

Broadening the Horizons: How Civil Society and Local Actions Fortify Justice Across the Globe

A Collection of Three Papers Prepared for the Task Force on Justice

Stephen Golub
June 2019

This collection of three evidence-based papers illuminates the important and often under-appreciated ways in which both civil society and local actions contribute to justice across the globe.

The collection comprises:

- Civil Society's Undervalued Contributions to Justice
- Grassroots Justice: The Roles and Impact of Paralegals
- The Seeds of Change: How Local Actions Contribute to Legal and Policy Reforms

There is some intentional overlap among the papers, given that they may be read by different audiences. Together and separately, they summarize numerous evidence-based examples of civil society and local actions achieving positive impact on justice-related matters spanning a variety of fields including but not limited to a narrow notion of the “justice sector.”

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Civil Society's Undervalued Contributions to Justice

Paper Prepared for the Task Force on Justice

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Executive Summary

A. This Paper's Purposes

One obstacle that support for justice programs encounters across the globe is that effective civil society approaches sometimes are ignored or under-appreciated by national governments and other parties. Such actors may see advancing justice just in terms of justice and other state institutions – or, at most, may accord civil society only a minor role. In an effort to help overcome that obstacle, this paper presents evidence of the manifold ways in which civil society contributes to building justice and strengthening people's rights and well-being.

The overall purpose of this evidence-based paper is to assemble and present research and analysis that will help the Task Force on Justice build a well-founded business case for increased financial and political support from governments, aid donors and other institutions for justice-oriented activities. Its more specific purpose is to help generate support for vital, effective and under-valued civil society work in the justice sphere.

The largely evidence-based studies that the paper accordingly draws on present approximately 30 examples of civil society impact on justice-related matters spanning not only a narrow notion of the “justice sector,” but also health, governance and other fields. In several instances, the studies also offer more general evidence or arguments for valuing such impact. Some of them analyze far more examples of impact than those selectively identified here.

At the same time, the paper's limitations merit mention. Due to understandable budgetary constraints, it can only scratch the surface of relevant evidence and examples. As suggested below, far more expansive research is warranted.

B. Key findings include:

1. Core finding: Civil society plays a crucial array of roles in advancing access to justice, improving justice systems and delivering benefits to partner populations across the globe.

2. As demonstrated by the studies and evidence presented in this paper, the manifold benefits of civil society engagement with justice systems, broadly defined, include:

- increasing access to justice;
- implementing government-supported legal aid programs;
- carrying out innovative and cost-effective NGO legal aid programs;
- contributing to government-supported reforms involving national or local laws, regulations, policies or institutions;
- often going beyond simply contributing to such reforms, by initiating and advocating for reforms that governments ultimately favor and adopt;
- informing reform efforts by virtue of working with concerned and affected populations;
- providing mechanisms for reforms that exist on paper to be actually implemented on the ground;
- battling and constraining corruption;
- above and beyond anti-corruption efforts, contributing to accountability and transparency through engagement with concerned and affected populations;
- improving health and other government services to the benefit of women, the poor, minorities and other groups;
- modifying or monitoring informal, non-state justice systems so that, inter alia, they afford greater access, fairness and power to women; and
- by virtue of all of the above, contributing to social and economic progress and societal stability.

3. In many countries, civil society plays an important role not just in improving the fairness and operations of formal, state justice systems, but also of informal, non-state justice systems.

4. In addition, civil society contributions to justice should be understood in ways that reach beyond narrow definitions of justice and justice systems, be they state or non-state in nature. For example, activities are justice-oriented if they help people become aware of and act on their rights to health care, schooling and other government services they have been unjustly denied.

5. Paralegals play important roles in advancing access to justice, as do other civil society representatives and groups that may assist help partner populations to know, use and shape the law.

6. Civil society often works cooperatively with the state to help bring justice to the people of a given polity. In fact, such cooperation can and does advance state goals regarding such priorities as fairer justice systems and (by helping people to understand relevant rights and laws) improved service delivery.

7. In addition, the legitimate roles played by justice-oriented civil society operations can also include vigorous advocacy for the rights and well-being of constituent or partner populations, as well as for legal, regulatory and institutional reform.

8. The progress, success and impact of civil society efforts often do not hinge on what is sometimes called the “supply side” of state programs or reforms. That is, such efforts can yield benefits for partner populations even if state justice institutions (the so-called supply side) and initiatives are stymied. While reforming and otherwise improving government justice institutions is of course important, justice-oriented civil society programs can deliver effective legal aid, improve government service delivery and yield other benefits even in the absence of institutional reforms.

C. Key recommendations include:

1. Core recommendation: National and international efforts to improve access to justice should take account of the many ways in which civil society can contribute to and even be crucial for such efforts. They should accordingly provide appropriate political and financial support to civil society organizations and initiatives.

2. Because independent (as opposed to state-controlled) civil society efforts stand the greatest likelihood of achieving benefits for partner populations and improving legal systems, they merit funding and political space that ensures such independence.

3. Government legal aid programs carried out on a national basis can and should be fruitfully implemented by combinations of legal services and other NGOs if they are funded and supported in a non-bureaucratic and apolitical manner.

4. Whether funded by governments, aid agencies or philanthropies, such government programs should never be supported to the exclusion of support for legal services NGOs and other justice-oriented civil society programs. This is partly because civil society initiatives tend to be cost-effective. Of even greater importance, as demonstrated in this paper, they carry out myriad functions and achieve myriad impacts that contribute to societal well-being in ways that government programs may not do as well or may not do at all.

5. To help ensure sustainable, independent civil society efforts, governments and other funding sources should establish political independent endowments via which international and national foundations could provide sustained support for justice-oriented operations.

6. Above and beyond the aforementioned “foundation approach,” it is advisable for governments, aid agencies and other parties to view civil society legal services programs as public goods that necessitate ongoing infusions of funds, since even in affluent societies they typically are not capable of being self-sustaining.

7. Paralegals merit increased governmental political and financial support, since they provide cost-effective help that fills large gaps in legal services in some contexts and that complements the work of attorneys in others.

8. Bar associations should welcome the growth of low-cost paralegal services. They are not necessarily competition for lawyers, since many clients or partner populations could not afford lawyers in any event. In addition, many of the problems that paralegals handle, such as with service delivery or mediation, would not involve retaining attorneys in any event. Finally, under some circumstances, paralegals can generate work for attorneys where greater legal expertise is required.

D. Key research agenda items include:

1. Core research agenda item: Governments and funding agencies should support both quantitative and qualitative studies to document the progress, impact and lessons flowing from civil society engagement with justice issues.

2. The types of progress and impact that such research could investigate can be broken down into various broad categories and subcategories. One category of progress and impact constitutes positive (and occasionally overlapping) changes for partner populations, in terms of the Attributes, Capacities and Circumstances of Individuals, Groups and Communities.

3. A second category of progress and impact pertains to partner populations’ positive engagement with and effects on Government Laws, Policies and Actions.

4. An additional, important focus of research relates to the cost of civil society services, whether on a per capita or other basis, as well as cost savings from such services relative to government programs.

5. Finally, though in some respects most important, a comprehensive research agenda should include and in fact feature retrospective research focusing on civil society initiatives years after

they have been completed in a given community, on a given law/policy/regulatory reform or regarding a given issue. Typically, justice initiatives are evaluated or otherwise researched while they are underway or at the point of completion. But the real impact can often be only ascertained, and the real lessons only learned years after an organization, initiative or program has completed its operations regarding a community/law/issue. Retrospective studies should accordingly be key components of a robust research agenda.

I. Introduction

One obstacle that support for justice programs encounters across the globe is that effective civil society approaches sometimes are ignored or under-appreciated by national governments and other parties. Such actors may see advancing justice just in terms of justice and other state institutions – or, at most, may accord civil society only a minor role. In an effort to help overcome that obstacle, this paper presents evidence of the manifold ways in which civil society contributes to building justice and strengthening people's rights and well-being.

The overall purpose of this evidence-based paper is to assemble and present research and analysis that will help the Task Force on Justice build a well-founded business case for increased financial and political support from governments, aid donors and other institutions for justice-oriented activities. Its more specific purpose is to help generate support for vital, effective and under-valued civil society work in the justice sphere.

The largely evidence-based studies that the paper accordingly draws on present approximately 30 examples of civil society impact on justice-related matters spanning not only a narrow notion of the “justice sector,” but also health, governance and other fields. In several instances, the studies also offer more general evidence or arguments for valuing such impact. Some of them analyze far more examples of impact than those selectively identified here.

At the same time, the paper’s limitations merit mention. Due to understandable budgetary constraints, it can only scratch the surface of relevant evidence and examples. As suggested below, far more expansive research is warranted.

The paper takes into consideration how civil society interacts with what is sometimes narrowly considered the justice sector, featuring courts, judges, lawyers, trials, police and related processes and institutions. But it also takes account of many other actors and factors, including:

- informal, non-state justice systems (sometimes called customary or traditional justice systems), which for many societies (particularly in rural areas) are the main means by which people resolve disputes and seek redress;

- the many ways in which people perceive justice and injustice in their daily lives – ways that often fall outside narrow conceptions of a justice sector – regarding such matters as government health and education services, and how helping them to know and act on their rights can help overcome injustice while benefiting the state and society alike by improving such services;
- the related concept of legal empowerment, which has been described as the use of law and rights to strengthen relatively powerless populations’ control over their lives, and also as people knowing, using and shaping the law;
- the field of social accountability, which heavily overlaps with legal empowerment in terms of holding state institutions, services and processes accountable to society and the people of a country, thus improving their services via enhanced accountability; and
- finally, the basic principle that governments can best serve the cause of justice by viewing it as a phenomenon of, by and for the people of a society, rather than simply processes and institutions administered by the state.

This discussion does not present a strict definition of civil society, since there are many views on where to draw the conceptual lines around this complex, multi-faceted phenomenon.

Nevertheless, it does consider civil society to include:

- formally constituted nongovernmental organizations (NGOs);
- formal and informal community-based groups;
- coalitions, networks and social movements comprising such organizations and groups, as well as individuals; and
- other non-profit entities which are not purely state, private sector or media institutions (though even here the lines can become blurred, as in for example non-profit networks of businesses or journalists).

The subsequent sections of this paper flow as follows:

- general considerations (some evidence-based) regarding the value of civil society engagement with justice issues;
- the main body of the discussion, comprising summaries and analyses of evidence-based articles that in various ways document civil society contributions to justice, supplemented in some instances by brief commentary by the author of this paper;
- a list and discussion of findings;
- a list and discussion of recommendations; and
- a research agenda geared toward better understanding the civil society-justice nexus.

II. General Considerations, Evidence and Analysis

A. Constraints on Civil Society

Recent years have seen increasing constraints on the work and role of civil society in, among other functions, advancing and protecting the rights of partner populations. A report for the European Agency for Fundamental Rights (2017), for example, has found governments imposing increasing legal and political constraints on civil society organizations in such arenas as freedom of expression and accessing funding – not least regarding those groups carrying out human rights advocacy – during the 2011-17 period.

Among other recommendations, the report emphasizes the importance of the appropriate legal and democratic framework for civil society groups to help partner populations to access justice. It also suggests “making available adequate human and financial resources to allow for proper participation processes, and providing public servants with training on, and sufficient time for, engaging such organisations. Tools and methods used by public authorities for implementing participation could be diversified and improved.” (11)

As discussed later in this paper, an irony of this increasingly constrained civil society reality is that governments committed to improving access to justice for their populations actually can do so by working cooperatively with civil society organizations and initiatives.

B. Strengthening the Roles of Civil Society

In the face of such growing constraints, organizations such as the Open Government Partnership (OGP) advocate a range of promising governmental steps for supporting civil society engagement with access to justice, through such state-centered mechanisms as national action plans. Summarizing lessons from the OGP’s work, Moses and Soal (2017) assert the importance of efforts to support country- and community-specific NGOs’ activities. They highlight how “[a]n increasingly compelling body of evidence suggests that ... reform efforts are most likely to be successful when ... local stakeholders are at the forefront of defining governance challenges, developing and implementing solutions, and pursuing sustainable change; and those stakeholders have the flexibility to learn and adapt as they go, especially when working in complex political contexts.”

III. Civil Society’s Contributions to Justice: Evidence-based Research and Analysis

A. Increasing Awareness, Satisfaction and Gender Equity in Dispute Resolution

A review by Jahan and Valters (2017) of a major DFID-funded Community Legal Services (CLS) project¹ in Bangladesh found that its work had demonstrable impact on partner communities’ legal knowledge and considerable satisfaction with the grantee NGOs’ dispute resolution operations. The project, with a duration of approximately five years and a budget of £17 million, largely comprised work by NGOs that received grants to carry out various kinds of legal services. The services included providing legal information and advice, conducting or improving dispute resolution services and, to a lesser degree, carrying out litigation.

The dispute resolution in particular is noteworthy because it constituted a major portion of the NGOs’ work and because their operations included influencing and adapting traditional dispute resolution practices – known as *shalish* - to be less gender-biased and less prone to other forms of undue pressures. In the context of Bangladesh, ordinary citizens often prefer *shalish* to resorting to the country’s court system, particularly in rural areas, because it is more accessible, comprehensible and (since it is free of charge) affordable.

In addition, *shalish* typically constitutes a cross between mediation and arbitration. As in mediation, the individual or family disputants are ostensibly free to make their own decisions on whether to accept a settlement. However, pressure by community leaders in favor of one side or another – or simply to reach a settlement – sometimes plays a significant, arbitration-like role. In addition, that pressure often treats women unfairly and can reflect corrupt and power imbalance influences. As is the case with other justice-oriented NGOs in the country, the CLS NGOs sought to ameliorate such effects by a combination of educating communities, broadening participation by women and other non-traditional leaders and pursuing related strategies.

The data collected by the project and analyzed by the researchers comes with the crucial caveat that it is not clear that the changes were all attributable to the project. Nevertheless, the following findings are intriguing:

- “[A] comparison of the baseline and end line data provided by CLS indicates between 2013 and 2016 there were large increases in awareness of legal rights involving women and girls in CLS project areas.” (22)
- These include raised awareness of rights related to dower, (from 17 percent to 87 percent), divorce (15 percent to 89 percent) and maintenance payments (9 percent to 91 percent). There was also increased awareness (from 31 percent to 75 percent) that rape is

¹ The author of this paper was formerly a senior advisor to the CLS project.

a crime that must be subject to court trial rather than to traditional or CSO-modified *shalish*. (22)

- “[Data] indicate a shift to use of NGO legal services and a corresponding rise in disputant satisfaction rates from 2013 to 2016 for the dower, divorce and maintenance payment issues involving women and girls.” (29)
- Regrettably, however, the project did not seem to generate data on whether the NGO legal services yielded any improvements in the material circumstances of partner populations’ lives – reductions in violence against women or improvements in land security, for instance. Then again, most reviews of court reform and other state-centered justice projects are similarly confined to process and intermediate goals, rather than such material circumstance impact.

The researchers concluded that project success (in terms of raised rights awareness or disputant satisfaction) involved cooperating with local elites, allowing for a diversity of approaches by different NGOs, working with local (and not just national) NGOs and in many cases integrating legal approaches into other development work that the NGOs were doing.

The Jahan/Valters study yielded findings similar to those of other analyses of the legal services work of Bangladeshi NGOs – findings worth noting here because such work has been the focus of more research than NGO legal services activities in most other countries.

As an example of such other research, in her 2006 paper, “Legal Empowerment Strategies in Bangladesh: Empowering Women and Poor People through Legal Means,” Harrold (2007) analyzed the legal empowerment initiatives of four Bangladeshi NGOs, applying various performance indicators to their dispute resolution and related work. Their respective approaches differed somewhat, but all either set up alternatives to or modified the operations of traditional *shalish*.

The paper’s findings included the following:

- a conclusion that the NGO-modified/alternative *shalish* processes were more transparent and accountable than those of purely traditional bodies, not least because of the NGOs’ documentation of their work;
- strong support among women for the NGOs’ increasing the participation of female mediators (*shalishkars*) in the process; and
- An increase in women’s use of these systems and their voice (active participation) in the *shalish* meetings.

Numerous examples of legal and policy level reform impact on the part of one of the NGOs, the Bangladesh Legal Aid and Services Trust, were also found by Harrold’s research. Such impact

included the national government modifying what had been an employment recruitment policy that discriminated against women and a successful compensation case against the Bangladesh Garments Manufacturing Association.

B. Potential Economic Benefits

Also in Bangladesh, Cerecina, Chapman and Shahed (2018) reviewed the work of the Human Rights and Legal Aid Services Programme (HRLS) of the international (but Bangladesh-based) NGO BRAC. The program, one of the largest civil society justice initiatives in the world, operates in over 500 offices in nearly every district of the country. Using de facto paralegals as core staff, it mainly serves women by assisting in dispute resolution and, to an extent, litigation.

According to the review, “The majority of clients reached an explicit agreement during ADR [alternative dispute resolution] to remain married, although in almost 80% of cases they also reached an agreement for the husband to provide maintenance to redress any neglect in their relationship” (29) – a potentially significant finding, though there seems to be some ambiguity in whether and under what circumstances the maintenance constituted actual financial support. Acknowledging constraints on the utility of the data, the researchers concluded that “the indicators we explored in this paper are only a beginning, but they suggest that civil society is an important source of information about justice-seeking behaviour at national level.” (40)

C. The Advantages of NGO Engagement in Dispute Resolution

As a de facto complement to the apparently positive impact of NGO modification of traditional dispute in Bangladesh, Khadiagala (2002) draws on research in southwest Uganda to offer a critique of a Ugandan government initiative to grant judicial powers to informal local councils in the country. The criticism is that the local elites exploit these institutions as a means of social control.

The research takes on added value in terms of the gender dimension: The absence of NGO engagement with these bodies translates into cementing in place women’s limited and unequal access to justice. As opposed to the Bangladesh experience, where NGO engagement has ameliorated dispute resolution inequities, the Ugandan experience suggests that granting formal powers to informal councils in the absence of such modifying NGO influence can be counterproductive.

D. Cost-effective Community Mediation

The U.K. Department for International Development’s analysis of a community-based mediation program it supported in Nepal indicates substantial success and cost savings. (DFID, 2012) More specifically, the findings for the Madhesh-Terai Community Mediation Extension Project (MTCMEP) include:

- The project “successfully established a low-cost system for resolving local disputes that is particularly accessible to the poor, marginalised, and women.” (3)
- Over the course of four years, the MTCMEP successfully resolved 6,107 of the 7,778 cases registered for community mediation.
- The average unit cost per registered case was Rs. 11,735 (US \$102) and per successfully mediated case was Rs. 14,946 (US \$130). In view of the fact that the minimum per unit cost of resolving disputes through the formal justice sector is Rs. 20,650 (US \$180), the program arguably resulted in savings of Rs. 126,109,550 (US \$1,097,000).
- “The highest numbers of cases registered at the CMCs were land related with 1,966 disputes; followed by lending (902), domestic violence (540), and damages (433). The success rate of dispute resolution was highest for issues relating to violence against women at 90 percent...In its four years, MTCMEP was also able to settle cases and provide formal land entitlements to 1,335 people, most of whom were landless: the total value of which is approximately Rs. 874,319,500” (US \$7,608,000). (4)

These figures, such as those documenting the provision of land titles to formerly landless farmers, are quite impressive in some respects. And they do seem to demonstrate that community mediation can be more cost-effective than resorting to the formal justice sector. However, further investigation would be needed to better understand the comparative costs of community mediation versus the formal legal system and the findings regarding violence against women.

E. Superior Accessibility and Crucial Roles for Civil Society Legal Services

A Danish Institute of Human Rights report (Hansen, 2011) on legal aid provision in East Africa found that “as opposed to the legal aid initiatives managed by state bodies and the legal profession, the legal aid services offered by NGOs and paralegals are usually much more accessible for the poor and vulnerable in rural areas.” (5) It recommended better regulation, coordination and standardization of such services. The report cited, for example, the development of a shared curriculum for paralegal training on the part of a Kenyan network.

Regarding South African access-to-information legislation and social and economic rights, Arko-Cobbah and Olivier (2016) maintain that civil society groups play a crucial role in organizing the populace and educating them about relevant laws and rights. They conclude that “organised communities can use their tools of association to work with the state to enhance their own development.” (167)

F. Environmental Protection

Eder and Austin (2007) provide a case study of how engagement by Philippine NGOs and the international NGO Survival International in the southern Philippines island of Palawan led to the modification of local regulations that protected the traditional farming practices and livelihoods of indigenous peoples in ways that helped protect the environment. They maintain that “despite some difficulties, stronger NGO roles in CBRM have generally resulted in better environmental

protection, and through relationships with NGOs, communities in the Philippines can indeed take action to serve their own best interests.” (363)

Also in the Philippines, Posa et al. (2008) indicate how conservation projects involving legal protection for endangered species can benefit from engagement by civil society groups also concerned with such issues as land tenure protection and poverty alleviation. They more specifically cite the example of the successful protection of one kind of bird (as evinced by a fivefold increase in sightings from 1998 to 2005) due to the creation of both a sanctuary and an NGO effort to implement the protection scheme. According to the researchers, the “key strategies of the program include awareness and education campaigns, nest protection, monitoring, captive breeding, and ecological research.

This environmental protection program recruited former poachers and trained them to be wardens, and the export of birds was restricted, which led to a decline in the illegal trade in wild birds.” (233) Building on this case study, their larger point is that NGOs can play a valuable intermediary, cooperative role with respect to government, communities and funding agencies.

G. From Local Advocacy to Large-scale Reform

Though it would be unfair and inaccurate to attribute national reforms solely to the local work of a single NGO, Sumner et al. (2011) document the significant accomplishments of the Indonesian national grassroots organization PEKKA from roughly 2007 to 2010. Starting with a pilot women’s legal empowerment project in part of the province of West Java, aiming to help communities to know and demand their rights and to strengthen the legal system’s capacity to respond, the group conducted case studies and empirical research regarding related efforts. It also cooperated with the government to help spur a series of national access-to-justice reforms. These reforms included:

- increasing state funding for the courts, to in turn increase legal services for the poor;
- the adoption of new laws requiring the courts to support legal aid; and
- including access to justice for the poor in in the country’s national development plan and a presidential policy directive.

As an indication of how rights-oriented work can impact service delivery on a national level, Ramkumar (2008) describes how efforts of a civil society coalition in Malawi have impacted the country’s education policy and budget. More specifically, the paper addresses the impact of the Civil Society Coalition for Quality Basic Education (CSCQBE), comprising 67 groups focusing on the right to basic education.

The Coalition monitored the flow of resources through different levels of government. Its community-based members scrutinized spending at the local level. These efforts detected leakages in funds along the way. Based on its research, CSCQBE mounted media campaigns

advocating for more accountable public spending at the local level. These in turn enabled the coalition to influence both the government's budget allocations for children with special needs and a government program to address educational disparities between urban and rural areas.

H. More Than Legal Information Needed

Though there may well be situations in which “knowledge is power” when it comes to legal progress, a series of International Development Law Organization (IDLO, 2013) case studies suggests that additional services often are needed. For example:

- In Papua New Guinea, the NGO People and Community Empowerment Foundation Melanesia conducted dispute resolution training and carried out other activities geared toward strengthening customary justice systems. The IDLO report concluded that the training itself did not address or correct power imbalances and accordingly had limited impact. However, the project proved “most successful where it transferred dispute resolution skills to women and created opportunities for them to become mediators. This enabled them to engage more effectively in internal dialogue processes and challenge the interpretation and application of discriminatory customary norms.” (9) Thus, the project was most effective where the training targeted women and where other elements of the project enabled them to become mediators.
- In Morocco in 2006, four women's rights NGOs carried out a grassroots legal education project in selected sites across the country while launching a “Court Accompanying Program,” mainly for illiterate women in partner communities. Evaluations of the project found that educating women about their rights helped shift attitudes, but that the information dissemination was otherwise unproductive in helping them make use of often hostile, intimidating government bureaucracies. Other assistance by the NGOs, going beyond simple information dissemination in dealing with those bureaucracies and obtaining those services, proved crucial.

I. Scaling Up

Behrman's (2011) evaluation of NGOs carrying out community-based legal aid in Uganda and Tanzania concluded that the benefits of their work merited scaling up their activities. Based on surveys of the NGOs themselves, case studies and interviews with key government officials and local experts, the evaluation's findings included a consensus among sources consulted that:

- the activities led to positive changes in partner populations' attitudes and norms;
- they furthermore improved the accessibility of legal service and information in a manner generally accepted within the partner communities; and
- these NGO grassroots services' legal costs were considerably lower than legal costs in other areas lacking such services.

J. Local Law Reform

A study by Kisambu (2016) found that civil society engagement in developing model by-laws for women's participation in village land management led to the adoption and effective implementation of such ordinances in villages that were the foci of the study. More specifically, the Tanzania Women Lawyers Association worked with the World Resources Institute (WRI) and the Lawyers' Environmental Action Team (LEAT) to undertake extensive consultations with village councils, which in turn approved such items as quotas for gender representation in the councils and other local decision-making bodies. The NGOs also strengthened women's participation in governance, through the development of a mentoring scheme for the women who volunteered to join the local bodies that make in decisions about land allocation.

K. State-Civil Society Cooperation in Legal Reform and Implementation

The findings presented here are replete with examples of implicit state-civil society cooperation in the justice sphere. This subsection provides a few specific examples of studies discussing explicit, productive cooperation.

Drawing on experience from Latin American nations, Dakolias (2000) makes the case for civil society involvement of in legal and judicial reforms. She suggests that:

- Civil society engagement with such reform processes would help sustain resulting programs by fueling enhanced transparency and accountability.
- NGOs and other civil society forces bring crucial citizen participation and grassroots insights to bear.
- They also bridge the gap between government policies and their actual implementation, making such implementation more likely by virtue of their engagement with the citizenry – particularly poor and otherwise marginalized communities.

Two studies of the work carried out by Indonesian NGOs from 2011 to 2015, funded by the Australia Indonesia Partnership for Justice (AIPJ), found manifold benefits of their engagement with various justice-oriented activities. An evaluation by Hearn, et al. (2016) employed case studies and quantitative analysis to suggest manifold benefits for citizens and the government alike.

For example, in a quantitative vein, these included the issuance of 2,975 marriage certificates and 6,024 birth certificates in selected provinces from mid-2014 to mid-2015. (22) Such documents can be crucial for the recipients receiving certain government benefits or other important government recognition necessary for functioning in society.

In a more qualitative vein, the evaluation found that the NGOs expanded their range of activities under the auspices of the project, in ways that benefited the state and society alike:

“For example, core funding has enabled PSHK to launch a new law school; LeIP has relaunched an online portal for Supreme Court decisions; PEKKA has become more involved in conducting as well as using research; and LBH Apik Makassar now regularly hold knowledge sharing sessions with government officials. Several of the legal aid organisations reported they now take on more cases on behalf of people with disabilities, such as those with problems obtaining driving licences.” (23)

In a second study documenting the impact of some of the AJIP-funded work, Buffardi and Yon (2016) found that over 100,000 people were assisted by PEKKA paralegals in their efforts to obtain legal identify and that in 2014 the number of women who brought family law and legal identity cases to Indonesia’s religious courts (a key element of the country’s pluralistic legal system) doubled from 124,000 to 254,000.

The authors reached additional conclusions regarding the NGOs’ effectiveness. The research found that the three most important factors were their “non-confrontational and evidence-based approach, the investment they have made in building relationships with government institutions and other CSOs [civil society organizations], and the reputation of the organisations and their staff.” (10) The evaluation also found a trade-off regarding their strategies, however: While reforms mainly flowed from civil society cooperating with government, this did undermine their ability to bring external pressure.

L. Criminal Justice and Human Rights Progress

In a 2017 paper, Gallagher employed quantitative data, semi-structured interviews and ethnographic evidence to assess whether civil society elements can galvanize action from unresponsive and corruption-prone criminal justice systems. More specifically, she determined that Mexican and Colombian homicide and disappearance cases were more likely to progress through those nations’ criminal justice systems where civil society advocacy and organizing was in place. She found that such cases were more than twice as likely to make investigatory progress than those where such support was absent. This would seem to indicate that, as with other aspects of legal services, civil society engagement can galvanize government responsiveness – in this instance, on the part of the police and prosecutorial services.

Nevertheless, this finding comes with an accompanying caveat: a lack of progress in terms of judicial proceedings, even where civil society involvement was present. Though moving these criminal and human rights cases along through investigatory processes signifies progress, the absence of impact on the judicial front indicates that for the most part the perpetrators were not ultimately held accountable.

Also in the human rights vein, the title of an article by Rousseau (2018) appropriately summarizes the thesis of the piece: “From Passive Victims to Partners in Their Own

Reintegration: Civil society's role in empowering returned Thai fishermen." The article illuminates the work of the Labour Rights Promotion Network (LPN), a Thai NGO based in the port city of Samut Sakhon. LPN assists in the rescue, repatriation and compensation of Thai fisherman who had been victims of trafficking to Indonesia. Its activities include legal services and advocacy.

The research drew on LPN's work with approximately 300 fishermen from 2014 through 2016, semi-structured interviews with them and LPN staff and statistics compiled by both the NGO and the government. It found that the Thai government's system failed in its goals of providing trafficking victims with compensation for losses and damages. That system also discouraged use of the courts, thereby exacerbating other obstacles to seeking legal redress. LPN engagement helped overcome these problems.

The paper accordingly concludes that NGOs such as LPN can help make the criminal justice system more user/victim-friendly. It additionally asserts that supporting victims to navigate the legal system is not only a means toward better law enforcement – the knowledge, confidence and power the victims gain can be ends in themselves.

M. Progress Against Corruption

De Renzio et al. (2006) report multi-faceted respects in which community engagement and monitoring of various government expenditures and services in Uganda helped undercut corruption. More specifically, local committees operating under the auspices of the Uganda Debt Network (UDN) monitored the implementation of the World Bank/International Monetary Fund-supported Poverty Action Fund. The committees comprised villagers who had received training in civic participation and budget monitoring, presumably although perhaps implicitly including their rights to undertake such work and the entitlements of service beneficiaries .

The impacts of such training, engagement and monitoring were manifold. They included:

- Community monitors detected poor quality construction of classrooms and health posts.
- Similarly, they detected embezzlement of public funds and other resources.
- They also revealed instances of patients being forced to pay bribes in order to receive medical care.
- On one particular example, a monitoring committee was able to secure assistance to produce a documentary film publicizing the misuse of classroom construction funds. This drew the attention of the country's prime minister, in turn leading to an investigation, dismissal of the district tender board and the rebuilding of the classrooms by contractors.
- The government revised national guidelines to strengthen public accountability in the school construction.

Sandefur and Sidiqqi (2015) report the favorable, bribery-reducing results of a legal empowerment project administered by the U.S.-based Carter Center in Liberia, as reflected by a randomized control trial. The initiative involved pro bono mediation and advocacy services provided by community-based paralegals trained in the formal law (as opposed to customary law). The researchers found that the NGO paralegal services reduced the direct cost of access to the formal legal system (including reducing the need to pay bribes to key decision-makers in the system) and ameliorated its punitive character.

N. The Civil Society Justice – Public Health Nexus

The nexus of justice-oriented work with public health represents particularly fertile ground for cross-sector interaction. Joshi (2017), for example, reports on several NGOs helping people to know and act on their rights to hold health service providers accountable – what could be considered integrated legal empowerment and/or social accountability approaches. For example:

- In Guatemala, since 2006 the Centro de Estudios para la Equidad y Gobernanza en los Sistemas de Salud (CEGSS) has helped address inadequate health care services for indigenous populations through a network of what it calls “community health defenders.” (164) These persons, who could be considered health care paralegals, receive training that enables them to “lead collective deliberation” and “prepare detailed documentation of the cases.” CEGSS in turn helps take these cases to specialized government authorities that deal with discrimination, the rights of indigenous women, human rights violations in general and (via the ombudsman’s office) service delivery complaints. The NGO complements this effort with an SMS platform that enables it to gather, record and follow up on health-related complaints and human rights violations.
- In Macedonia, the Association for Emancipation, Solidarity and Equality of women (ESE) and the Health Education and Research Organization (HERA) help advance and protect the health rights of the minority Roma population. The organizations carry out a blend of activities, including paralegal assistance, budget and community monitoring, awareness-raising campaigns and community scorecards.
- Joshi concludes that in these and other instances, these arrays of activities have helped raise rights and health awareness among the targeted populations and facilitated collective action. For instance, CEGSS managed to secure ambulance services, access to free medicines and a new health service facility in the Guatemalan municipality of San Marcos. In Macedonia, HERA ensured that the services of a gynecologist became available (albeit on a part-time basis) in the Roma-majority municipality of Shuto Orizari; ESE processed over a 100 cases of health rights violations.

Using data collected in 2010 and 2011, Gruskin et al. (2013) employed a combination of techniques to evaluate the impact of legal empowerment programs on health and human rights in Kenya. The researchers focused on several sites serviced by Kenyan NGOs that provided a

combination of legal aid, rights awareness training and health care. Two of the organizations focused on HIV; a third on domestic violence. The researchers concluded that:

- The clients developed significant increases in relevant knowledge, awareness about how to gain access to legal aid and how to otherwise assert their rights.
- The clients similarly demonstrated increased capacities to communicate with health care personnel, as well as to improve their access to both health care and justice.
- For their part, health care providers became more adept at identifying human rights violations and clients' other legal problems.
- This in turn helped the providers to supply clients with basic information about their rights, refer them to relevant legal services and assist them in otherwise accessing other kinds of support.

O. The Roles and Impact of Paralegals

Paralegals – nonlawyers who have received training regarding aspects of the law and who assist others to make use of the law and their rights – play increasingly important roles in providing legal services for the poor across the globe. They may be professionals working on the staffs of NGOs or government offices, or volunteers hailing from the very communities and groups they serve. Two examples summarized here provide a sense of their work and impact.

As described by Carmona and Donald (2015), the Paralegal Advisory Service NGO in Malawi has contributed greatly to helping pre-trial prisoners to be released if their detention periods exceed their time if convicted. Though this effort does not itself cure the problem of extensive pre-trial detention, it does at least succeed in obtaining freedom for otherwise indefinitely detained prisoners. Thus, the NGO's staff of professional paralegals reduced the remand (persons awaiting trial) population from 40-45 percent of the total prison population to 17.3 percent in 2010. (249)

Massay (2016) has documented the roles, impact and ripple effects in Tanzania of a network of 600 de facto paralegals known as Land Rights Monitors (LRMs). In a departure from paralegal practice in many other contexts, where the paralegal selection process is sometimes less structured, the LRMs are democratically elected volunteers trained to defend the land rights of their communities. Their impact, as reported by the researcher, included:

- helping communities receive fair compensation from investors in sugar and tree plantations in three districts;
- assisting villagers to reclaim land taken from them by local elites who did nothing to develop it; and
- strengthening the role of women in village decision-making processes.

An assessment by Gramatikov and Hriptievschi (2013) reached favorable conclusions about the impact of Moldova's 2007 Law on State Guaranteed Legal Aid, a reform that institutionalized paralegal assistance and that was a product of efforts by the country's government, Moldovan NGOs and the Soros Foundation-Moldova. The law established a two-tier legal aid system:

- *primary legal aid*: basic information and assistance provided by paralegals and specialized NGOs; and
- *qualified legal aid*: legal consultation and representation by lawyers and qualified NGOs.

The assessment's central finding was that the reform resulted in a greater commitment by Moldova to access to justice, as evinced by a legal aid budget that doubled from 2008 to 2011.

Other findings, some more evidence-based than others included:

- based on interviews with such stakeholders as lawyers, legal aid managers, criminal investigation bodies and judges, improvements in the legal aid system in comparison with the pre-reform system;
- improvement in such analytical categories as scope of legal aid, political ownership, institutional framework, commitment to legal aid policy, establishment of clear rules for appointing legal aid lawyers, quality of legal aid, remuneration, accountability and diversity of providers; and
- nevertheless, serious ongoing challenges (though not mainly regarding paralegals) involving such matters as administrative capacity, availability of lawyers, lawyers' commitment and political and institutional constraints.

Robb-Jackson (2012) reviewed the work of six community-based NGO paralegal programs in Sierra Leone operating under the auspices of a national program initiated in 2009 by the country's NGOs, the government and such donors as the Open Society Justice Initiative, GIZ and the World Bank. Though mainly qualitative in nature, the study's noteworthy findings included:

- an increase in quality and accessibility of legal services;
- strengthening and complementing formal state justice processes and transparency;
- increased legal and human rights education for partner populations;
- standardization of and learning lessons from paralegal work by establishing a national paralegal association, adopting a code of ethics, identifying best practices and facilitating internal monitoring and evaluation;
- potentially reducing instances of retaliatory violence against women seeking justice services via long-term engagement with cases and a physical presence in communities; and
- a greater need for gender-specific strategizing and training.

P. Public Interest Law and Litigation

Though in some contexts there has been the danger of NGOs relying on public interest litigation (also known as social action litigation in many societies) to the exclusion of other avenues for seeking reform, a plethora of studies testify to the effectiveness in many instances of such litigation and of broader public interest law efforts. Such effectiveness springs from strategies that, *inter alia*, incorporate mobilization of public support; advocate for new legislation, regulations and policies; and provide governments with evidence and arguments that fuel reforms.

Chichowski (2007), for example, discusses how civil society litigation and advocacy in the European Union has resulted in major policy and legislative reforms, as well as court victories. These reforms and victories have occurred at both the national and EU-wide levels. Among the many positive aspects of such civil society initiatives is that they connect concerned populations with the often-distant EU legislative, policy and judicial superstructure.

Reviewing the history of disability rights activism in the United Kingdom and Canada, Vanhala (2010) documents how civil society organizations and activists have employed advocacy and litigation to bring about positive legislative reforms.

Countering criticism of public interest litigation as an advocacy strategy, Cummings and Rhode (2009) assert that it has been effective in the United States by complementing social movements across a diversity of fields and issues, including environmental protection, gay rights and labor rights. The authors add, however, that effective public interest litigation strategies include:

- community mobilization before, during and after public interest cases are brought to court, such that litigation must complement organizing, advocacy and lobbying efforts;
- monitoring and evaluation components to assess the impacts flowing from the court victories; and
- where governments are providing insufficient or no funding for public interest litigation, supplementing resources via pro bono work, public interest law firms and law school legal aid clinics, as well as funding from philanthropies.

Heywood (2009) analyzes how public interest advocacy and litigation in South Africa, notably the Treatment Action Campaign NGO, has resulted in improved policies and services for people with HIV. Building in part on the work of “Treatment Literacy Practitioners” (de facto paralegals), legal awareness and community mobilization efforts coupled with public interest litigation to reduce drug prices and expand services for HIV patients.

Tiwari (2001) illuminates the history of public interest litigation in India through the lens of environmental protection and conservation. More specifically, via such cases the country’s

Supreme Court has employed constitutional fundamental rights provisions to include a right to a wholesome environment.

IV. Findings

A. Core finding: Civil society plays a crucial array of roles in advancing access to justice, improving justice systems and delivering benefits to partner populations across the globe.

B. As demonstrated by the studies and evidence presented in this paper, the manifold benefits of civil society engagement with justice systems, broadly defined, include:

- increasing access to justice;
- implementing government-supported legal aid programs;
- carrying out innovative and cost-effective NGO legal aid programs;
- contributing to government-supported reforms involving national or local laws, regulations, policies or institutions;
- often going beyond simply contributing to such reforms, by initiating and advocating for reforms that governments ultimately favor and adopt;
- informing reform efforts by virtue of working with concerned and affected populations;
- strengthening such populations' capacities to pursue and implement reforms;
- providing mechanisms for reforms that exist on paper to be actually implemented on the ground;
- battling and constraining corruption;
- above and beyond anti-corruption efforts, contributing to accountability and transparency through engagement with concerned and affected populations;
- improving health and other government services to the benefit of women, the poor, minorities and other groups;
- modifying or monitoring informal, non-state justice systems so that, inter alia, they afford greater access, fairness and power to women; and
- by virtue of all of the above, contributing to social and economic progress and societal stability.

C. Civil society engagement often constitutes the sinews of otherwise skeletal justice systems, strengthening and holding them together so as to operate more effectively to the benefit of societies in general and disadvantaged populations in particular.

D. In many countries, civil society plays an important role not just in improving the fairness and operations of formal, state justice systems, but also of informal, non-state justice systems.

E. In addition, civil society contributions to justice should be understood in ways that reach beyond narrow definitions of justice and justice systems, be they state or non-state in nature. For example, activities are justice-oriented if they help people become aware of and act on their rights to health care, schooling and other government services they have been unjustly denied. And even more to the point, affected populations might well see that unfair denial of their rights as a matter of injustice and the vindication of those rights crucial to realizing justice in their lives.

F. Paralegals play important roles in advancing access to justice, as do other civil society representatives and groups that may help partner populations to know, use and shape the law.

G. Civil society often works cooperatively with the state to help bring justice to the people of a given polity. In fact, such cooperation can and does advance state goals regarding such priorities as fairer justice systems and (by helping people to understand relevant rights and laws) improved service delivery.

H. In addition, the legitimate roles played by justice-oriented civil society operations can also include vigorous advocacy for the rights and well-being of constituent or partner populations, as well as for legal, regulatory and institutional reform.

I. Improving justice does not necessarily hinge on improving state institutions. The progress, success and impact of civil society efforts often do not hinge on what is sometimes called the “supply side” of state programs or reforms. That is, such efforts can yield benefits for partner populations even if state justice institutions (the so-called supply side) and initiatives are stymied. While reforming and otherwise improving government justice institutions is desirable, justice-oriented civil society programs can deliver effective legal aid, improve government service delivery and yield other benefits even in the absence of institutional reforms.

J. A broad concept of justice implies a substantial overlap between legal empowerment and social accountability.

K. Lawyers are by no means the only or in many instances even the main actors in civil society efforts to help bring justice to the poor, the otherwise disadvantaged and society as a whole. Professional paralegals (working for NGOs) and volunteer paralegals (who typically belong to the very communities they serve), play important roles, as do other civil society representatives and groups that may assist partner populations to know, use and shape the law.

V. Recommendations

A. Core recommendation: National and international efforts to improve access to justice should take account of the many ways in which civil society can contribute to and even be crucial for such efforts. They should accordingly provide appropriate political and financial support to civil society organizations and initiatives.

B. Because independent (as opposed to state-controlled) civil society efforts stand the greatest likelihood of achieving benefits for partner populations and improving legal systems, they merit funding and political space that ensures such independence.

C. Government legal aid programs carried out on a national basis can be fruitfully implemented by combinations of legal services NGOs and other NGOs if they are funded and supported in a non-bureaucratic and apolitical manner.

D. Whether funded by governments, aid agencies or philanthropies, such government legal aid programs should never be supported to the exclusion of support for legal services NGOs and other justice-oriented civil society programs. This is partly because civil society initiatives tend to be cost-effective. Furthermore, as demonstrated in this paper, they carry out myriad functions and achieve myriad impacts that contribute to societal well-being in ways that government programs may not do as well or may not do at all.

E. To help ensure sustainable, independent civil society efforts, governments and other funding sources should establish politically independent endowments. New international and national foundations that draw on such endowments could provide sustained support for justice-oriented operations.

F. Above and beyond the aforementioned “foundation approach,” it is advisable for governments, aid agencies and other parties to view civil society legal services programs as public goods that necessitate ongoing infusions of funds, since even in affluent societies they typically are not capable of being self-sustaining.

G. Through tax policies and other incentives, governments can encourage individuals and businesses to provide domestic support for civil society legal services and other justice-advancing programs.

H. Law schools and other higher education institutions whose graduates work with populations needing basic, free legal advice and aid can be financially and institutionally encouraged to provide clinical legal aid training opportunities for students. Such opportunities would add students to the pool of de facto paralegals serving the poor and other populations. They also would expand the intellectual and professional horizons of participating students.

I. Paralegals merit increased governmental political and financial support, since they provide cost-effective help that fills large gaps in legal services in some contexts and that complements the work of attorneys in others.

J. A plethora of studies, in both this paper and elsewhere, highlight the roles that organizing and mobilizing affected communities can play in galvanizing responsive, accountable action by line agency personnel, legislatures and other governmental actors. Governments should welcome such activism and advocacy, since it can enhance justice, security and economic and social progress in their societies.

K. Conversely, governments can pro-actively train their personnel to welcome rather than resist cooperation with the populations they serve and the civil society elements working with such populations, and can reach out to civil society forces to facilitate ongoing cooperation.

L. Bar associations should welcome the growth of low-cost paralegal services. They are not necessarily competition for lawyers, since many clients or partner populations could not afford lawyers in any event. In addition, many of the problems that paralegals handle, such as with service delivery or mediation, would not involve retaining attorneys in any event. Finally, under some circumstances, paralegals can generate work for attorneys where greater legal expertise is required.

VI. Suggested Research Agenda

A. Core research agenda item: Governments and funding agencies should support both quantitative and qualitative studies to document the progress, impact and lessons flowing from civil society engagement with justice issues.

B. Though randomized control trials represent the so-called “gold standard” for such research, the various studies cited in and consulted for this paper demonstrate that various other quantitative and qualitative mechanisms can be employed to research progress, impact and lessons.

C. In-depth, qualitative, causation-oriented case studies, for example, can help illuminate progress that has taken place in a given community or how a regulatory or legal reform came about.

D. The types of civil society-induced progress and impact that such research could investigate can be broken down into various broad categories and subcategories. As detailed by Golub (2012) in greater detail than that provided here, the first category of progress and impact, in the

very inexact ascending order of importance listed below, comprises positive (and occasionally overlapping) changes for partner populations.

As categorized in that paper, the changes pertain to the Attributes, Capacities and Circumstances of Individuals, Groups and Communities. The subcategories include improvements in:

- Legal Awareness
- Social/Historical Awareness
- Legal Knowledge
- Other Kinds of Knowledge
- Legal Skills
- Attitudes
- Behavior
- Negotiating Strength/Political Power
- Legal Status
- Legal Implementation
- Material Circumstances, Including Health, Assets, Livelihoods and Physical Security

The second category of progress and impact pertains to partner populations' positive engagement with and influence on Government Laws, Policies and Actions. Its subcategories include improvements concerning:

- Participation in Government Deliberations
- Input into Formulation of Potential Laws and Policies
- Legal, Institutional and Policy Reform
- Government Accountability
- Contributing to Legal Implementation
- Other Government Actions

A third, miscellaneous category covers progress and impact that do not fall under the previous two groupings but that nevertheless merit attention. Its subcategories include improvements pertaining to:

- Policies and Practices of Foreign Governments and International Agencies
- Influential Individuals, Businesses and Domestic Organizations
- "Keeping the Flame Burning": Sustaining Important Civil Society Justice Initiatives Even When Progress and Impact Are Severely Constrained

The fourth, final subsection addresses positive changes that do not represent civil society progress or impact per se, but that involve NGOs' capacities or status:

- Internal Management Capacities
- Externally Oriented Capacities
- Official and Informal Status

E. As similarly summarized by Golub, numerous kinds of research methodologies and techniques can be employed. They include but are by no means limited to the following array of quantitative and qualitative tools.

Quantitative mechanisms:

- Before/After Surveys of Participants
- Surveys of Broader Populations
- Control/Intervention Group Surveys
- Household Surveys
- Reviews of NGOs' Records
- Reviews of Government Records

Qualitative mechanisms:

- Interviews and Discussions with Participants
- Interviews and Discussions with Non-participants
- Focus Groups
- Interviews Based on NGO Records
- Observation of NGO Offices and Activities
- Interviews with Knowledgeable Third Parties
- Chronological Connection
- Textual Analysis
- Independent Written Documentation
- Organizational Reviews
- Case Studies
- Triangulation

F. An additional, important focus of research relates to the cost of civil society services, whether on a per capita or other basis, as well as cost savings from such services relative to government programs.

G. The research agenda recommended here falls largely outside the logical framework, results framework and related mechanisms employed by many development agencies. Such mechanisms tend to focus on superficial, quantitative, short-term changes. In contrast, the proposed research agenda aims for more in-depth inquiry, longer-term change and productive learning, including through consideration of mistakes and failures along with impact and successes. Resources currently focused on those mechanisms could be productively re-directed toward the kinds of research proposed here.

H. Finally, a comprehensive research agenda should include and in fact feature retrospective research focusing on civil society initiatives years after they have been completed in a given community, on a given law/policy/regulatory reform or regarding a given issue. Typically, justice and other development initiatives are evaluated or otherwise researched while they are underway or at the point of completion. But the real impact can often be only ascertained, and the real lessons only learned, years after an organization, initiative or program has completed its operations regarding a community/law/issue. Retrospective studies should accordingly be key components of a robust research agenda.

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Grassroots Justice: The Roles and Impact of Paralegals

Paper Prepared for the Task Force on Justice

Stephen Golub

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Executive Summary

This paper draws on evidence and analysis of various kinds of paralegal approaches and impact, in order to aid understanding of this burgeoning field.

As the term is employed here, paralegals are nonlawyers who have received training regarding aspects of the law and who assist others to make use of the law and their rights. That assistance can include helping individuals, communities or other groups of people, via approaches such as education, counseling, advice, advocacy, organizing, representation, mediation, negotiation and conciliation.

Paralegal activity generally features two broad types of personnel, depending on whether they are compensated:

- *Volunteer paralegals* typically work without salaries or, at most, receive compensation for their travel and other minor expenses. They usually belong to the very communities or groups they serve – for instance, a farmer assisting fellow farmers with land tenure issues, or a woman helping other females in her community with inheritance or domestic violence problems. The fact that such paralegals are rooted in the populations they serve lends them considerable legitimacy, credibility and local knowledge.
- *Professional paralegals* are employed by nongovernmental organizations (NGOs), government agencies or university programs, usually on a full-time basis, to provide legal advice and assistance. They often do not belong to the communities or groups they serve, though there is no prohibition on this.

Paralegals (whether volunteers or professionals) may also be divided into two additional, broad categories, depending on the foci of their work:

- *Sector-specific paralegals* provide help in a given field or to a specific partner population, typically developing an expertise regarding relevant laws and institutions in

the process. Examples include assisting the urban poor regarding housing matters, farmers regarding land tenure, women regarding property rights or family issues, prisoners regarding bail or release from jail and other sectors regarding a host of other rights and problems.

- *General assistance paralegals* provide aid across a host of legal issues and concerns. They may develop sectoral expertise in the process, but they typically strive to assist with a diverse array of individual or community matters that might be brought to them.

This paper’s core finding, drawn from research regarding numerous countries, sectors and issues, is that paralegals play multi-faceted positive and cost-effective roles regarding access to justice and improved governance. Their work benefits farmers, women, prisoners, anti-corruption efforts and other groups and goals.

Other findings are as follows:

- Notwithstanding the core finding, and as described in the concluding “Research Agenda” section of this paper, there is ample need for more quantitative and qualitative studies of their strategies and impact.
- Most effective paralegal work is carried out by civil society groups, because they may be more innovative, independent, flexible, community-rooted and effective than government offices in their operations.
- Paralegal work engages with and advances justice in ways that go beyond narrow notions of justice systems as featuring lawyers and judiciaries. They may be involved with administrative law, community mediation and advocating on behalf of communities, for example.
- Such activities in turn can involve knowledge of community organizing, mobilizing media and politically savvy efforts to sway key officials and other influential individuals.
- Paralegals should accordingly not simply be thought of as only helping partner populations to understand and make use of the law, though those are typically their core functions. They may take on multi-faceted roles in helping people to act on their rights, in improving access to justice and in strengthening accountable governance.

This paper’s core recommendation is that, in order to increase access to justice for the poor and other populations, paralegal operations merit a greater investment of political and financial support from national governments, international development agencies, foundations and other funding sources. Its other recommendations are:

- Because of the documented track record of civil society organizations in carrying out paralegal work, such organizations should be prioritized in training, developing, managing and guiding such work.

- While this is not to preclude government employees from carrying out such operations, funding sources should bear in mind that state-run paralegal operations may be more bound by bureaucratic and political constraints.
- Governments may accordingly want to consider supporting their own paralegal programs via funding of civil society efforts.
- National legal aid programs should integrate paralegal activities because of their track record and potential to provide quality, cost-effective assistance that responds to local needs.
- While there may be an inclination to try to standardize paralegal training, operations and oversight, it must be emphasized that the context-specific nature of this field means that due deference should be paid to maintaining the flexibility and independence of individuals and organizations providing paralegal services.

This paper's limitations merit mention. Due to understandable budgetary constraints, it can only scratch the surface of relevant evidence and examples. As suggested below, far more expansive research is warranted.

Finally, then, this paper's core research agenda item is that governments and other funders should support both quantitative and qualitative studies of paralegal work so as to better ascertain impact, progress, problems and lessons flowing from such operations.

I. Introduction: The Nature and Variations of Paralegal Work

A. Basic Definition, Background Information and Observations

This paper draws on evidence and analysis of various kinds of paralegal approaches and impact, in order to aid understanding of this burgeoning field, which holds increasing importance for access to justice, accountability and improved governance across the globe. The paper aims to help inform governments and other interested parties of the multi-faceted benefits of paralegal work, including but by no means limited to its cost-effectiveness, so as to in turn inform decisions about permitting, facilitating, encouraging and supporting such work.

As the term is employed here, paralegals are nonlawyers who have received training regarding aspects of the law and who assist others to make use of the law and their rights. That assistance can include helping individuals, communities or other groups of people, via approaches such as education, counseling, advice, advocacy, organizing, representation, mediation, negotiation and conciliation.

Paralegals play increasingly important roles in providing legal and related services across the globe for a host of reasons, including:

- They often assist individuals, communities, organizations or other groups (hereinafter, “partner populations”) that cannot afford to pay attorneys’ fees or that would be severely financially stretched to do so.
- In a related vein, they provide cost-effective legal help for free or at very low price, in comparison with attorneys.
- In some countries, there are too far too few lawyers to provide legal services to paralegal partner populations, even if lawyers were affordable for them.
- In others, most or almost all lawyers may be too geographically distant from such populations, especially those residing in rural areas.
- Given that they often come from the very communities and groups they serve, paralegals may sometimes better understand local issues and other dynamics at play, in comparison with attorneys unfamiliar with and previously unknown to partner populations.
- Similarly, and as indicated below, some paralegal services involve informal interactions, negotiations and other attributes and activities for which paralegals may be better suited than some attorneys, and which may not hinge as much on legal expertise.
- Due to previous, negative experiences with lawyers who may seem or may actually be corrupt or indifferent, some populations may prefer working with paralegals.

Having noted all this, paralegals should not be seen as rivals to or competition for attorneys, for several reasons:

- First and foremost, they often work in cooperation with nongovernmental or government attorneys who train them and provide advice regarding specific problems. Such attorneys sometimes oversee their work, and step in to provide legal representation and other help for client populations when the situation warrants it.
- As already noted, they often serve populations who cannot afford to pay attorneys’ fees.
- Under other circumstances, their help can generate work for private sector lawyers when partner populations become more aware of relevant laws and rights by virtue of paralegal help.
- There is not any evidence to indicate that paralegals have a significant negative impact on private attorneys’ income.

Paralegals typically belong to, are employed by or are otherwise connected with a formal or informal organizations in some way. However, they also may carry out their work on an individual basis, without organizational affiliation.

There are four broad categories of institutions that employ, cooperate with and/or train paralegals across the globe:

- Many if not most paralegals work for or with civil society organizations, be they nongovernmental organizations (NGOs), informal community-based groups or social movements. The discussion in this paper focuses most on such civil society paralegals because their work tends to be the most sophisticated and well-documented.
- Some similarly work for or with university programs, particularly legal services programs affiliated with law schools.
- Yet others work for government agencies or for entities funded by governments (which can in turn be civil society or government programs).
- Finally, a different kind of paralegal is employed by law firms to conduct and summarize legal research and otherwise aid private sector attorneys in carrying out their work. Such paralegals' functions are not a focus of this paper and accordingly are not addressed further here.

Paralegal training (generally carried out by or coordinated with attorneys) varies considerably, depending on the context. It may range from days to months in duration, and from educational efforts that do not have any formal recognition to those that governments may certify.

Regardless, it is worth noting that, as with most fields, their education continues even after such initial training may cease; that is, they “learn on the job” via such mechanisms as occasional or ongoing consultations with attorneys and other experts as new legal questions, issues and problems arise. It is accordingly appropriate to consider their education as not just a matter of one-time training (of whatever duration), but rather ongoing *paralegal development*.

B. Broad Categories of Paralegals

Paralegal activity generally features two broad types of personnel, depending on whether they are compensated:

- *Volunteer paralegals* typically work without salaries or, at most, receive compensation for their travel and other minor expenses. They usually belong to the very communities or groups they serve – for instance, a farmer assisting fellow farmers with land tenure issues, or a woman helping other females in her community with inheritance or domestic violence problems. The fact that such paralegals are rooted in the populations they serve lends them considerable legitimacy, credibility and local knowledge.
- *Professional paralegals* are employed by nongovernmental organizations (NGOs), government agencies or university programs, usually on a full-time basis, to provide legal

advice and assistance. They often do not belong to the communities or groups they serve, though there is no prohibition on this.

Paralegals (whether volunteers or professionals) may also be divided into two additional, broad categories, depending on the foci of their work:

- *Sector-specific paralegals* provide help in a given field or to a specific partner population, typically developing an expertise regarding relevant laws and institutions in the process. Examples include assisting the urban poor regarding housing matters, farmers regarding land tenure, women regarding property rights or family issues, prisoners regarding bail or release from jail, consumers regarding problematic commercial purchases or services and other sectors regarding other rights and problems.
- *General assistance paralegals* provide aid across a host of legal issues and concerns. They may develop sectoral expertise in the process, but they typically strive to assist with a diverse array of individual or community matters that might be brought to their attention.

Finally, it should be noted that, as illustrated in this paper, many other terms are sometimes used instead of “paralegal” in describing the work of persons who in effect carry out paralegal functions. An individual may be a de facto paralegal even if another term is used in describing his or her work.

C. Types of Paralegal Activities

Paralegal activities can vary considerably, depending on the country or community in which they work or the issue(s) or specific sectoral concerns (if any) they address. A given paralegal may carry out more than one type of activity; in fact, such activities are often mutually supportive. Here are some of the principal, often overlapping types of services they provide:

- *Education and training*: Whether through informal discussions or more structured training sessions, paralegals help individuals, communities, organizations or other groups (hereinafter for all these categories, “partner populations”) learn about laws and rights, typically those most relevant to such populations’ lives.
- *Advice and counseling*: Sometimes as a stand-alone kind of assistance, and sometimes in combination with other activities, they identify the legal and related issues at play and suggest approaches and strategies that partner populations could pursue to address their legal concerns and problems.
- *Administrative assistance*: Paralegals often play crucial roles working with or for partner populations, assisting them with administrative applications, appeals or other processes

crucial to such populations' lives – applications for bail, improved land tenure or livelihood-enhancing fishing permits, for example.

- *Representation in adversarial contexts:* In contexts where national laws permit such roles, they may represent individuals, communities or organizations in labor, land, housing or other quasi-judicial, government-administered tribunals. In more limited contexts, they may even provide criminal defense representation.
- *Modification, organization and facilitation of traditional justice systems:* Paralegals sometimes become involved in gradually helping to modify traditional dispute resolution systems that are the main forums for seeking justice in the rural areas of many countries, but that are often gender-biased, biased towards local elites or corrupt. Usually working with NGO programs, they help organize and facilitate such modified versions of these traditional justice systems.
- *Negotiation:* Prior to or in connection with the aforementioned administrative or quasi-judicial forums, paralegals can lead or participate in negotiations with government or business representatives on behalf of the individuals, communities or groups they serve.
- *Mediation and conciliation:* They sometimes facilitate or conduct mediations between or on behalf of individuals or other partner populations. They often operate in a neutral manner. But they may also mediate in ways that ensure such persons or groups are treated more fairly where power imbalances are at play – such as those confronting women in many family and community contexts.
- *Technical, specialized functions:* Paralegals may carry out work that involves specialized legal or non-legal training. As noted, they may help partner populations prepare applications for bail, improved land tenure or livelihood-enhancing fishing permits, for example. They may also help draw up affidavits that such populations might employ regarding criminal matters or land titling applications. In a related vein, they may assist in surveying land so as to help establish land title claims.
- *Advocacy:* As is implicit in many of the aforementioned activities, paralegals often advocate on behalf of partner populations seeking to protect or assert their rights.
- *Engagement of attorneys:* Where the circumstances warrant calling on the skills, status or expertise of attorneys, paralegals may bring them in to assist partner populations. This may most typically regard criminal prosecutions or other litigation where lawyers' engagement may be essential. But it also can include situations where the lawyers' authority and legal knowledge may increase the success of activities such as negotiations with large businesses or police forces.
- *Organizing.* Typically in combination with their more purely law-focused work and civil society groups, paralegals may help communities or other groups to organize and to assert their rights and interests.

D. Additional Aspects of Paralegal Work

In considering the evidence-based examples of paralegal operations discussed later in this paper, a few additional facets of their work merit mention at the outset:

- *Operating in “the shadow of the law”*: Paralegal advocacy may be strengthened by the legal knowledge, status and connections they bring to bear, or by the identification cards they may be issued by the NGO or other organization for which they work. Such assets can result in the perception on the part of police, other officials or other outside parties that they should respect and cooperate with paralegals out of concern for the legal consequences (including in some contexts the paralegals’ ability to call in help from attorneys). This may enable paralegals to operate in “the shadow of the law” – the implicit recognition on the part of partner populations, local elites, government officials or other parties that the law and additional legal resources could be brought to bear – even if the paralegals need not call in lawyers for help or seek to bring about legal consequences.
- *Leveling the playing field*: Whether assisting with individuals’ everyday legal needs or with more prominent community concerns, paralegals help level the legal playing field for partner populations who otherwise might find it tilted against them due to ignorance, powerlessness or favoritism. By thus advancing access to justice, they help make justice a reality for such populations in contexts where it otherwise would exist only in theory.
- *Strengthening governance*: The operations discussed here all involve justice and legal elements. But it should be noted that some heavily impact governance in ways that reach beyond narrowly defined notions of legal systems, going beyond the work of the courts, police and attorneys to benefit how governance operates across a host of other sectors and fields – seeking justice and services for partner populations regarding health care or land tenure, for instance.

II. Evidence-based Research and Analysis

A. Criminal Justice

As described by Carmona (2015), the Paralegal Advisory Service (PAS) in Malawi has contributed greatly to helping pre-trial prisoners obtain release from jail if their actual detention periods have already exceeded the time they would serve if convicted. Admittedly, the work of PAS ameliorates but does not completely cure the problem of excessive pre-trial detention. However, it does at least succeed in obtaining freedom for otherwise indefinitely detained prisoners in many instances. Thus, the NGO’s staff of professional paralegals reduced the

remand (persons awaiting trial) population from 40-45 percent of the total prison population to 17.3 percent in 2010. (249)

In a related vein, Sandefur et al. (2012) report on a year-long (2009-2010) quantitative impact evaluation of the Criminal Justice Pilot program carried out by NGO Timap for Justice, in Sierra Leone. According to the report, this paralegal program led to “greater awareness about detainees’ legal rights, most notably in detainees’ knowledge about the length of time the police can hold them.” (9) It also resulted in a 13 percent increase in access to bail or release without charge. Furthermore, the paralegal assistance led to a 20 percent reduction in the number of prisoners held in remand without being tried or convicted, compared to control sites not benefiting from the program.

B. Land Rights

Massay (2016) has documented the roles, impact and ripple effects in Tanzania of a network of 600 de facto paralegals known as Land Rights Monitors (LRMs). In a departure from paralegal recruitment in many other contexts, where the selection process is often less structured or is determined by NGO policies and practices, the LRMs are democratically elected volunteers trained to defend the land rights of their communities. Their impact has included:

- helping communities receive fair compensation from owners of sugar and tree plantations in three districts;
- assisting villagers to reclaim land taken from them by local elites who had not subsequently developed it; and
- strengthening the role of women in village decision-making processes.

The breadth of paralegal work, and how it can extend to concrete facets of governance, is exemplified by the LRMs’ efforts to strengthen women’s roles in village decision-making. The paper observes that this has involved successfully advocating for ways to allow women to participate more easily in community meetings. Such changes have included scheduling meetings between 2 and 4pm (when village women can more easily attend) and allocating time for women to offer their opinions on each agenda item. The author notes that “as a result, women in villages where LRMs are working effectively have been more forthcoming in engaging in decision-making processes.” (8)

Mei and Alabrese (2013) studied legal empowerment efforts concerning Mozambique’s Land Law, with implications for paralegal effectiveness. While not an impact-oriented study, the authors nevertheless offered observations concerning training that enabled the paralegals to offer civic education, legal advice and practical support at the community level. They concluded that both the paralegals and their communities very much welcomed this initiative and that a

paralegal-related advocacy campaign helped rural partner populations, particularly women, to assert their rights effectively.

The authors also observe that, “for the majority of them the paralegal experience has been the first occasion in which they have learned about gender equality and women’s rights...As [one participant] declared during a paralegal training ‘before the course she did not know that women had [the same] rights as men, assuming...rights were entitled just to men.’” (18)

As part of a larger Asian Development Bank (ADB) study of legal empowerment in several Asian countries, Golub and McQuay (2001) summarized evidence of successful paralegal assistance for land reform in the Philippines. The assistance included the paralegals educating their fellows farmers regarding the relevant law and regulations and, perhaps more significantly, helping them to seek improved land tenure under that law by shepherding their applications through local Department of Agrarian Reform (DAR) processes.

The evidence flowed from a triangulated approach that compared *barangays* (districts) assisted by an agrarian reform NGO’s volunteer (farmer) paralegals with those that received no such assistance. The three research methodologies compared intervention and control *barangays* (i.e., those that had and had not received the paralegal help). Though conducted with the caveat of limited sample sizes, the research was nevertheless noteworthy in finding the following:

- Interviews with local DAR officials asked the officials to identify the *barangays* that had the most and least successful agrarian reform programs, without referencing which areas did and did not receive the NGO paralegal assistance. The officials selected the *barangays* where the paralegals were active as the most successful.
- Focus groups with residents of the intervention and control areas determined that those from the former had considerably greater knowledge of the law.
- Surveys of residents of the intervention and control areas similarly determined greater economic impact of the reform process in the intervention areas, including tentative observations that housing stock (and presumably income) were superior there.

C. Public Health

Health services constitute an arena in which de facto paralegals assist communities to better know their relevant rights and accordingly access medical advice, medical care and medicines. Joshi (2017) reports on several NGOs whose work features or includes paralegals helping people to understand and act on their rights regarding such health services. For example:

- In Guatemala, since 2006 the Centro de Estudios para la Equidad y Gobernanza en los Sistemas de Salud (CEGSS) has sought to improve inadequate health care services for indigenous populations through a network of what it calls “community health defenders.” (164) These persons, who could be considered de facto health care paralegals, receive

training that enables them to lead discussions with partner populations and to document their claims. CEGSS in turn helps take these claims to specialized government authorities that deal with discrimination, the rights of indigenous women, human rights violations in general and (via the ombudsman's office) service delivery complaints. The NGO complements this effort with an SMS platform that enables it to gather, record and follow up on health-related complaints and human rights violations.

- In Macedonia, the Association for Emancipation, Solidarity and Equality of women (ESE) and the Health Education and Research Organization (HERA) help advance and protect the health rights of the minority Roma population. The organizations carry out a blend of activities, including paralegal assistance, budget and community monitoring, awareness-raising campaigns and community scorecards.
- Joshi concludes that, in these and other instances, these arrays of activities have helped raise rights and health awareness among the targeted populations and facilitated collective action. For instance, CEGSS managed to secure ambulance services, access to free medicines and a new health service facility in the Guatemalan municipality of San Marcos. In Macedonia, HERA ensured that the services of a gynecologist became available (albeit on a part-time basis) in the Roma-majority municipality of Shuto Orizari. In addition, ESE processed over a 100 cases of health rights violations there.

Feinglass *et al.* (2016) similarly reported on the operations of the international NGO Namati's twenty-one health advocates (*defensores de saúde*) in Mozambique. Carrying out work that in some respects resembles that of the CEGSS community health defenders, Namati's de facto paralegals "work to address this gap between policy and reality by supporting communities in exercising their basic rights to health" (236). They do so by:

- raising community awareness about health issues and rights;
- aiding individual community members concerning their grievances and perceived service shortcomings; and
- facilitating discussions between village health committees and health service providers about the providers' performance.

Over the course of three years, the health advocates helped resolve 83 percent of the 1,307 grievances they received, covering twenty-seven health facilities. (239) While an impressive figure in and of itself, it would be more so if comparative control/intervention or baseline data were available. In addition, the authors indicate little health advocate success in addressing 18 allegations of corrupt service provider actions referred to them. Nevertheless, the paralegals' overall impact seems noteworthy.

D. Economic Impact

A U.K. Department for International Development cost-benefit analysis (2012) of a community-based mediation center program (operating since 2008) in Nepal showed positive findings in terms of resolution rates and cost-effectiveness. Paralegals comprised roughly one-third of the local teams' personnel. More specifically, the findings for this Madhesh-Terai Community Mediation Extension Project (MTCMEP) included:

- The project “successfully established a low-cost system for resolving local disputes that is particularly accessible to the poor, marginalised, and women.” (3)
- Over the course of four years, the MTCMEP successfully resolved 6,107 of the 7,778 cases registered for community mediation.
- The average unit cost per registered case was Rs. 11,735 (US \$102); per successfully mediated case, it was Rs. 14,946 (US \$130). In view of the fact that the minimum per unit cost of resolving disputes through the formal justice sector is Rs. 20,650 (\$180), the program arguably resulted in savings of Rs. 126,109,550 (US \$1,097,000). (3)
- “The highest numbers of cases registered at the [community mediation centers] were land related with 1,966 disputes; followed by lending (902), domestic violence (540), and damages (433). The success rate of dispute resolution was highest for issues relating to violence against women at 90 percent. . . In its four years, MTCMEP was also able to settle cases and provide formal land entitlements to 1,335 people, most of whom were landless: the total value of which is approximately Rs. 874,319,500 (US \$7,608,000)”. (4)

These figures, such as those documenting the provision of land titles to formerly landless farmers, are in some respects very impressive. And they do seem to demonstrate that community mediation can be more cost-effective than resorting to the formal justice sector. However, further investigation would be needed to better understand the comparative costs of community mediation versus the formal legal system and the findings regarding violence against women.

E. Anti-corruption, Accountability and Stabilization

Chapman and Payne (2013) describe the multi-faceted work and impact in Liberia of the Community Justice Advisor program (CJA), which was launched in 2007 by the U.S.-based Carter Center (for which the authors had worked on the program) in partnership with a leading Liberian human rights group, the Catholic Justice and Peace Commission. That work has included CJA paralegals' anti-corruption and pro-accountability impact, including their:

- successfully pressing for a corrupt magistrate to return funds he had stolen from a plaintiff;
- persuading a prosecutor to arrest and secure the conviction of a dangerous criminal who had brutalized a woman; and

- helping clients to bring about implementation of a 2003 law that granted women inheritance rights, in a context where male relatives and officials often ignore the law to the women's detriment.

Sandefur and Sidiqqi (2015) similarly examined the CJA operations via a short-term randomized control trial. They determined, inter alia, that paralegals reduced the direct cost of accessing the formal legal system, including by a ten percent reduction in bribe-paying.

As part of a larger analysis of paralegal work and strategies, Maru (2006) detailed anti-corruption anecdotes from the work of the NGO Timap for Justice (which he formerly headed) in Sierra Leone. These included the following situations:

- One individual had been forced to pay unfair fines by a local justice official who had family ties to two persons with whom the individual had a civil dispute. A Timap paralegal's assistance persuaded the official to refund part of the fines and return the dispute to a local court for reconsideration.
- In an instance of police brutality against a woman, a Timap paralegal backed by the NGO's lawyer convinced a police officer to apologize and issue a payment to her in return for her dropping the complaint against the officer. Though this might not have been the ideal outcome in view of the violent police misconduct, it was her preference over pursuing a lengthy, uncertain, full-blown case against the officer.
- Employing an audit and a public hearing, a paralegal helped a community recover three million Leones (USD \$1132.08) from an umbrella youth organization that had apparently misappropriated the funds.
- After locals contracted by an international NGO absconded with funds that the NGO had promised would be used to assist amputees in the wake of Sierra Leone's civil war, paralegals pressured the organizations involved to make good on their commitments. They subsequently did so, in terms of providing support for such items as wells, sewing machines and launching a cooperative.

Particularly in the contexts of post-conflict societies such as Liberia and Sierra Leone, the potential stabilizing impacts of paralegal work merit mention. Via their aforementioned study, Chapman and Payne (2013) accordingly illuminate ways in which CJA and like-minded efforts elsewhere may contribute to deterring renewed instability. The authors describe examples of paralegal engagement that may have helped prevent ethnic and other hostilities from erupting in certain communities.

They also point out that administrative law processes that paralegals often focus on affect far more people than criminal justice matters that international donors often prioritize. This factor, in combination with the accountability-inducing, corruption-combating and ethnic tension-inhibiting activities of CJA, arguably may contribute to stabilization of Liberia.

F. Government-supported Programs

Citizens Advice (the operating name of the U.K.'s National Association of Citizens Advice Bureaux) has carried out a cost-benefit analysis (2010) that presented a business case for civil legal aid in the UK. The network, which is partly government-funded but operates independently of central government control, offers legal and related advice to persons with housing, financial, employment, consumer and social benefits issues. It also carries out policy research and advocacy campaigns. Many of its personnel are de facto paralegals in terms of the help they provide.

The analysis of the network's de facto paralegal work indicated that:

- for every pound of expenditure on housing advice, the state potentially saves £2.34;
- for every pound of expenditure on debt advice, the state potentially saves £2.98;
- for every pound of expenditure on social benefits advice, the state potentially saves £8.80; and
- for every pound of expenditure on employment advice, the state potentially saves £7.13.

An assessment by Gramatikov and Hriptievschi (2013) reaches favorable conclusions about the impact of Moldova's 2007 Law on State Guaranteed Legal Aid, a reform that institutionalized paralegal assistance and that was a product of efforts by the country's government, Moldovan NGOs and the Soros Foundation-Moldova. The law established a two-tier legal aid system:

- *primary legal aid*: basic information and assistance provided by paralegals and specialized NGOs; and
- *qualified legal aid*: legal consultation and representation by lawyers and qualified NGOs.

The assessment's central finding is that the reform resulted in a greater commitment by Moldova to access to justice, as evinced by a legal aid budget that doubled from 2008 to 2011.

Other findings, some more evidence-based than others, include:

- based on interviews with such stakeholders as lawyers, legal aid managers, criminal investigation bodies and judges, improvements in the legal aid system in comparison with the pre-reform system;
- improvement in such analytical categories as scope of legal aid, political ownership, institutional framework, commitment to legal aid policy, establishment of clear rules for appointing legal aid lawyers, quality of legal aid, remuneration, accountability and diversity of providers; and

- nevertheless, serious ongoing challenges (though not mainly involving paralegals) regarding such matters as administrative capacity, availability of lawyers, lawyers' commitment and political and institutional constraints.

Robb-Jackson (2012) reviews the work of six community-based NGO paralegal programs in Sierra Leone operating under the auspices of a national program initiated in 2009 by the country's NGOs, the government and such donors as the Open Society Justice Initiative, GIZ and the World Bank. Though mainly qualitative in nature, the study's noteworthy findings include:

- an increase in quality and accessibility in legal services;
- strengthening and complementing formal state justice processes and transparency;
- increased legal and human rights education for partner populations;
- standardization of and learning lessons from paralegal work by establishing a national paralegal association, adopting a code of ethics, identifying best practices and facilitating internal monitoring and evaluation;
- potentially reducing instances of retaliatory violence against women seeking justice services via long-term engagement with cases and a physical presences in communities; and
- a greater need for gender-specific strategizing and training.

G. The Civil Society Dimension

As may be inferred from this discussion, most effective paralegal operations are conducted by civil society organizations. This is not to dismiss the possibility of government paralegals playing valuable roles. But the evidence to date indicates that civil society groups have a greater demonstrated track record of impact.

A Danish Institute of Human Rights report comparing legal aid schemes in East Africa accordingly determined that NGO and paralegal legal aid programs were generally more effective than those administered by state bodies. More specifically, the study employed quantitative analysis to conclude that "as opposed to the legal aid initiatives managed by state bodies and the legal profession, the legal aid services offered by NGOs and paralegals are usually much more accessible for the poor and vulnerable in rural areas." (5)

Why is this the case? The reasons may vary according to context. But they could include the following:

- greater commitment by civil society paralegals and the NGOs with which they cooperate;
- in a related vein, greater political independence, in terms of recruitment, training and service provision;

- superior legitimacy, credibility and contacts within partner populations; and
- less bureaucracy and greater flexibility on the part of such paralegals, in contrast with those bound by government rules and regulations.

A plethora of other studies testify more generally to the value of civil society participation in access to justice and legal reform. Laurel (2011), for example, asserts that grassroots movements can very constructively represent and empower disadvantaged populations. Citing examples from the United States, Canada and Norway, the author argues for an “advocacy state” that encourages such movements’ mobilization of the vulnerable and marginalized to contribute to both local and policy changes.

In a related vein, Stiles (1998) highlights the constructive roles that civil society plays in bringing about positive democratic change. The author asserts governments should not be the sole initiators of reform and that grassroots communities should possess knowledge and tools for helping to bring about policy change

Finally, Moses and Soal (2017) cite a range of studies testifying to the importance of support for justice-oriented and governance-oriented NGO activities. They highlight how:

[a]n increasingly compelling body of evidence suggests that ... reform efforts are most likely to be successful when ... local stakeholders are at the forefront of defining governance challenges, developing and implementing solutions, and pursuing sustainable change; and those stakeholders have the flexibility to learn and adapt as they go, especially when working in complex political contexts.” (5)

H. Power Dynamics and the Shadow of the Law

As part of a larger, multi-country study, Berenschot and Rinaldi employ both quantitative data and qualitative case studies to assess the impact of paralegals on handling grievances and disputes in Indonesia. The authors estimate that “currently [there are] between 4,000 and 6,000 active paralegals working for legal aid offices in Indonesia.” (140) They combine qualitative scrutiny of “local dispute resolution in both paralegal and non-paralegal villages” with a quantitative study of the caseload handled by a specific set of paralegals, in order to understand paralegal impact through the lens of “relational sociology,” which examines inequality in interpersonal relationships and resource accumulation. (144-146)

The authors’ survey data value is buttressed by their in-depth case studies that demonstrate impact in specific instances and that tend to confirm the surveys. The combined data indicate that paralegals ameliorate power differentials to the benefit of their partner populations.

More specifically, the authors argue that the paralegal's impact "does not lie so much in facilitating the implementation of the law, but rather in extending the shadow of the law" (141). That is, they conclude that paralegals can "offset and sometimes neutralize" legal imbalances in power and influence "by representing the threat that the case might indeed reach the police or the courts." (149). That is, instances of paralegals resorting to the courts are relatively limited. But the threat to opposing parties of becoming embroiled in the formal legal system facilitates mediation even where power imbalances may be at play:

Only in 14 percent of the 338 reported cases did paralegals help their clients report the problem to the police or a local court, with a further 5 percent of cases involving both mediation and legal accompaniment. In 20 percent of the cases clients approached the paralegal for advice, which led to no further action on the part of the paralegal. Advocacy is a rare activity for paralegals, employed in only fifteen cases (5 percent) out of the reported 338. In most cases (54 percent) paralegals deal with the issues brought to them by conducting or facilitating a mediation process between conflicting parties. (151)

Though the quantitative data does not necessarily evince proof of altered power dynamics, the authors offer evidence for it in their numerous, in-depth, qualitative descriptions of paralegals helping partner populations. Their analysis also concludes that "[t]hose paralegals who possessed advocacy skills proved highly effective in helping communities deal with government or corporate malpractices." (162)

Presenting one such case study via a different outlet (2013), the same authors offer a granular description of one rural community's battle to retain its land despite the efforts of powerful, corrupt officials seeking to control it. The article describes how such local officials exploited legal ambiguities and farmers' lack of legal knowledge to the detriment of the farmers, by illicitly charging them for use of the land. It further analyzes two paralegals' efforts to provide countervailing assistance.

That paralegal help resulted in the cessation of payments and the jailing of one official. However, the decade-long fight over the land continued at the time of the piece's publication, with the farmers' land tenure remaining tenuous.

The authors accordingly emphasize the political nature of many paralegal activities, even as paralegals help people know and act on relevant rights and laws. They thus recommended paralegal training and support that reaches beyond technical legal knowledge, to include skills relevant to community organizing, the use of media and negotiating with government officials and politicians.

III. Findings

A. Core finding: Based on research regarding numerous countries, sectors and issues, this paper's core finding is that paralegals play multi-faceted positive and cost-effective roles regarding access to justice and improved governance. Their work benefits farmers, women, prisoners, anti-corruption efforts and other groups and goals.

B. Nevertheless, as described in the concluding "Research Agenda" section of this paper, there is ample need for additional quantitative and qualitative studies of their strategies and impact.

C. Most effective paralegal work is carried out by civil society groups, because they may be more innovative, independent, flexible, community-rooted and effective than government offices in their operations.

D. Paralegal work engages with and advances justice in ways that go beyond narrow notions of justice systems as featuring lawyers and judiciaries. They may be involved with administrative law, community mediation and advocating on behalf of communities, for example.

E. Such activities in turn can involve knowledge of community organizing, mobilizing media and politically savvy efforts to sway key officials and other influential individuals.

F. Paralegals should accordingly not simply be thought of as simply helping partner populations to understand and make use of the law, though those are their core functions. They may take on multi-faceted roles in helping people to act on their rights, in improving access to justice and to strengthening accountable governance.

IV. Recommendations

A. Core recommendation: In order to increase access to justice for the poor and other populations, paralegal operations merit a greater investment of political and financial support from national governments, international development agencies, foundations and other funding sources.

B. Because of the documented track record of civil society organizations in carrying out paralegal work, such organizations should be prioritized in training, developing, managing and guiding such work.

C. While this is not to preclude government employees from carrying out such operations, funding sources should bear in mind that state-run paralegal operations may be more bound by bureaucratic and political constraints.

D. Governments may accordingly want to consider supporting their own paralegal programs via funding of civil society rather than state-run efforts.

E. National legal aid programs should integrate paralegal activities because of their track record and potential to provide quality, cost-effective assistance that responds to local needs.

F. While there may be an inclination to try to standardize paralegal training, operations and oversight, it must be emphasized that the context-specific nature of this field means that due deference should be paid to maintaining the flexibility and independence of individuals and organizations providing paralegal services.

V. Suggested Research Agenda

A. Core research agenda item: Governments and other funders should support both quantitative and qualitative studies of paralegal work so as to ascertain impact, progress, problems and lessons flowing from such operations. This paper's limitations accordingly merit mention. Due to understandable budgetary constraints, it can only scratch the surface of relevant evidence and examples. As suggested here, far more expansive research is warranted.

B. In particular, there is a need for papers that compare paralegal progress and impact regarding partner populations in intervention areas with the situations of control populations who have not received such help.

C. In a related vein, there is a need to gather baseline data in intervention areas prior to paralegal involvement there, where possible

D. While randomized control trials (RCTs) might in theory constitute the most rigorous methodologies for conducting research, paralegal work might involve too many variables for RCTS to take account of. RCTs also may need to be conducted over too short a time frame to fully illuminate impact (or lack thereof) or to draw lessons. Finally, RCTs may prove too expensive for applicability to researching most paralegal operations.

E. In recognition of this constraint, more modest quantitative methodologies might be employed under many circumstances. Such methodologies could involve drawing on government statistics, verifying paralegal organizations' records by interviewing partner populations or, as reflected in the aforementioned examination of Philippine agrarian reform paralegals, triangulating different methodologies.

F. Qualitative research should include longitudinal and in-depth case studies of how paralegal work has interacted with and benefited specific partner populations.

G. Studies should be planned in consultation with organizations carrying out this work, so as to better structure the research – while nevertheless maintaining the independence of the researchers.

H. A comprehensive paralegal research agenda should include and in fact feature retrospective research focusing on paralegal initiatives years after they have been completed in a given community. Typically, justice and international development initiatives are evaluated or otherwise researched while they are underway or at the point of completion. But the real impact can often be only ascertained, and the real lessons only learned years after an organization, initiative or program has completed its operations regarding a community/law/issue. Retrospective studies should accordingly be key components of a robust paralegal research agenda.

I. To expand a bit on some of the above research agenda points, the types of progress and impact that paralegal impact research could investigate can be broken down into various broad categories and subcategories. As detailed by Golub (2012) in greater detail than that provided here, the first category of progress and impact, in the very inexact ascending order of importance listed below, comprises positive (and occasionally overlapping) changes for partner populations.

As categorized in that paper, the changes pertain to the Attributes, Capacities and Circumstances of Individuals, Groups and Communities. The subcategories include improvements in:

- Legal Awareness
- Social/Historical Awareness
- Legal Knowledge
- Other Kinds of Knowledge
- Legal Skills
- Attitudes
- Behavior
- Negotiating Strength/Political Power
- Legal Status
- Legal Implementation
- Material Circumstances, Including Health, Assets, Livelihoods and Physical Security

The second category of progress and impact pertains to paralegal partner populations' positive engagement with and influence on Government Laws, Policies and Actions, where the paralegal

work has directly or indirectly contributed to such engagement. Its subcategories include improvements concerning:

- Participation in Government Deliberations
- Input into Formulation of Potential Laws and Policies
- Legal, Institutional and Policy Reform
- Government Accountability
- Contributing to Legal Implementation
- Other Government Actions

A third, miscellaneous category covers paralegal progress and impact that do not fall under the previous two groupings but that nevertheless merit attention. Its subcategories include improvements pertaining to:

- Policies and Practices of Foreign Governments and International Agencies
- Influential Individuals, Businesses and Domestic Organizations
- "Keeping the Flame Burning": Sustaining Important Civil Society Justice Initiatives Even When Progress and Impact Are Severely Constrained

The fourth, final subsection addresses positive changes that do not represent civil society progress or impact per se, but that involve paralegal programs' capacities or status:

- Internal Management Capacities
- Externally Oriented Capacities
- Official and Informal Status

As similarly described by Golub, numerous kinds of research methodologies and techniques can be employed. They include but are by no means limited to the following array of quantitative and qualitative tools.

Quantitative mechanisms:

- Before/After Surveys of Participants
- Surveys of Broader Populations
- Control/Intervention Group Surveys
- Household Surveys
- Reviews of NGOs' Records
- Reviews of Government Records

Qualitative mechanisms:

- Interviews and Discussions with Participants
- Interviews and Discussions with Non-participants
- Focus Groups
- Interviews Based on NGO Records
- Observation of NGO Offices and Activities
- Interviews with Knowledgeable Third Parties
- Chronological Connection
- Textual Analysis
- Independent Written Documentation
- Organizational Reviews
- Case Studies
- Triangulation

J. An additional, important focus of research relates to the cost of paralegal services, whether on a per capita or other basis, as well as cost savings from civil society paralegal services relative to government programs.

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The Seeds of Change: How Local Actions Contribute to Legal and Policy Reforms

Paper Prepared for the Task Force on Justice
Stephen Golub
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Executive Summary

Legal, policy, institutional and other macro-level reforms often flow from local justice-oriented efforts. Such local efforts sometimes involve the mobilization of affected populations and often enforce the rights of individuals or groups. Local experience accordingly provides valuable lessons that inform and fuel legal and other reforms.

Building on that reality, this paper is partly informed by the excellent, influential 2015 “Review of UK Development Assistance for Security and Justice,” prepared for the country’s Independent Commission for Aid Impact. (Independent Commission for Aid Impact, 2015). That paper examined the U.K. Department for International Development’s largely top-down, institution-focused security and justice programs, and found them largely lacking in several respects. Among its other recommendations, it suggested what could be called a problem-solving approach that builds from particular experiences to general lessons.

This paper’s core finding is that local efforts to improve access to justice and help people know and act on their rights should not only be seen in those terms, as important as they are. They can also lead to local and national legal and policy reforms.

Its core recommendation is that, since the most effective and legitimate legal and policy reforms flow from organic processes and forces within a society, governments can facilitate such reforms by learning from both nongovernmental organizations (NGOs) and local government offices that provide community services. This local “problem-solving approach” can prove far more effective in yielding effective reforms than the top-down, institution-building approach advocated and implemented by some aid donors. The relevant lessons could apply to affluent nations as well, as they seek to strengthen justice in their societies.

This paper's limitations merit mention. Due to understandable budgetary constraints, it can only scratch the surface of relevant evidence and examples. As suggested below, additional research taking various forms is warranted.

I. Introduction

Legal, policy, institutional and other macro-level reforms often flow from local justice-oriented efforts. Such local efforts sometimes involve the mobilization of affected populations and often enforce the rights of individuals or groups. Local experience accordingly provides valuable lessons that inform and fuel legal and other reforms.

Building on that reality, this paper is partly informed by the excellent, influential 2015 "Review of UK Development Assistance for Security and Justice," prepared for the country's Independent Commission for Aid Impact. (Independent Commission for Aid Impact, 2015). That paper examined the U.K. Department for International Development's largely top-down, institution-focused security and justice programs, and found them largely lacking in several respects. Among its other recommendations, it suggested what could be called a problem-solving approach that builds from particular experiences to general lessons. More specifically, the Review states:

2.11 Most of DFID's [Security and Justice] portfolio focuses on the strengthening of S&J institutions as its starting point, rather than the need to address specific problems of insecurity or injustice. In our view, the portfolio would be strengthened by more attention to problem solving. A problem-solving approach entails multiple reinforcing interventions to tackle specific S&J challenges in particular locations or for particular groups of beneficiaries. It entails finding localised solutions and developing partnerships among different authorities and community groups. We see some signs of a move towards this in recent programme designs, such as the (now suspended) Ethiopia programme. This has not, however, been clearly articulated as a strategy. (10-11)

In pursuing and enacting reforms, governments can accordingly benefit considerably from local learning. One additional lesson some governments can better recognize is that in many countries civil society often spearheads the grassroots initiatives and proposes the reforms that governments eventually adopt, benefiting governance and society alike. This paper thus focuses mainly on such civil society initiatives, but also highlights how government programs also build on local, individual experience to enact legislative and policy changes.

Drawing on relevant studies, the paper seeks to provide evidence and analysis of how local justice efforts produce lessons that result in reforms. It reviews diverse examples of how

initiatives that focus on increasing justice for partner populations, - and that sometimes engage such populations in advocacy - translate those efforts into wider reforms.

For the most part, the paper examines how national reforms flow from local work. However, given how district and provincial reforms can also be crucial to advancing justice agendas, it also considers initiatives that have taken place at those lower levels of governance.

This discussion's components consist of:

- Summaries and brief analyses of relevant evidence-based research;
- findings flowing from that research;
- resulting recommendations; and
- a brief research agenda.

II. Evidence-based Research and Analysis

A. National Civil Society Impact

Sumner, Zurstrassen, & Lister (2011) examine the reformist role that the Indonesian grassroots NGO PEKKA, which works with female-headed households, has played on various fronts by drawing on its local service-provision lessons . These efforts have included:

- Due to reforms partly driven by PEKKA, the country's religious courts (a formal part of Indonesia's pluralistic legal order) have experienced a 14-fold national increase in the number of poor people accessing them.
- The reforms were in part sparked by a women's legal empowerment pilot project in which PEKKA was engaged, in the province of West Java. The multi-faceted initiative helped targeted communities to know and seek enforcement of their rights, and to strengthen the responsive capacity of the legal system on the district and provincial levels.
- The PEKKA efforts, in combination with research collected under the auspices of the country's chief justice, helped the government to contribute to a broad array of macro-level reforms, including increasing government funding for legal services to the poor, laws requiring that the courts provide such services and other budgetary and policy reforms.

Juan-Carlos (2009) analyzes the work of a grassroots network CODEHUH (Colectiva de Mujeres Hondureñas), comprising female factory workers and other women who have experienced unfair labor practices. Though the network dates to the 1980s, its advocacy campaign was initiated in 2004 with assistance from the international NGO Oxfam. The

campaign included training 25 CODEHUUH members in an “advocacy school” geared toward building their capacities to help remedy poor working conditions and policies by:

- conducting lobbying activities;
- providing information to and otherwise interacting with the journalists; and
- negotiating with factory owners and public officials.

The research reported resulting progress in several regards, including:

- the submission of proposed labor law reforms to the country’s congress;
- increased Ministry of Labor health and safety monitoring visits to factories;
- increased official recognition of organizations working on behalf of women’s rights; and
- strengthened alliance-building and coordination among such groups.

In Bangladesh, Harrold (2007) has found numerous examples of legal and policy level reform on the part of one leading NGO, the Bangladesh Legal Aid and Services Trust, stemming from its delivery of legal services to individuals and groups across the country. These included the national government modifying what had been an employment recruitment policy that discriminated against women and a successful compensation case against the Bangladesh Garments Manufacturing Association.

As reported by Keita et al., (2014), in Mali the NGO GERSDA (Research and Study Group on Sociology and Applied Law) took a series of initiatives that culminated in the adoption of a reformed mining code in 2012. These actions included:

- a “legal caravan” program, under which mobile teams of law students and attorneys traveled to legally illiterate rural areas to provide basic training about rights and legal processes;
- paralegal training and legal awareness outreach via rural radio broadcasts;
- in combination with legal allies, a national campaign that resulted in parliamentary consideration and adoption of the new mining code.

Heywood (2009) has studied how the Treatment Action Campaign (TAC) in South Africa was launched by a small group of activists in 1998, to improve the nation’s response to the AIDS epidemic, and how it grew to impact national reforms in multiple ways. The study documents numerous examples of local activism; TAC coupled national advocacy with its community-based approach that emphasized educating people about relevant health and legal matters.

The study emphasizes how TAC's successful constitutional litigation was not left solely to lawyers' legal strategies. It instead built on and helped strengthen a social movement comprising marches, use of media, nonformal legal education and mobilization of concerned and affected populations.

As of the 2009 publication of the paper, manifold impacts of this approach included:

- a national campaign to prevent the transmission of the HIV virus from mothers to children;
- a treatment access plan to provide anti-viral medications to prisoners in at least one major prison; and
- the legal and political defense by the South African government of the Medicines Act against legal and political measures to frustrate the Act's implementation (reversing the government's previous stance), thus improving affordability of anti-HIV treatment.

As part of a larger study of various budget-monitoring and advocacy initiatives, Ramkumar (2008) describes how efforts of a civil society coalition in Malawi have impacted the country's education policy and budget. More specifically, the paper addresses the impact of the Civil Society Coalition for Quality Basic Education (CSCQBE), comprising 67 groups focusing on the right to basic education.

Building on individual complaints and local experience, the coalition monitored the flow of resources through different levels of government. Its community-based members scrutinized spending at the local level. These efforts detected leakages in funds along the way.

Based on its research, CSCQBE mounted media campaigns advocating for more accountable public spending at the local level. These in turn enabled the coalition to influence both the government's budget allocations for children with special needs and a government program to address educational disparities between urban and rural areas.

Ramachandran and Goel (2011) report on how a national civil society network employed a combination of legal, policy and political advocacy techniques to help correct the diversion of funds away from a marginalized population in India. More specifically, the research analyzed the work of the National Campaign for Dalit Rights to address local reports of inadequate and unfair implementation of the Scheduled Caste Sub Plan, which had been intended to guarantee that a portion of government funds be targeted to benefit dalits. The efforts at securing improved implementation included:

- local mobilization of affected populations;
- a media campaign;

- public interest litigation; and
- utilization of the country's right-to-information laws

The results of the initiative, in combination with other factors at play, included a parliamentary admission by the home minister that the funds had in fact been inappropriately diverted and the implementation of resulting budgetary reforms.

De Renzio et al. (2006) report multi-faceted respects in which community engagement and monitoring of various government expenditures and services in Uganda helped combat local corruption and lead to national policy reforms. More specifically, local committees operating under the auspices of the Uganda Debt Network (UDN) monitored the implementation of the World Bank/International Monetary Fund-supported Poverty Action Fund. The committees comprised villagers who had received training in civic participation and budget monitoring, presumably although perhaps implicitly including their rights to undertake such work and the entitlements of service beneficiaries .

The impacts of such training, engagement and monitoring were manifold. They included:

- Community monitors detected poor quality construction of classrooms and health posts.
- Similarly, they detected embezzlement of public funds and other resources.
- They also revealed instances of patients being forced to pay bribes in order to receive medical care.
- In one particular example, a monitoring committee was able to secure assistance to produce a documentary film publicizing the misuse of classroom construction funds. This drew the attention of the country's prime minister, in turn leading to an investigation, dismissal of the district tender board and the rebuilding of the classrooms by contractors.
- The government revised national guidelines to strengthen public accountability in school construction.

Okolloh (2018) summarizes the reasons why the Omidyar Network has chosen to fund a Nigerian NGO, SERAP (Socio-Economic Rights and Accountability Program), which works with ordinary citizens to make use of their country's Freedom of Information Act. According to this account, one reason the for this program is that so few Nigerians have any awareness of the law or its value.

A particular focus of the NGO is to assist partner populations in accessing public information about health, education and water services provided by local and state authorities. More to the point in combating corruption, SERAP also helps them to file complaints with anti-corruption institutions and in launching litigation against non-compliant public agencies, in order to seek reform of their policies and implementation of the Act.

As analyzed by Ekhtor (2014), SERAP has been especially effective at public interest litigation at the national level. This includes victories in several landmark environmental cases.

The anti-corruption NGO Transparency International's (TI's) 102 Advocacy and Legal Advice Centers in 62 countries provide free and confidential legal advice to witnesses and victims of alleged instances of corruption. Though the information provided here substantially relies on self-reporting by TI, it nevertheless merits mention as instances of civil society interventions contributing to legislative, policy, regulatory or other systemic reforms, including:

- In the Czech Republic, a whistleblower submitted evidence of overpricing in a public contract for reduction of pollution and waste throughout the country. The resulting TI advocacy for greater transparency about the contract bidding process led to its cancelation and the subsequent introduction of major amendments to public procurement legislation. https://www.transparency.org/news/story/hidden_costs
- In Ireland, two police officers who reported that traffic penalty points were being wrongly waived across the country faced whistleblower retaliation. TI's calls for an investigation of their claims and treatment led to an investigative commission releasing a report that 9,000 traffic cases had been canceled under questionable circumstances in 2011 and 2012 alone. This in turn led to the promise of governmental reforms pertaining to this and related practices (though TI's summary of the situation does not indicate whether the reforms were implemented).
https://www.transparency.org/news/story/police_whistleblowers

B. Sub-national Civil Society Impact

Not all important legal and policy reforms necessarily involve national changes. In fact, local reforms can be crucial in advancing various justice agendas.

Austin and Eder (2007) accordingly provide a case study of how engagement by Philippine NGOs and the international NGO Survival International in the southern Philippines island of Palawan led to the modification of local regulations that protected the traditional farming practices and livelihoods of indigenous peoples in ways that also helped protect the environment. They maintain that “despite some difficulties, stronger NGO roles...have generally resulted in better environmental protection, and through relationships with NGOs, communities in the Philippines can indeed take action to serve their own best interests.” (363)

Similarly, a study by Kisambu (2016) has found that civil society engagement in developing model by-laws for women's participation in village land management led to the adoption and effective implementation of such ordinances in villages that were the foci of the study. More specifically, the Tanzania Women Lawyers Association worked with the World Resources Institute (WRI) and the Lawyers' Environmental Action Team (LEAT) to undertake extensive consultations with village councils, which in turn approved such items as quotas for gender

representation in the councils and other local decision-making bodies. The NGOs also strengthened women's participation through the development of a mentoring scheme for the women who volunteered to join local bodies that make land allocation decisions.

A World Bank report (World Bank, 2004) includes details about the trailblazing work of a small Indian NGO (Mazdoor Kishan Shakti Sangathan—MKSS, or Association for the Empowerment of Workers and Farmers) in the Indian state of Rajasthan. MKSS informs people about their rights to monitor public expenditures and helps them act on those rights.

More specifically, the organization introduced informal public hearings, presided over by respected community members, in which villagers could testify about discrepancies between official records and their own personal knowledge of expenditures. In a number of instances, apparent corruption was detected by the meetings and purloined funds subsequently returned.

However, MKSS concluded that this advocacy model hinged on the availability and intervention of sympathetic officials – there was not a legal requirement for government personnel to share such records. The group accordingly launched a massive campaign for the introduction of a “Right to Information Act,” which was adopted as a law in Rajasthan in 2000 (World Bank 2004).

Ramkumar and Krafchik (2007) note that the impact of MKSS can be seen across Rajasthan, in terms of significantly limiting corruption in public works projects in rural parts of the state. In addition, the state government now mandates that an annual social audit be held in each village and that, in conjunction with this process, all villagers have a right to vote on a resolution confirming whether village projects have been completed.

C. Government Ombudsman Office Impact

Government offices can play extremely useful roles in both providing individual justice-oriented services and translating what they learn via such services into successful policy and legal reform proposals. Ombudsman offices, which investigate complaints of maladministration and related service shortcomings, have proven invaluable in this regard in numerous countries.

Bearup and Palusci (1999), for example, have examined the impact of the legislative establishment in 1994 of an ombudsman's office in the U.S. state of Michigan, to investigate complaints regarding children in foster care, adoption or child protection systems. The office was initially staffed by ten investigators with backgrounds in law enforcement, psychology, social work, law, community health and child development. – with jurisdiction only within the Child Protective Services office (CPS), foster care and adoption services.

Based on hundreds of investigations during its first 18 months in existence, the office proposed 42 recommendations for various systemic improvements regarding case management, compliance with relevant laws, investigative practices, communicative practices and system issues and coordination. Of these:

- CPS agreed to fully or partly implement 32 of the recommendations;
- seven of the recommendations resulted in changes in CPS policies and procedures; and
- thirteen were converted into legislative proposals, in conjunction with the findings of an independent commission examining related issues.

Dize (2006) analyses the results of the Ombudsman Outcomes Project. The Project, administered by the National Association of State Units on Aging, was conducted from 1999 to 2003. It reviewed relevant ombudsman programs in four states: California, New Mexico, Ohio and Washington. Building on individual complaints and case work, the respective programs developed and contributed to numerous recommendations resulting in, for example:

- 10 successful legislative proposals in California, regarding such matters as staffing ratios for care facilities for the elderly;
- the commissioning of a study in New Mexico regarding the degree to which inadequate care in long-term care facilities contributes to causes of death;
- in Ohio, amending a state law so as to increase care facilities' accountability for staff actions and adopting regulations that increase staffing requirements in certain nursing homes; and
- in Washington, adopting requirements for improvements in certain kinds of medical care for residents in nursing homes.

III. Findings

A. Core finding: Local efforts to improve access to justice and help people know and act on their rights should not only be seen in those terms, as important as they are. They can also lead to local and national legal and policy reforms.

B. Many such efforts result from activism and advocacy on the part of reform-oriented constituencies, rather than donor or government agendas. They often are organic processes whose power and legitimacy flow from partner population priorities, rather than from government proposals or aid donor agendas.

C. Civil society plays a crucial role in many such initiatives.

D. Effective promotion of legal and policy reforms typically is not simply a matter of lawyers conducting litigation or legislative advocacy. Many other approaches may be involved, including community organizing and mobilization, working with media and building alliances.

IV. Recommendations

A. Core recommendation: Since the most effective and legitimate legal and policy reforms flow from organic processes and forces within a society, governments can facilitate such

reforms by learning from both civil society organizations and local government offices that provide community services. This local “problem-solving approach” can prove far more effective in yielding effective reforms than the top-down, institution-building approach advocated and implemented by some aid donors.

B. NGOs concerned with access to justice and related issues should be granted the financial and political flexibility to pursue their own agendas.

C. Because reformers often have civil society backgrounds, nongovernmental groups merit political space in their efforts to bring about reforms.

D. Since many initiatives that lead to legal and policy reforms involve more than legal work – also involving community organizing and interactions with media, for example – such integrated efforts should be supported and encouraged.

E. This in turn means that support for access to justice should not only focus on the work of lawyers or be similarly narrowly defined. The fact that legal and policy reforms are the product of diverse perspectives, backgrounds and skills means that the net should be cast broadly in seeking and identifying organizations that merit support.

V. Research Agenda

A. The particular focus of this paper – how local actions translate into legal and policy reforms – might best lend itself to qualitative case studies in order to both document impact and learn lessons from such experiences.

B. Such studies could include a range of interviews with independent observers, to ascertain and confirm that local actions were at least part of the mix of factors that fuelled reforms.

C. Other mechanisms for ascertaining the factors leading to reforms could include reviews of contemporary press accounts that might suggest that the local action played a part.

D. Studies should be planned in consultation with organizations carrying out this work, so as to better structure the research – while nevertheless maintaining the independence of the researchers.

E. A well-informed research agenda should include and in fact feature retrospective research focusing on legal and policy reform initiatives years after they have been started or completed, so as to assess whether initially promising progress yielded anticipated (or unanticipated) impact.

F. One key point of such retrospective research would be to determine whether the reforms were strengthened or (conversely) weakened in later years.

G. Another important point of such research would be to determine whether and to what extent the reforms were actually implemented – that is, whether legal reform led to legal

implementation – and whether such implementation had beneficial (or counterproductive) results.

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