of essential legal documents into the many local languages in Zambia (which are sometimes exclusively used in some areas) would be very useful in truly opening up legal information to all of Zambian society. Allowing most people and organisations in Zambia to self-serve some of their legal needs would be a direct way to empower them to use the law and affirm their rights.

The third is targeting the legal information needs of CSOs by building their legal capacities so they can disseminate to their constituencies the information they access through government providers, ZambiaLII, or another source. Considering the nearly impossible challenge of educating a whole population in the reading and use of the law, targeting CSOs (and by relation their constituencies) is the most efficient way of disseminating legal information in a form the average citizen can understand. Many of the CSOs we interviewed agreed that their responsibilities included disseminating relevant information their constituencies in a format tailored to their needs, be it simplification or translation.

## **Conclusion**

In this research paper, we identified the challenges facing civil society organisations, including unions, and legal practitioners in the access and use of legal information. We found that both categories of actors had clearly defined needs, though those of CSOs were the most varied and crippling. We shared what the individuals we interviewed thought would be useful to improve their access to legal information, and derived possible policy solutions from the results we compiled. Our research is not conclusive, as it was limited by its relatively short two month duration. However, we believe that it can serve as a platform for further research into the legal information needs of civil society in Zambia, as well as those of other civil societies in developing countries with incomplete access to their country's legal information.

## Bibliography

- Adler, Daniel. 2006. 'Access to Legal Information in Cambodia: Initial Steps, Future Possibilities'. *Law Technology*; Second Quarter 2006; 39, 2.
- Barefoot Law. 12 October 2015. Available at: <http://barefootlaw.org/>
- Beljaars, Ben. 2009. 'Implementing Legal Information Literacy: A Challenge for the Curriculum', *International Journal of Legal Information*: Vol. 37: Iss. 3, Article 7.
- Bruce, Thomas and Peter W. Martin. 1994. 'The Legal Information Institute: What Is It and Why Is It?' Cornell Law Forum Faculty Ed. 3.
- Canares, Michael, Dave Marcial, and Marijoe Narca. 2015. 'Enhancing Citizen Engagement with Open Government Data'. *Step Up Consulting*
- Crook, Richard, Kojo P. Asante and Victor K. Brobbey. 2011. 'Popular Concepts of Justice and Hybrid Judicial Institutions in Ghana'. *IDS Bulletin* Volume 42 Number 2. Oxford, UK: Blackwell Publishing.
- Curtotti, Micael, Wayne Weibel, Eric McCreath, Nicolas Ceynowa, Sara Frug and Tom Bruce. 2015. 'Citizen Science for Citizen Access to Law'. *Journal of Open Access to Law*.
- Dayal, Shiv. 1984. 'Dynamics of Social Change and Development: Legal Education and Developing Countries', in Muna Ndulo (ed.) *Law in Zambia* (Nairobi: East African Publishing House)
- Diehl, Eva. 2009. 'Can Paralegals Enhance Access to Justice? The Example of Morogoro Paralegal Centre in Tanzania.' *Verfassung Und Recht in Übersee / Law and Politics in Africa, Asia and Latin America*, 42.2: 187-211. Web. 18 July 2015.
- Dolan, Thomas and Servaas Feiertag. 2014. 'Zambia – EC Formulation Mission: Support to Justice Delivery – 11<sup>th</sup> EDF' (Draft Report). International Consulting Expertise (ICE).
- Fallon, Amy. 21 July 2015. 'Law and Order in Uganda: How Volunteer Lawyers are Ending 'Mob Justice''. *Takepart*. <http://www.takepart.com/article/2015/07/21/barefoot-law-uganda>
- Fashoyin, Tayo. 2008. 'Employment relations in Zambia'. *Employee Relations*, Vol. 30 Iss 4 pp. 391 – 403.

- Herrero, Alvaro and Gaspar Lopez. 2010. 'Access to Information and Transparency in the Judiciary: A Guide to Good Practices from Latin America'. World Bank Institute: Governance Working Paper Series. Washington, D.C.: The World Bank.
- Hinfelaar, Marja. 2013. 'Reviving the Zambian Legal Information Institute in times of judicial reforms and political transition' Unpublished. Received from Author.
- Hutter M., Bridget and Joan O'Mahony. 2004. 'The Role of Civil Society Organisations in Regulating Business'. Economic and Social Research Council Discussion Paper no. 26. London: The London School of Economics and Political Science
- Kahn-Fogel, Nicholas. 2012. 'The Troubling Shortage of African Lawyers: Examination of a Continental Crisis Using Zambia as a Case Study'. *University of Pennsylvania Journal of International Law* 33, no 3: 719-789.
- Kaldor, Mary. 2003. 'Civil Society and Accountability'. *Journal of Human Development* 4, no 1: 5-27.
- Kerr, Jessica. 2015. 'Mobile Access to the Law in Africa: Developing an eGrey Book for the Seychelles'. *Journal of Open Access to Law*. Seychelles Legal Information Institute (SEYLII).
- Kerrigan, Fergus. 2012. 'Access to Justice in the Republic of Zambia'. The Danish Institute for Human Rights.
- Kerting, Franziska and Milena Tmava. 2014. 'CSO Alliances in Zambia: An Analysis of the Formation and Operation of CSO Alliances'. GIZ Working Paper. Lusaka: Gesellschaft fur Internationale Zusammenarbeit.
- Lawal, Vicki. 2007. 'Legal Research and Legal Education in Africa: the Challenge for Information Literacy'. *Starr Workshop Papers (2007)*. Paper 5.
- Martin, Peter W. 1999. 'The Internet: 'Full and Unfettered Access' to Law -- Some Implications'. *Cornell Law Faculty Publications*. Paper 1184.
- Martin, Peter W. 2013. Survey for LAZ/SAIPAR Business Law Workshop, 9<sup>th</sup> January 2013. Received from Author.
- Martin, Peter W. 2014. 'If Governments Do an Adequate Job of Making Law Accessible Is There Any Meaningful Role Left for a Legal Information Institute?'. Received from Author.

- Martin, Peter W. 2015. Presentation & Outline: 'Workshop on Online Legal Research'.  
Received from Author.
- Ndulo, Muna. 2004. 'Legal Education, Internationalisation and African Law Schools'. *Journal of Commonwealth Law and Legal Education* 2, no. 2: 23-47
- Poulin, Daniel. 2004. 'Open access to law in developing countries'. *First Monday*, Vol. 9, No. 12.
- Rob Gray, Jan Bebbington and David Collison. 2006. 'NGOs, Civil Society and Accountability: Making the People Accountable to Capital'. *Accounting, Auditing and Accountability Journal* 19, no. 3: 319-348
- Sarma, Christopher and Amy Stephenson. 2014. 'Handbook on Juvenile Law in Zambia'.  
Center for Law and Justice and Cornell Law School's Avon Global Center for Women and Justice and International Human Rights Clinic. Lusaka, Zambia: ZambiaLII
- Sheldrick, Byron. 2012. 'Access to Justice and Legal Empowerment as Vehicles of Poverty Alleviation: Governance Challenges to Linking Legal Structures to Social Change'.  
Center for International Sustainable Development Law. Montreal, Quebec: Faculty of Law, McGill University.
- Shezongo-Macmillan, Joyce. 2013. 'Zambia: Justice Sector and the Rule of Law'. The Open Society Initiative for Southern Africa.
- Stapleton, Adam. 2010. 'Empowering the Poor to Access Criminal Justice: A Grass Roots Perspective.' International Development Law Organization Legal Empowerment Working Paper 2: n. pag. Web.
- Wells, Matt. 2011. 'You'll Be Fired if you refuse': Labor Abuses in Zambia's Chinese State-Owned Copper Mines. Human Rights Watch.



# **Appendix A**

## **Limitations**

We worked from LAZ's office in Lusaka to undertake this research, and we are not immune to biases. The representative of LAZ that we interviewed worked outside the Lusaka office, minimizing any potential biases given our working situation.

In addition, all our interview subjects were based in Lusaka, save two who worked primarily in Ndola. We were not able to interview many subjects from outside of Lusaka, and none from rural Zambia, which led us to depend on the testimonies of our interview subjects to determine the legal information needs outside of urban areas.

Finally, the two-month duration of our research in Zambia was not nearly long enough time to analyse all the intricacies of the legal information needs of CSOs, unions, and lawyers in Zambia. The translation of legal documents into local languages, for example, appeared in our literature review as a major challenge for legal literacy in rural Zambia. However, it did not seem to be among the primary concerns of our mostly city-based interviewees. Our findings are an honest, though preliminary, study of the topic.