



# A RESEARCH REPORT PROJECT ON THE LEGAL STATUS OF COMMUNITY PARALEGALS IN SELECTED FRANCOPHONE COUNTRIES: **LESSONS, CHALLENGES AND GOOD PRACTICES**

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# ACRONYMS AND ABBREVIATIONS

ACE-AJ	African Centre of Excellence for Access to Justice
ADR	Alternative Dispute Resolution
AEMO	Action éducative en milieu ouvert
AJS	Association des Juristes Sénégalaises
CSO	Civil Society Organisations
DIHR	Danish Institute for Human Rights
DOI	Dullah Omar Institute for Constitutional Law, Governance and Human Rights
FGD	Focus Group Discussions
MJ	Maison de justice
NGO	Non-Governmental Organisations
RADI	African Network for Integrated Development
UNGA	United Nations General Assembly
WPR	World Population Review

# EXECUTIVE SUMMARY

## 1.1 Introduction

The greatest misconception regarding access to justice is the notion that every problem requires a lawyer to solve it. This is often due to the unionised layers of misconstrued understanding of justice, access to justice, the concept of legal aid, and above all the meaning of a community in the context of paralegals. The Dullah Omar Institute, University of the Western Cape, received funding from the Mott Foundation to implement the second aspect of the research project on paralegals, with an emphasis on selected francophone countries. This project documented the role, functions, challenges and regulation of paralegals in Burundi, Cote D'Ivoire and Senegal. This phase of the project was conducted in conjunction with the African Centre for Excellence for Access to Justice.

## 1.2 Methodology

The study adopted a mixed research methodology that drew on qualitative research methods to collect data from across the three countries. This engaged an exploration into the status, role, challenges, good practices, and enhancement of the work of paralegals. The research setting was in the three francophone countries of Senegal, Cote D'Ivoire and Burundi. These countries were selected because they are francophone countries in both West and Central Africa. In addition, these countries use civil law and codification of laws as a legal tradition. Codification remains a critical element in the dispensation of justice. In addition, these countries were also chosen because none of them have a law that recognises and regulates paralegals. The conduct of the study involved the identification of local organisations to collect the data from the three countries. The organisations that collected the data included Alliance Cote d'Ivoire from Cote D'Ivoire, Delta Legal and Partners, from Burundi and a private consultant, Mr Abdoulaye Ndiaye, from Senegal. The role of the organisations and the consultant was to identify



the participants for the study and explain the nature of the research and the expected input from the participants. The researcher also collaborated with the aforesaid organisations and consultants to obtain the required ethical clearance from the University of the Western Cape. The process of data collection involved the use of semi-structured interviews, focus group discussions, observations, documents and visual materials. Data was collected from Focus Group Discussions of approximately 12 participants and semi-structured interviews of five key stakeholders. Data analysis involved the use of Cresswell's Thematic Data Analysis which involved an examination, categorisation, tabulation, and a write-up of the various themes.

### 1.3 Findings

Four themes were identified from the study, namely:

- **Understanding of a paralegal in society**

Two sub-themes were highlighted in the discussions between the three countries.

These include the definition of a paralegal and how they operate.

- **Role of paralegals in achieving access to justice**

It was noted that the responses regarding the role of paralegals also alluded to some aspects of recognition by paralegals. Two sub-themes have been identified and discussed here.

- **The challenges faced by paralegals**

Various challenges were identified by participants, ranging from financial challenges to operational and tactical challenges.

- **Recommendations for improving the number of paralegals**

Various recommendations were identified and these included the need to:

- Enact laws to recognise and regulate paralegals.
- Delineate the concept of formal judicial from the work of paralegals.

- Recontextualise aspects of funding and sustainability by understanding the concept of a paralegal in a given community.

### 1.4 Recommendations

#### To the African Union

- To conduct a baseline study on the work of paralegals in Africa; and
- To give thought leadership and normative guidance regarding the development of model laws, general comments and associated soft laws on the development of the work of paralegals.

#### Regional Economic Communities

- Regional Economic Communities like ECOWAS should add traction from a regional perspective to require member states to provide avenues for the work of paralegals.

#### To the national/state parties

- To adopt laws that do not stifle but rather recognise and regulate the work of paralegals.
- To have frameworks that recognise the critical role of paralegals in the mediation processes in the various communities.
- To work closely with development partners towards the development of a curriculum for the training and use of paralegals.

#### To Civil Society Organisations

- To play a supportive role in the development of grassroot institutions to engage the work of paralegals.
- To provide recognition and regulation of paralegals by organisations to ensure accountability.





# 2

## INTRODUCTION TO THE STUDY

The greatest misconception concerning access to justice is the perception that every problem requires a lawyer to solve it. To this end, there has been a misconstrued position that legal aid is synonymous with lawyers. This position is unfortunately informed by a skewed understanding or lack of understanding of the concept of legal aid. This strand is further buried in unionised layers of misconstrued understanding of justice, access to justice, the concept of legal aid, and above all the meaning of a community in the context of paralegals.

While the presence and ability of lawyers to solve problems may be given to various communities, statistics simply show that there are simply not enough lawyers to go around. A look at the position in Africa borrowing a leaf from the various regions gives a picture that is worth evaluating. From North Africa, Egypt has 450 000 lawyers for a population of 107 million people. This creates a ratio of one lawyer for every 233 individuals. Nigeria, West

Africa's powerhouse, has 197 000 lawyers for a population of 206 million people. This creates a ratio of one lawyer for every 1 045 individuals. In addition, a cross-over to East Africa's economic giant, Kenya, projects a total of 17 000 lawyers in a population of 53 million people. It should be noted that the ratio of one lawyer for every 3 117 people projects a bigger problem than in Nigeria. South Africa presents 27 000 lawyers for a population of 59.3 million people. This presents a ratio of one lawyer for every 2 196 individuals. Most of these lawyers work in urban areas where the rural population may not easily have access to them. This position is also alive to the fact that some communities have the urban poor as indigent individuals who also need access to justice. This simply shows that the magnitude of the problem requires that other initiatives in access to justice and legal aid be used in addition to the lawyers.

On another note, a look at the three francophone countries of Cote D'Ivoire, Senegal and Burundi shows that they have populations of 26.4,



18.03 and 12.3 million people respectively. For instance in 2023, Senegal's President of the General Assembly of the Union of Magistrates of Senegal (UMS) noted that the country had five hundred and forty-eight (548) magistrates and the Senegal Bar Association had 437 lawyers. It was reported that Burundi (informally) had 1047 lawyers.



Access to justice transcends the formal to the informal justice system.



### **2.1 Understanding access to justice**

Another challenge lies in the understanding that is accorded to the principle of justice, access to justice, legal aid and the position of paralegals. First, there are two major views of justice, thus the traditional and modern views of justice. Drawing on the guiding principles in the historical Magna Carta of 1219, justice is a virtue or a moral obligation that calls for the visible use of three critical components: fairness, equality, and impartiality. While fairness refers to acting without bias or discrimination, equality refers to the fair distribution of benefits among stakeholders and the burden on society. In the final analysis, impartiality relates to the absence of prejudice regarding justice.

The African traditional justice system emphasises the use of participation, reconciliation and maintaining harmony in society. This justice system presents wide-ranging issues that cut across both civil and criminal matters (OCHCR, 2016). The modern justice system is an exceptionally formal justice system that is cumbersome and expensive – aspects that are punctuated by a deliberate use of legal rules to guide the dispensation of justice. The state is the arbiter of the justice system where the benefits and punishment are based on the deeds of the individual. A functional and effective modern justice system

requires the existence of laws to facilitate access to justice. This view also places the Court in the steering position of dispensing justice. The challenges that the modern view of justice presents include various challenges such as the economic muscle of an individual, time-consuming engagements and procedural challenges. Other challenges include the cost of legal representation, geographical factors that limit access to justice, and the limited number of courts to provide access to justice. It is for this reason that an understanding of access to justice in both the modern and traditional sense is important.

The Danish Human Rights Institute proposes six critical aspects that help one to understand justice. These include a framework of legal protection highlighting acceptable substantive and procedural standards; and legal awareness on the part of providers and users. Others include the availability of legal services needed to link needs to enforceable remedies, including legal aid and counsel, and fair and effective adjudication of disputes. In addition, the enforcement or remedies and transparency and oversight of the operation of the system are also important. However, this still posits the critical role of the use of the lawyer, which does not solve the challenge of the limited number of lawyers in comparison to the populations of various countries.

It is reiterated that access to justice transcends the formal to the informal justice system. International human rights organisations recognise the informal justice systems as far as they are widely used to resolve disputes and regulate conduct through adjudication or mediation in communities. A critical link in this discourse is the place of the community-based paralegal.

### **2.2 A community-based paralegal**

Earlier research that questioned the meaning of a paralegal and a community-based paralegal evaluated various definitions (Nanima & Ebenezer, 2022). The various definitions that were evaluated included the reference to them as non-lawyers who use their knowledge to provide legal advice and assistance to their communities (Rinaldi, 2011). This also included

an indication of the contexts of a paralegal such as one with trust in the community, actively involved therein, with organisational, advocacy or legal aid experience (Rinaldi, 2011). A community-based paralegal was also identified as a person without a degree but who possesses relevant skills and training to provide some legal services to individuals and groups in need of legal aid (DIHR, 2011). Dereymaeker (2016) defines a community paralegal as an individual who does not have a law degree but has skills and knowledge of the law that enables them to provide some form of legal aid and assistance to members of his or her community under the supervision of a legal practitioner. The Kigali Declaration supports this view through the indication that paralegals are indigenous or home-grown community justice institutions (Kigali Declaration, 2017). This questions the place of legal aid in access to justice.

### 2.3 Legal aid

This concept is unpacked because the findings from the study showed that the participants did not have a clear grasp of legal aid. Legal aid refers to the provision of free or subsidised services to individuals who are subjected to an eligibility criterion that identifies them as poor and vulnerable people. Legal aid strengthens access to justice through the provision of various aspects such as legal information, education, advice and assistance, and representation. Legal representation may (at times) engage in alternative dispute resolution (ADR). Drawing on the legal aid pyramid by the Danish Institute of Human Rights, the four aspects of legal aid include legal representation, legal assistance, legal advice/ADR and legal information/education. It is worth noting that legal aid is not synonymous with legal representation.

While legal representation is a preserve for the lawyer who enjoys the right of an audience before a court, other aspects such as legal assistance, advice, information and education can be provided by a non-lawyer. It is on this basis that it is acknowledged that the ability to give information or education is characterised as the simplest thing to do in the community (Global

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A community paralegal is an individual who does not have a law degree but has skills and knowledge of the law that enables the individual to provide some form of legal aid and assistance to members of his or her community under the supervision of a legal practitioner.

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Report on Legal Aid, 2016). This does not mean that concepts in the legal aid pyramid should be conflated. While legal education relates to principles, practices, and theory of law (Global Report on Legal Aid, 2016), legal information relates to the neutral guidance that concerns the law, its procedures, documents, pleadings, practices and legal authority in statutes, cases, or rules (LawInsider, 2021). Furthermore, legal advice is used to empower an individual with knowledge and expertise on how to exercise rights to solve a legal problem (LawInsider, 2021). The point of departure of advice from information is in moving from what the words and processes mean to an evaluation of the law regarding specific facts.

The general position is that legal assistance is informed by an individual's decision to navigate the legal processes in courts of law in light of the nature of the legal processes and the costs involved. It is also important to note that a community-based paralegal may still give this assistance that informs one's decision to engage a lawyer.

## 2.4 The community and the paralegal

The gap to which the study turns is whether a person should be a paralegal or a community-based paralegal. While literature shows that the community may be both geographical and contextual, the community should not require a lawyer but a paralegal to offer legal aid (Nanima & Ebenezer, 2022). An evaluation of how the selected francophone countries deal with the concept of paralegals in a ‘community’ is important. A community is a fairly broad term that encompasses groups of people working together toward the same goal (MacQueen et al, 2001). A community inculcates local people who gather and connect to pursue things together and pursue shared interests or activities (BarnwoodTrust, 2021). A community may also be a space where a paralegal operates to offer services to the population in both a geographical and a contextual place where a paralegal offers legal aid (Nanima & Durojaye, 2022).

## 2.5 The position in international law

The UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (UNGA, 2012) have minimum standards for the right to legal aid in criminal justice systems and provide practical guidance on how to ensure access to effective criminal legal aid services. The Guidelines recognise legal aid as an essential element of access to justice, and the responsibility of the state in providing legal aid for vulnerable groups (UNGA, 2012). However, there is a great tilt to the criminal justice system in the formal justice system.

Normative guidance at the regional level has greatly evolved from the African Commission on Human and Peoples’ Rights. This includes the Resolution on the Right to Recourse and Fair Trial in Africa (Tunis Resolution, 1992) that outlines steps to follow to guarantee a fair trial and access to justice for persons charged with criminal offences. In addition, the Resolution on the Right to a Fair Trial and Legal Assistance in Africa (the Dakar Declaration and Recommendations), requires states to provide accused persons with legal assistance to ensure a fair trial. Just like the UN Guidelines, the Commission recommends that state parties and Bar Associations should consider

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innovative ways – including the use of paralegals – to ensure access to justice for vulnerable and marginalised groups. This position is amplified in the Ouagadougou Declaration and Plan of Action on Accelerating Prison and Penal Reform in Africa (2002) which calls for heightened use of paralegals. The limit remains the tilted position to the formal justice criminal process to provide legal literacy, assistance, and advice at a first aid level.

The Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System in Africa and Plan of Action (2004), also points to the critical link between legal aid and access to justice. The Declaration’s recognition of paralegals as legal aid providers, alongside lawyers and legal assistants, is important in highlighting the role of paralegals. Despite this normative guidance, despite its link to criminal law and the central role of lawyers, community paralegals remain largely unrecognised and unregulated across various domestic jurisdictions (Nanima & Durojaye, 2022). Literature suggests that regulation is important in setting standards to inform training programmes; criteria for the paralegal profession; and the requirement for registration or accreditation frameworks for paralegals (Dereyemaker, 2016). The existence of recognition and regulation does not automatically improve the work of paralegals if it, in the alternative, stifles it. As such, the meaning and expanse of the recognition and regulation require critical thinking that

considers the role of paralegals generally. However, none of the three countries have a law that deal with paralegals. It is on this basis that this study should be carried out. It should be recalled that the previous study was carried out in Nigeria, Ghana, Zambia, Uganda, Tanzania and Mozambique.

Against this backdrop, the Dullah Omar Institute, University of the Western Cape, has received funding from the Mott Foundation to implement the second aspect of the research project on paralegals, with an emphasis on selected francophone countries. This project seeks to document the role, functions, challenges and regulation of Paralegals in Burundi, Cote D'Ivoire and Senegal. This phase of the project will be conducted in conjunction with the African Centre for Excellence for Access to Justice.

## **2.6 The purpose of this study**

The study evaluated the legal recognition of paralegals in three francophone countries of Senegal, Cote D'Ivoire and Burundi. This study emphasised the challenges, benefits and good practices across the three francophone countries.

### **The study:**

- Ascertained the status of recognition or its lack of paralegals in selected countries.
- Evaluated the role of paralegals.
- Evaluated the challenges in the work of paralegals.
- Identified and documented good practices on legal recognition of paralegals.
- Recommended for the improvement of, and provision of better support and commitment to, the work of paralegals.



The UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (UNGA, 2012) have minimum standards for the right to legal aid in criminal justice systems and provide practical guidance on how to ensure access to effective criminal legal aid services.



# 3

## RESEARCH AREAS

This study identified the legal status and experiences of paralegals in the three francophone countries of Senegal, Cote D'Ivoire and Burundi. The study was guided by five research areas: 1) The status of paralegals; 2) The role of paralegals in realising access to

justice for marginalised groups in the selected francophone countries; and 3) The challenges that paralegals face in their work. Other areas include: 4) The identified good practices across the three countries; and 5) How the work of paralegals could be enhanced.



# 4

## METHODOLOGY

### 4.1 Research approach

The study adopted an exploratory research approach that used the qualitative approach in collecting data to ensure flexibility in the collection of rich responses from the participants (Dlukulu, 2011). This was in line with the focal point of using a social study that adopts a research design to amplify the receipt of results to be obtained from the study (Creswell, 2013). To this end, an exploration into the status, role, challenges, good practices, and enhancement of the work of paralegals was done.

### 4.2 Research setting

According to Banerjee & Chaudhury (2010), a research setting is a geographical area where the study was carried out. This geographical area consists of a physical location, population, and nature of laws that informed the work of the subjects under study. This study took place in three selected francophone countries of Senegal, Cote D'Ivoire and Burundi.

These countries were selected for various reasons. First, they are francophone countries in both West and Central Africa. These gave a view of the countries in the two regions, they are francophone speaking, use civil law and codification of laws as a legal tradition. Codification, as a rule of thumb remains to be the critical element in the dispensation of justice as opposed to the use of common law and precedents in common law countries. These countries are also chosen because none of them have a law that recognises and regulates paralegals.

#### 4.2.1 Senegal

The Republic of Senegal is located in West Africa bordered by Mauritania to the North, Mali to the East, Guinea to the South-East, Guinea-Bissau to the South-West and the Atlantic Ocean coastline. It also surrounds the Gambia.

As a former French colony, Senegal uses the Roman-german legal traditions, – an important aspect that informs the inclusive criteria for the study. Its capital city is Dakar, and the country has a population of approximately 16.88 million.

#### 4.2.2 Cote d' Ivoire

The Republic of Cote d'Ivoire is in West Africa bordered by Guinea to the North-west, Liberia to the West, Burkina Faso to the North-East, Ghana to the East and the Gulf of Guinea to the South. Just like Senegal, Cote d'Ivoire is a former French colony, with strong use of the francophone legal traditions. Its capital city is Abidjan and the country has a population of close to 27.48 million.

#### 4.2.3 Burundi

The Republic of Burundi is located in central Africa, and it is a landlocked country bordered by Rwanda to the north, Tanzania to the east and southeast, and the Democratic Republic of Congo to the west. Its capital is Bujumbura and the country has 12.3 million inhabitants.

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An exploration into the status, role, challenges, good practices, and enhancement of the work of paralegals.

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### 4.3 Population and sampling

On one hand, Neuman (2016) describes a population as a larger general group of many cases used to obtain a sample for a study which is usually stated in theoretical terms

and is important in creating a context for a study, from which data or information will be obtained (Thornhill, Lewis & Saunders, 2009). On the other hand, a sample is a small group that is selected from a population to focus on the study and to collect data (Rubin & Babbie, 2011). The participants will be identified by the African Centre of Excellence for Access to Justice (ACE-AJ). It is anticipated that the ACE-AJ will identify a local organisation that engages in the work of paralegals. The local organisations will be subject to the inclusion criteria that will be used to identify the relevant stakeholders for the collection of data. These will include paralegals, members of community-based organisations, the judiciary, and Bar Associations, among others.

The participants were from the three identified francophone countries. The organisations that the Dullah Omar Institute engaged included: Alliance Cote d'Ivoire, from Cote D'Ivoire; and Delta Legal and Partners, from Burundi. A private consultant from Senegal, Mr Abdoulaye Ndiaye, was engaged to collect data from Senegal. The major role of the two organisations and the consultant was to identify the participants for the study. The prepared research instruments were used to carry out the data collection. They explained the nature of the research, the research questions, and the expected input from the participants. In addition, the researcher collaborated with the aforesaid organisations and consultants to obtain the required ethical clearance from research monitoring bodies where it is required. This was under the grant of ethical clearance from the University of the Western Cape.

#### **4.4 Data collection**

The process of data collection used semi-structured interviews, focus group discussions, observations, documents and visual material (Creswell, 2007). This study used semi-structured interviews through focus group discussions and one-on-one interviews to collect data. The research engaged open-ended questions to allow the participants to showcase their experiences in detail (De Vos et al, 2011). (See appendices A, B, C and D).

#### **4.4.1 Identification of participants**

The key research participants were identified through the assistance and network of the African Centre of Excellence for Access to Justice (ACE-AJ). In each country, ACE-AJ contacted a local partner who assisted in recruiting participants for the focus group discussions. These local partners also identified the relevant stakeholders that were to be interviewed. The participants in the research included paralegals, members of community-based organisations, the judiciary, and Bar Associations.

The participants were from the three selected countries of Senegal, Cote d'Ivoire and Burundi. The selected organisations from the three countries in collaboration with DOI played various roles. They identified participants for the study because of their work in the community. They explained the nature of the research, the research areas (questions), and the expected input from the participants to the study. They also ensured that the participants signed consent forms and oversaw the return or email of the same to the DOI.

The DOI liaised with the identified organisations in the selected countries on the requirement to obtain ethical clearance in addition to the ethical clearance from the University of the Western Cape. It was established that there was no need for ethical clearance in the subsequent countries as its nationals were involved in collecting the data.

#### **4.4.2 Preparation of participants**

The organisations in the selected countries and the researcher prepared the potential participants for both the focus group discussions and general interviews. This was done after being granted permission by the Human Social Sciences Research Ethics Committee of the University of the Western Cape. Also, where there were national boards or organisations and permission was required, the researcher was expected to liaise with the national or local organisations to ensure that due permission was obtained.



In the course of the meetings, the purpose of the study was explained to the participants, and the appropriate venues were identified for the interviews (see Appendix A). According to Hancock and Algozzine (2006), interviews are important in obtaining information from participants. As such, the researcher opted for quiet settings, free from distractions, to avoid losing valuable information.

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‘During the interviews, the researcher(s) maintained adequate communication techniques to obtain data from the participants’.

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#### **4.4.3 Interviews and focus group discussions**

The participants were asked simple, open-ended questions, one at a time, thus, allowing them time to respond. During the interviews, the researcher(s) maintained adequate communication techniques to obtain data from the participants. All the interviews were concluded within 45 to 60 minutes.

In each country, focus group discussions of 10–12 participants were carried out. The focus group discussion targeted civil society organisations, actors in access to justice sectors like legal practitioners, legal aid, ministry/department of justice, academics and other stakeholders. Semi-structured interviews were conducted with five key stakeholders like the Bar Association, national human rights institutions and policymakers. Audio recording was used to maintain efficiency in the collection of data verbatim for time management (De Vos et al, 2011). Participants were interviewed until no additional data was forthcoming (Guest, Bunce & Johnson, 2006).

#### **4.5 Data analysis**

Data analysis refers to the changing of the collected data into findings through an examination, categorisation, tabulation, and testing of the qualitative evidence to address the initial propositions of a study (De Vos et al, 2011). The researcher transcribed all the individual interviews using Creswell’s (2007) thematic data analysis. This technique involved the taking of steps that recognised, examined, and reported patterns within data (Braun & Clarke, 2006).

#### **4.6 Ethical considerations**

The researcher obtained ethical clearance from the University of the Western Cape’s Humanities and Social Sciences Research Ethics Committee (Appendix A). The researcher ensured that the participants had full knowledge of what was expected of them in the course of the study. All the participants signed a consent form (Appendices B and C). The researcher ensured that the partner organisations in the selected countries establish if there was a need for more ethical clearance from their research monitoring bodies in the countries.

Also, the researcher was not able to use field notes, audio recording and data saturation. This potentially dangerous predicament was solved by the organisations that collected the data. The non-verbal cues in the personal interviews and the focus group discussions were thus captured (Denzin & Giardina, 2009).

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#### 4.7 Limitations of the study

The greatest limitation was the small sample size, it was in only three African countries. To ensure quality, the study used purposive sampling to draw on participants who were representative of the larger population in terms of the delivery of paralegal services in various countries. While the study cannot be generalised to the African perspective, it gives insights for further studies to be done.

The study was limited to the context of the existence of the legal recognition of paralegals, their lessons, challenges and good practices. Other critical aspects such as the context of

justice, access to justice, and legal aid in the grand scheme of things were by default not engaged. It also suffices to state that this was deliberate to establish the context of paralegals from an inward to outward approach that would then be situated in the recommendations that would arise.

The study was also limited to the online modes of data collection by the principal researcher. The stakeholders in the various countries took on the role of the principal researcher and used the instruments of data collection to collect the data from the participants.



## 5

# PRESENTATION AND DISCUSSION OF THE FINDINGS

## 5.1. Introduction

The participants were categorised in two groups, the FGDs and individual interviews. Concerning the FGDs, Zambia and Tanzania each had 12 participants, Mozambique had 11, Uganda ten, Nigeria 13, and Ghana ten. In total, 68 people took part in the FGDs. Concerning the individual interviews, Uganda, Mozambique, and Tanzania each presented five participants and Zambia, six. Nigeria presented five participants, and Ghana, six. This amounted to 32 participants.

## 5.2. Participant demographics

This section examined participants based on sex; mode of data collection; data collection and gender; designation of participants based on FGDs; individual interviews; geographic regions; and gender, occupation, and experience.

### 5.2.1 Participants by gender

The study in the three selected countries involved 63 participants who took part in both the FGD and the individual interviews with stakeholders.

Name of Country	Male	Female	Total
Senegal	05	14	19
Burundi	14	09	23
Côte d'Ivoire	10	11	21
<b>Total</b>	<b>29</b>	<b>34</b>	<b>63</b>

Table 1: Participants by gender

### 5.2.2 Participants by mode of data collection

Participants	Country	Total
FGDs	Senegal	11
	Burundi	09
	Côte d'Ivoire	13
Interviews	Senegal	08
	Burundi	14
	Côte d'Ivoire	08
<b>Total</b>		<b>63</b>

Table 2: Participants by data collection mode

### 5.2.2 Participants by mode of data collection

Participants	Country	Male	Female	Total
FGDs	Senegal	00	11	11
	Burundi	05	04	09
	Côte d'Ivoire	10	11	21
Interviews	Senegal	05	03	08
	Burundi	09	05	14
	Côte d'Ivoire	04	04	08
<b>Total</b>		<b>33</b>	<b>38</b>	<b>63</b>

Table 3: Participants by data collection mode and gender

### 5.2.4 FDG participants by designation or work

Country	Senegal	Côte d'Ivoire	Burundi
Paralegal/Legal Aid	05	04	04
Government Agent Coordinator	00	01	02
Lawyer/Lawyer	00	01	00
Beneficiary	01	04	03
CSOs	05	03	00
<b>Total</b>	<b>11</b>	<b>13</b>	<b>09</b>

Table 4: FDG participants by designation or work

### 5.2.5 Participants interviewed by designation or work

Country	Senegal	Côte d'Ivoire	Burundi
Civil service	01	01	02
Private Prac	00	00	01
Bar Assoc'n	00	01	04
Magistracy	01	03	02
Inst. of Training	00	00	01
Parliament	00	00	01
Legal aid	06	01	02
Civil society	00	02	01
Academia	00	00	00
<b>Total</b>	<b>08</b>	<b>08</b>	<b>14</b>

Table 5: Participants interviewed by designation or job

### 5.2.6 Participants by region, gender, occupation and experience

Participant	Sex	Occupation	Experience	Region
1	M	Paralegal Coordinator	Dakar and Regions	5 years old
2	M	Paralegal Coordinator	Dakar and Regions	5 years old
3	M	Ministry of Justice/ Magistrate/ Director of Community Justice	Dakar and Regions	22 years old
4	F	UNFPA/AJS programme	Dakar and Regions	8 years old
5	F	Paralegal	Sokone: Kaolack	2 years old
6	M	Paralegal	Ziguinchor	3 years old
7	M	Paralegal	Kayar/ Thiès	3 years old
8	F	Paralegal Coordinator	Dakar and Regions	10 years old
9	F	Paralegal	Keur Massar	22 years old
10	F	Sponsor/Paralegal	Keur Massar	2 years old
11	F	Sponsor/Paralegal	Malika	2 years old
12	F	Sponsor/Paralegal	Malika	3 years old
13	F	Sponsor/Paralegal	Malika	5 years old
14	F	Beneficiaries- Association of Disabled Women	Malika	2 years old
15	F	Sponsor/Paralegal	Thiaroye	6 years old
16	F	Sponsor/Paralegal	Mbao	5 years old
17	F	Sponsor/Paralegal	Thiaroye	4 years old
18	F	Sponsor/Paralegal	Yeumbeul	5 years old
19	F	Sponsor/Paralegal	Keur Massar	11 years old

Table 6: Senegal - Participants by region, gender, occupation and experience

Participant	Sex	Occupation	Experience	Region
1	M	Paralegal Coordinator	5 years old	Bujumbura
2	M	Paralegal Coordinator	5 years old	Bujumbura
3	M	Ministry of Justice/ Magistrate/ Director of Community Justice	22 years old	Bujumbura
4	F	UNFPA/AJS programme	8 years old	Bujumbura
5	F	Paralegal	2 years old	Bujumbura
6	M	Paralegal	3 years old	Bujumbura
7	M	Paralegal	3 years old	Bujumbura
8	F	Paralegal Coordinator	10 years old	Bujumbura
9	M	paralegal	22 years old	Bujumbura
10	F	Sponsor/Paralegal	2 years old	Bujumbura
11	M	Sponsor/Paralegal	2 years old	Bujumbura
12	F	Sponsor/Paralegal	3 years old	Bujumbura
13	M	Sponsor/Paralegal	5 years old	Bujumbura
14	F	Beneficiaries – Association of Disabled Women	2 years old	Bujumbura
15	F	Sponsor/Paralegal	6 years old	Bujumbura
16	M	Sponsor/Paralegal	5 years old	Bujumbura
17	F	Sponsor/Paralegal	4 years old	Bujumbura
18	F	Sponsor/Paralegal	5 years old	Bujumbura
19	M	Sponsor/Paralegal	11 years old	Bujumbura
20	M	Paralegal	18 years old	Bujumbura
21	M	Paralegal	18 years old	Bujumbura
22	M	Paralegal	19 years old	Bujumbura
23	M	Sponsor/Paralegal	23 years old	Bujumbura

Table 7: Burundi – Participants by region, gender, occupation and experience

Participant	Sex	Occupation	Experience	Region
1	M	PMLS	12	5Abidjan
2	M	LIDHO	3	Abidjan
3	F	AFJCI	8	Abidjan
4	F	AFJCI	6	Abidjan
5	M	CNDH	7	Abidjan
6	F	Programme VBG	11	Abidjan
7	F	Programme VBG	10	Abidjan
8	M	Cabinet Avocat	9	Abidjan
9	F	Civil service	15	Abidjan
10	M	Civil service	10	Abidjan
11	M	Private Prac	4	Abidjan
12	F	Bar Assoc'n	4	Abidjan
13	M	Magistrate	8	Abidjan
14	F	Magistrate	7	Abidjan
15	F	Magistrate	3	Abidjan
16	M	Inst. of Training	9	Abidjan
17	M	Parliament	4	Abidjan
18	M	Legal aid	9	Abidjan
19	F	Civil society	13	Abidjan
20	F	Academia	12	Abidjan
21	F	Civil society	15	Abidjan

Table 8: Côte d'Ivoire: Participants by gender, occupation and experience

Country	Senegal	Côte d'Ivoire	Burundi
Civil service	01	02	02
Private Prac	00	00	01
Bar Assoc'n	00	01	04
Magistracy	01	03	02
Inst of Training	00	00	01
Parliament	00	00	00
Legal aid	06	01	00
Civil society	07	06	01
Academia	00	00	00
<b>Total</b>	<b>15</b>	<b>13</b>	<b>14</b>

Table 9: All countries' participants by experience

### 5.3 Presentation and discussion

The results of the study were presented as they emerged from the analysed data from transcribed and semi-structured interviews, observations and field notes. Significance was attributed to the data obtained through the researcher's interpretation of the data. The citations guided the reader to the results that came out of the data. This has led to the identification of themes that reflect participants' understanding of lessons, challenges and good practices (Creswell, 2009). The researcher

incorporated the results with the available literature to support the data analysis.

#### The main themes identified in the study were:

- 1 Understanding of a paralegal in society;
- 2 Role of paralegal in achieving access to justice;
- 3 The challenges faced by paralegal; and
- 4 Recommendations for improving the number of paralegal

Themes	Sub
<b>Theme 1: Understanding a paralegal in society</b>	Sub-theme 1.1: Definition
	Sub-theme 1.2: Mode of operation
<b>Theme 2: The role of paralegal in achieving access to justice</b>	Sub-theme 2.1: Paralegal recognition
	Sub-theme 2.2: Role of paralegal
<b>Theme 3: Challenges faced by paralegal</b>	
<b>Theme 4: Recommendations for paralegal improvement</b>	

Table 10: Themes and sub-themes

The next section of this chapter discussed the different themes with their accompanying sub-themes, supported by direct quotes from the participants. The themes, sub-themes and quotes identified during the interviews were compared and linked to the existing literature and theory applicable to this study.

### **5.3.1 Theme 1: Understanding a paralegal in society**

The first theme was informed by the need to assess a paralegal's understanding in French-speaking countries compared to the position in English and Portuguese-speaking countries. Suffice it to note that two sub-themes were highlighted in the discussions between the three countries. These include the definition of a paralegal and how they operate.

#### **Sub-theme 1.1: Definition of a paralegal**

It should be noted at the outset that the equivalent or synonym of a 'paralegal' in French is the term 'parajuriste'. It is based on the fact that another term, albeit in a different dialect, has been introduced into the already existing literature. That was one of the reasons for the involvement in the community. **According to participants from Senegal, the term 'paralegal' means:**

*People trained to provide basic legal assistance to members of their community. They are usually drawn from the local communities in which they operate and are chosen based on their commitment to their community and their ability to understand and communicate legal issues. In addition, there is a difference between legal aid and judicial aid. While legal aid is like advise and information given by a paralegal, judicial aid refers to support like assistance and representation given in court. (FGD\_SEN)*

**This was echoed by another participant from Senegal who stated that:**

*Paralegals can lay the groundwork for the law, demystify people's fear of the court. It's a way of being a community relay. So we see different perceptions depending on the definitions that share certain aspects of the*

*legal assistance provided to populations. (FGD\_SEN)*

**The participant from Burundi reiterated the same position and stated that a paralegal is:**

*A person who, not being a legal professional, has exemplary moral qualities, basic notions of law, is familiar with the legal procedures and sociological realities of his or her community and contributes, voluntarily and devotedly, to making the law accessible to the population. (FGD\_BUR)*

The participants added that the concept of legal aid in Burundi has two concepts. Aid juridique minima or basic legal aid like counselling and listening. and judicia assistance involves involves lawyers and engaging court. In addition various organisations or groups of people provide legal aid. Nongovernmental organisations provide legal aid through Clinique Juridique where individuals with a minimum law background listen, counsel and people. Women organisations also listen to persons in thematic aspects like domestic violence.

This was consistent with the literature that suggests that a community paralegal is imbued with experience and education on some aspects of the law, despite not being a lawyer. It is also important to note that in some communities, a paralegal must be recognised by social representatives, to attach some respect to the work he or she does through various organisations such as the AJS (Association of Senegalese Jurists) and the RADi (African Network for Integrated Development).

**One participant stated:**

*Thus, by the choice of these social representatives and their registration as community paralegals who benefit from continuous training on the aspects of violence against women, children's rights, etc, there is a certain guarantee of respectability of community paralegals who will at the same time be able to relay the files to the rights shops set up by the AJS (Association of Senegalese Jurists) of which there are nine today. For RADi (African Integrated*



Development Network), paralegals were initially RADl agents who did not have this community affiliation and whose required age was a person over 20 years of age. It should be noted that even illiterate people can be chosen provided they are proficient in the local language of the community or region of work. Finally, it should be noted that criteria were set and one of the most essential was the acceptance or validation of the leaders of the communities concerned of at least the person chosen as a paralegal. (FGD\_SEN)

Suffice it to note that following the definition of a paralegal, other complex aspects shed light on the practice of paralegals in the three French-speaking countries.

### **Sub-theme 1.2: Paralegal operating methods**

There was a series of observations that indicated the specific ways in which paralegals operate in the three countries. These operations seemed to ingratify the way they conducted their business. Concerning the method of dispute resolution through mediation, participants stated the following:

*Once the complainant has been received and listened to, an invitation is made to the opposing party. Before listening to him, he is informed that he is free to appear or not. After the hearing of the opposing party, a joint session is held and from this session,*

*a consensual decision is born. In case of disagreement, the case is sent back to court. In this case, a conciliation report is drawn up and each party receives a copy of it. Paralegals, on the other hand, give this copy to the person who requests it, and not always. Before making a decision, investigative measures are carried out: hearing of the parties and witnesses, site visits, etc. Where it is necessary to make submissions and take testimony, the proceedings shall be public. But family issues, for example, are dealt with in the litigants' house. In any case, it is mediation. In summary, the applicable procedure is that of conciliation, which takes the form of the hearing of the parties and witnesses, if any, the taking of evidence and the decision. (FGD\_BUR)*

This shows that even though the work of paralegals is informal, it still applies to some proceedings where there are attempts at mediation. For example, in Senegal, there are established channels that are used to follow procedures to resolve problems amicably without necessarily resorting to the formal judicial system; this is the mediation system of the houses of justice and community. One participant stated:

*AJS, the approach is to use teachers ... Neighbourhood councillors, feminist*



*activists and development actors because of their local roots and their social representativeness ... made them paralegals after a training program on women's rights, violence against women. (FGD\_SEN)*

This indicates that there are preferred experience levels for paralegals.

### **5.3.2 Theme 2: The role of paralegals in achieving access to justice**

The second theme identified in the resolution was informed by the second area of research, the role of paralegals in achieving access to justice for marginalised groups in selected Francophone countries. It was noted that the responses regarding the role of paralegals also alluded to some aspects of recognition by paralegals. Two sub-themes have been identified and discussed here.

#### **Sub-theme 2.1: Paralegal recognition**

It should be remembered that French-speaking countries are invested in a tradition of codification, unlike English-speaking countries that rely on common law. In Senegal, there is no law in the land to recognise paralegals. However, there are common practices accepted by organisations that recognise the work of paralegals. One participant explained the following:

*With regard to the legal status of paralegals in Senegal, there is no specific status or national regulation that comprehensively governs their practice. However, there are community-based paralegal initiatives and programs that are implemented by non-governmental organizations (NGOs) and community-based associations to improve access to justice in some communities. In Senegal, paralegals typically work under supervision and in partnership with legal organizations, such as access to justice centres or legal aid offices. These organizations provide them with basic legal training and support them in the performance of their duties. (KSI\_SEN)*

In addition, the judicial system creates alternatives to access to justice for both

rural and urban areas. Rural areas have the Houses of justice or Maison de la justice. The understanding of a paralegal depends on the nature of work that an organisation that is implementing the project wants to be done.

Participants went ahead and gave examples of some of the organisations that have some form of recognition for paralegals.

*The main NGOs or organizations in society that have worked or continue to work with paralegals are RADI, CCAD, AJS, the Siggil Jiguéen Network, Natural Justice which calls them CELOS<sup>1</sup> and finally CRADESC.*

*While some organizations opt for continuous collaboration in training and monitoring, others professionalize the function by recruiting and training them to play a specific role in identifying social prerequisites. (KSI\_SEN)*

In Burundi, despite the absence of a law on the recognition of paralegals, there is an indication of their implicit recognition. One participant stated:

*In this revised document, paralegals are not mentioned explicitly, there is mainly mention of the Council of Hill Notables of the Hill, an institution based on the Council of Traditional Notables and which has just been formalized by Law No. 1/03 of 23/1/2021 supplementing the provisions of the Code of Civil Procedure relating to the re-establishment of the Council of Hill Notables of the Hill. Nevertheless, since paralegals have not been officially [recognized] [sic], we can consider it to be an accepted informal justice structure like Bashingantahe (customary notables), religious leaders, community leaders, etc. and which, sometimes, in certain localities, complements the work of the Council of Notables of the Hills. (KSI\_BUR)*

In addition, the government has taken steps to commit to doing the work of paralegals. There is a guide and a national strategy. To that end, one participant stated:

*The functioning of paralegals in Burundi is governed by : ‘GUIDE TO THE ESTABLISHMENT AND OPERATION OF PARALEGALS IN BURUNDI’; which is the reference text for the establishment of community paralegals. This text was developed and validated in 2019 by the Ministry of Justice, in order to promote and harmonize practices in the operation of paralegals. (KSI\_BUR)*

To this end, despite the non-recognition of paralegals in these countries, various organisations and ministries have taken steps in some countries regarding the recognition of paralegals.

### **Sub-theme 2.2: The role of paralegals in achieving access to justice**

Participants were given a variety of roles for paralegals in their communities, primarily with respect to the work they do. In Burundi, participants identified various roles, including conflict resolution. Here’s what they said:

*The role of the paralegal is to: prevent the outbreak of conflict, in particular by raising awareness and informing people about their rights and obligations and about legal procedures; Popularize and disseminate the basics of law in your community. [They also participate] in conflict management, including listening to and advising populations; [facilitate] amicable settlements and conciliation of the parties to the dispute when the dispute is not a matter of public policy; referral to other legal aid providers and/or courts, specialised structures if necessary.*

*[They] also accompany beneficiaries in their pre-competency procedures and to administrative services, including victims of gender-based violence and other vulnerable or indigent persons.*

Participants from Senegal offered a variety of interesting explanations. They said paralegals play a variety of roles in their local communities

to improve access to justice for vulnerable or disadvantaged populations who might otherwise struggle to assert their rights or resolve legal issues. Participants reiterated that paralegals play four roles, which include providing basic legal advice, outreach, human rights education, and advocacy.

Participants from Côte d’Ivoire emphasised that paralegals play a critical role in the administration of justice. They provide that justice

*is a right of every person to be able to bring a case before the courts. Then a decision is made when she disagrees, she agrees, and that’s it, like seeing what you think the public has access to. (KSI CDIV)*

This shows that participants still only see from the perspective of formal justice rather than informal. This is corroborated by the use of formal justice entities like justice shops to provide pathways to justice.

It was also interesting to note that other platforms are informally recognised as dispute resolution models, but they are not recognised as paralegals. For example, in Burundi, it was noted that three other informal platforms for resettlement disputes include ‘the institution of the Bashingantahe, the Catholic Episcopal Conference, and the Council of Hill Notables’ (KSI\_BUR).

The institution of Bashingantahe is composed of local customary chiefs; with administrative structures ranging from the grassroots to the national level with the power to control decisions taken by lower authorities (KSI\_BUR). The Episcopal Conference has agents of the Catholic Church spread throughout the community and has been settling disputes since 1999. Finally, the Council of Hill Notables was established by Law 1/03 of 23 January 2021 with a mandate to relieve formal courts of backlog and strengthen social cohesion at the community level. It remains to be seen how the Council of Hill Leaders works with paralegals.

<sup>1</sup> CELO stands for Community Environmental Legal Officer. This is the name of the community’s lawyers within the Natural Justice Organization.

### 5.3.3 Theme 3: Paralegal challenges

Various challenges were identified by participants, ranging from financial challenges to operational and tactical challenges. In Senegal, participants alluded to various challenges. These included the poor proximity between the courts and the communities. To this end, one participant stated:

*Access to justice is not effectively guaranteed due to constraints related to the geographical distance from the courts, the state of roads and the means of communication. (FGD\_SEN).*

Others include a 'lack of funding', where budget lines from the state coffers are earmarked for legal aid to facilitate the defence of persons accused of offences before the courts. It is interesting to note that, although this budget has increased from CHF 350 million in 2016 to CHF 500 million in 2017, the funds are still insufficient.<sup>2</sup> Other challenges are related to the lack of 'access to information on formal and informal justice processes and their mechanisms' (FGD\_SEN).

Other challenges include the lack of legislation that recognises and regulates the work of community paralegals.

In Côte d'Ivoire, there is a law that protects human rights defenders, but does not address the specificity of community paralegals.

Another challenge with community paralegals is funding that comes primarily from funders. There is no recognition at the state level yet. However, in discussions with the Human Rights Department of the Ministry of Justice and Rights, there was a desire to support the formalisation of the role of the community paralegal.

### 5.3.4 Theme 4: Recommendations for the improvement of paralegal staff

The recommendations will be compiled after hearing from the various data collectors in the three countries. Recommendations that remain clear are the need to:

- Have laws that recognise and regulate paralegals.
- Delineate the concept of formal judicial from the work of paralegals.
- Recontextualise aspects of funding and sustainability by understanding the concept of what a paralegal is in a given community.
- Before funding is earmarked, it is proposed that paralegals on the ground are listened to inform the priorities for funding.

## 5.4 Discussion of identified gaps

The deficiencies identified are indicative of the analysis that is still ongoing. The research identifies five fundamental shortcomings that were identified as a result of the analysis. The discussion below follows.

### 5.4.1 The concept of 'paralegal'

Rather, the concept of paralegal is a matter contextualised by language. It is clear from the interviews and DMFs that all participants allude to the use of the term 'paralegal', which is synonymous with someone who has experience and training in some aspect of the law, despite not being a lawyer. Although various social representatives are recognised, their functioning remains largely informal. They are still not recognised and regulated by their countries.

### 5.4. Public perceptions of paralegal work

Public perceptions depend largely on their understanding of the role of paralegals. They are seen as individuals who work to prevent the outbreak of conflicts, in particular by raising awareness and informing the population about their rights and obligations and their legal procedures; popularising and disseminating the basics of the law to their community. They also play a critical role in their local communities to improve access to justice for vulnerable or disadvantaged populations and in the administration of justice. The challenge is that these roles are not universal, for example in Burundi other platforms lead to the performance of the same work, but they are considered paralegals.

### 5.4.3 The ‘community’ and the ‘paralegal’

The concept of community is still new, and it goes beyond geographic location to offices where communities in specific geographic locations go to seek help in getting information on how to resolve disputes. For example, in Senegal, there are legal centres (law shops and houses of justice) that are established as interpellation centres where information on legal aid can be obtained.

In Côte d’Ivoire, the role of the community paralegal is conducted in specific areas such as health and the model is adapted on that of the Community Health Worker whose role is to ensure continuity between community-based structures and the community.

### 5.4.4 Sustainability

The issue of sustainability relates to finances as an essential part of paralegals’ work. It is important that there is a convergence of good practices either from other French-speaking countries or from the five countries that were part of the initial study to ensure that good practices in terms of sustainability are drawn upon.

## 5.5 Conclusion and recommendations

The existence of codification in the francophone countries did not improve the work of paralegals. On the contrary, there were no laws reflective of the recognition and regulation of paralegals. The understanding of a paralegal was informed by the definition of a paralegal and the nature of the work they carried out in the community. An appreciation of the role of the paralegal had two contextual issues which included the extent to which they were recognised in the various communities and how they played a critical role in aiding the achievement of access to justice. Paralegals faced various challenges such as the lack of financial resources and the attendant

lack of continuity of their work especially where the funding was expended. Other challenges included the lack of legislation to support the recognition and regulation of their work.

Various recommendations were identified, and they include the following:

#### To the African Union

- To conduct a baseline study on the work of paralegals in Africa.
- To give thought leadership and normative guidance regarding the development of model laws, general comments and associated soft laws on the development of the work of paralegals.

#### Regional Economic Communities

- Regional Economic Communities like ECOWAS should add traction from a regional perspective to require member states to provide avenues for the work of paralegals.

#### To the national/states parties

- To adopt laws that do not stifle but rather recognise and regulate the work of paralegals.
- To have frameworks that recognise the critical role of paralegals in the mediation processes in the various communities.
- To work closely with development partners towards the development of a curriculum for the training and use of paralegals.

#### To Civil Society Organisations

- To play a supportive role in the development of grassroots institutions to engage the work of paralegals.
- To provide recognition and regulation of paralegals by organisations to ensure accountability.

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