



BUILDING LEGAL AID SERVICES FROM THE GROUND UP: LEARNING FROM PILOT INITIATIVES IN JORDAN

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Introduction: Like most governments, the Government of Jordan (GoJ) struggles with the provision of legal aid services – information, counseling and representation by a lawyer – to the poor. Jordanians have the legal right to state-sponsored services only for serious criminal cases, while the Jordan Bar Association tries to provide services for lesser crimes and civil cases. Civil Society Organizations (CSOs) have joined the pool of service providers. Yet legal aid remains much underutilized despite high demand, especially for family law (personal status) cases. These include divorce, alimony, child support and inheritance. The Jordanian CSO the Justice Center for Legal Aid (JCLA) provides legal aid via centers throughout Jordan, providing information and awareness to over 6,500 beneficiaries, counseling to 2,000 and legal representation to over 1,200 over the last several years.

The Program: JCLA and the World Bank have been cooperating in an effort to make legal aid services more comprehensive, systematic and sustainable. The program ‘Enhancing Development of Community-Driven Legal Aid Services’ is supported by a grant from the Japan Social Development Fund (JSDF), which follows implementation of a JSDF Seed Fund grant that aided in identifying demand from poor communities. The objective of the program is to support legal empowerment of the poor by



improving access to justice sector services based on demand-side priorities and supported by community-driven implementation. This will be accomplished by piloting legal aid centers (LACs) throughout the country with a mix of service delivery models and extending services to civil and family issues, where demand is most focused. In effect, the program is providing an opportunity to extend services while experimenting with different delivery models, to better fit legal aid to the needs of Jordan and make it more sustainable in the longer-term. An interim evaluation of this program, conducted in October 2013, is providing opportunities to learn from the experimentation with delivery service models.

A Better Understanding of Demand and Priorities: *Legal aid for civil and family cases matters to the poor and may have a role in addressing poverty.* Governments often prioritize legal aid for criminal matters. This is important due to

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the heavy penalties involved and is consistent with international human rights standards. However, civil and family law cases, while important from a justice perspective, may prove important in addressing poverty. The 2011 Demand for Legal Aid Services household survey demonstrates the intersection of poverty and the justice sector.² It suggests that poor persons are more likely to face legal disputes (68% of reported disputes are from the lowest two quartiles of expenditure levels), more likely to avoid going to court when they have a dispute, and are less likely to have a lawyer in court. The poor were also more likely to report disputes involving civil and family law issues, particularly involving alimony, child custody and inheritance cases.³ This is reaffirmed by the JCLA's caseload, where most beneficiaries seek assistance for family law and civil cases, and is broadly consistent with global trends.

Prioritizing the focus of legal aid services is inevitable in the face of overwhelming demand.

Deciding who should receive legal aid services is a difficult task. Demand eventually outstrips supply. JCLA's growing caseload is likely to increase as outreach becomes more effective, forcing it to rationalize services and concentrate resources where impact may be greatest. Yet this is difficult to do in the absence of information on impact of services or clear policy objectives. JCLA has already stopped providing legal representation in uncontested divorce cases, a common type of case where it is relatively easier for parties to navigate the system of services with just information and advice. Eventually further decisions on

² 'Statistical Survey on the Volume of Demand of Legal Aid Services' (2011). The survey was administered by the Justice Center for Legal Aid and the Department of Statistics of the Ministry of Planning and International Cooperation.

³ For a more detailed discussion see 'Justice Sector Services and the Poor in Jordan: Determining Needs and Priorities' World Bank Quick Notes Series, Number 96 (May 2013), at <http://siteresources.worldbank.org/INTMENA/Resources/QN96.pdf>, as well as World Bank Quick Notes Series Number 62 (March 2012) 'Who Needs Legal Aid Services? Addressing Demand in Jordan', at <http://siteresources.worldbank.org/INTMENA/Resources/QN62.pdf>, and Quick Notes Series Number 107 (September 2013) 'Gender and Justice in Jordan: Women, Demand and Access', at <http://siteresources.worldbank.org/INTMENA/Resources/QN107.pdf>.

prioritization will need to be made to maximize impact and enable proper training for legal aid staff. These decisions would be helped by clearer policies on legal aid as a means to address poverty, better understanding of the impact of different services, and a strategy for using advocacy to reduce the number of disputes.

There is considerable demand for legal aid services from the not-so-poor. Court-related and lawyer fees are relatively high in Jordan so even those not considered poor struggle with costs. Such individuals have regularly been approaching JCLA for assistance, but fail to meet the eligibility criteria for free services. To help address this gap, JCLA has developed a sliding-scale payment system for the provision of services. Based on a financial assessment applicants not meeting poverty criteria can receive services by making small payments that are considerably lower than they would pay in the private market. These beneficiaries would also likely benefit from the development of self-help tools, allowing them to represent themselves in court procedures when necessary.

Building Partnerships: Data can be a useful tool in addressing turf battles between stakeholders.

There is often a perception among justice sector stakeholders that the pool of potential clients for legal services is minimal and incapable of supporting multiple service providers, and that free legal aid will 'steal' clients that would otherwise be willing to pay. Data from the Legal Aid Services Survey and the caseload of JCLA has been useful in demonstrating that demand for free services far exceeds the combined abilities of all stakeholders to provide them. It also helps undermine the argument that legal aid is attracting clients that would otherwise pay private lawyers for assistance. And the data has been useful in developing cooperation agreements based on division of labor, for example having the Jordan Bar Association concentrate more on serious criminal cases and JCLA focusing on civil and family law cases.

Lawyers are usually not as supportive as you hope, but judges can be more helpful than expected. Lawyers, both privately and through

organizations such as bar associations, often react negatively to CSOs developing legal aid out of a sense of competition. Cooperation schemes, such as referral mechanisms involving lawyers or the bar association, can sometimes ease the tension. While some judges do not see the need for every party to be represented by a lawyer in court, others not only recognize the obstacles faced by the poor but also the negative impact on efficiency of court proceedings involving uninformed parties. JCLA's promising experimental mechanisms for cooperation include a system to retain private lawyers for highly specialized cases, for example employment abuses, and working with the Jordan Bar Association to provide lawyers for complicated cases, such as serious crimes. Judges in the Sharia (Family) Courts have begun referring the unrepresented directly to JCLA, usually when the party is vulnerable or where the opposing party is already represented by a lawyer. Without a centralized intake system, judges play an important role in referring parties to service providers. The Judicial Training Institute has shown interest in training on issues facing the poor and how judges can better serve them.

The private sector is often overlooked as a partner, but offers potential for cooperation. Private sector entities are not commonly viewed as a potential partner in the provision of legal aid services. As part of its Corporate Social Responsibility program, the Nuqul Foundation – part of the Nuqul Group – is implementing activities to improve livelihoods in the district of Al-Koura, a remote area that had been suffering from a lack of investment. The initiatives involve working with local communities and municipal governments in the design and implementation of activities to address social and economic needs. Out of a recognition that poor members of the community have unmet legal needs, the Nuqul Foundation is providing JCLA free space for a LAC as part of the Foundation's existing infrastructure. This is the first joint CSO-private sector partnership in support of legal aid and provides a useful experiment with a new mode of service delivery. JCLA is also initiating discussions with private philanthropists to consider a scheme of 'adopting' a LAC by contributing to its expenses.

Experimenting with Service Delivery Models: *Re-thinking the 'one-stop' shop model.* The program originally envisioned a series of one-stop LACs where all types of legal services would be provided. These stand-alone LACs have proven successful in larger urban areas where caseloads are relatively high. In smaller population centers JCLA has adopted a model of co-locating lawyers within offices of local CSOs providing social services. This has proven beneficial since local CSOs provide a natural outreach mechanism, especially to the more marginalized populations. JCLA and partner services are often complementary for certain types of cases. For example, victims of domestic violence can benefit from advice from the legal aid lawyer on legal options, while receiving psycho-social and job-training programs. Partner CSOs report new categories of beneficiaries accessing their services, for example men involved in employment-related disputes. They also report that having a lawyer in the offices provides beneficiaries greater choice in addressing their problems, and gives CSOs more leverage when dealing with public sector officials taking interactions with lawyers more seriously. This experience has led to more exploration on better serving clients, especially since legal needs are just one aspect of the problems faced by many beneficiaries.

Simplifying the determination of eligibility for services allows resources to be dedicated to better purposes. JCLA used to spend considerable personnel and financial resources determining eligibility of applicants for all types of cases. It is now applying eligibility criteria only for the most costly services – in-depth counseling and legal representation. Information and basic counseling are provided to all who apply. And eligibility criteria have been simplified. Certain categories of applicants viewed as particularly vulnerable are automatically provided services, including female-headed households, victims of domestic violence and beneficiaries of the National Aid Fund. JCLA also does not apply eligibility criteria to beneficiaries referred from other CSOs if they meet the criteria of the referring body, and automatically provides services to anyone imprisoned for more than ten days without access to a lawyer.

Outreach is much more than simply generating information. According to the Legal Aid Services Survey only 2% of respondents were aware of legal aid providers. Despite this demand for legal aid services is high. Over 80% of respondents who had a dispute but did not go to court reported they would do if provided legal aid.⁴ However, where legal aid is new, and in areas with weak governance practices, citizens need to develop trust before they are willing to engage. This takes time. Vulnerable communities, such as refugees and minorities are, even more difficult to reach. Often the best advertisement is word-of-mouth, which is slower than other forms of communication. CSOs have an advantage in outreach with greater public trust compared to formal institutions and better community-level reach. To build trust in poor communities and spread information, JCLA integrates community leaders within legal aid structures while building their capacity to play an active role in information and awareness sessions.

Developing pro bono lawyer networks involves longer-term changes to the culture of practicing law. Pro bono networks involving volunteer lawyers are a logical response to ensure sustainability for legal aid systems. The Jordan Bar Association can appoint lawyers to perform mandatory pro bono assistance – a model suddenly gaining momentum in some high-income countries – but this mechanism remains underutilized. Jordan lacks a culture of professional volunteerism in the justice sector, so pro bono is taking time to develop. Pro bono mechanisms are often more effective when lawyers have incentives such as training in new areas of law, some type of credit with the bar association or support from an employer. JCLA is attempting to develop pro bono along two tracks. The first is having established lawyers volunteer for cases requiring specialized experience. The second is to utilize law school graduates performing mandatory two-year unpaid apprenticeships. JCLA trains and supervises them in provision of legal aid, and those receiving the highest

⁴ According to the survey, respondents experiencing a dispute who did not file a case in court would do so if legal aid services included the following: lawyer fees, court fees and associated expenses such as transportation (87%); lawyer and court fees (85%); and lawyer fees only (83%).

performance evaluations are offered full-time employment.

Privacy and location matter for beneficiaries. Implementing privacy policies has proven important in developing trust with existing and potential beneficiaries. This is particularly important in socially conservative areas and in cases of domestic or sexual violence. JCLA has policies to ensure greater privacy, including allowing appointments without providing full names. Location of Lawyers' offices also matters. Where JCLA co-locates lawyers with other CSOs, attention is now paid to ensuring lawyer's office is in a less public area of the CSO premises. Client feedback identified another benefit of discreet locations. In more conservative areas women avoid LACs because of perceptions of asserting rights contrary to local norms, yet find it easier to access a lawyer located in a CSO providing social programs.

Conclusion: JCLA has been experimenting with service delivery methods and procedures to identify the most appropriate mix for Jordan. A number of initiatives outlined above show promise. This experience may prove useful for other CSOs, governments and bar associations to consider. Moving forward, there are a number of issues deserving further attention. These include impact evaluation of services, piloting self-help (*pro se*) tools for persons without lawyers, public interest litigation and development of an advocacy strategy to use data for reforming problematic public sector services. Financial sustainability is an ongoing struggle, as it is for most of legal aid providers globally.

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