

# The Efficacy of the Legal Aid Act 2016 in Enhancing Access to Justice

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## Abstract

*In order to fully realize the potential of access to justice for all, the legislative framework for the provision of legal aid will need to be at its best. This study analyses in detail the legislative framework for the provision of legal aid with a particular focus on the Legal Aid Act 2016 (herein the Act). The study examines how effective the Act has been in promotion of access to justice to all. The study begins by discussing the concept of access to justice in general and what it entails, buttressed by various laws, case laws, literature sources and human rights instruments. It goes ahead to discuss the gist of the paper which is the efficacy of the Act in promoting access to justice. This study will therefore critically analyze the Act. It will advance arguments demonstrating how progressive the Act is, but will also advance arguments showing the weaknesses of the Act. All these arguments are advanced in the context of access to justice. In the end, a few recommendations will be outlined in order to cure any mischiefs in the Act. This is the primary objective of this study.*

**Keywords:** Access to justice, Legal Aid Act, Legal Aid Act Analysis, Journal Articles

## Introduction

In the wake of regular struggles by various civil society organisations and other relevant stakeholders to adopt a legislative framework for legal aid services, 2016 marked the year of redemption in this field. Finally, the Act was born. This was met with applause by various human rights groups and civil society organizations because it meant that the concept of access to justice for all would no longer be just another paper right.

Indeed, the principal object of the Act is premised on the Constitution of Kenya 2010. The Act is to give effect to Article 19 (2), 48 and 50 (2) (g) and (h) of

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the aforesaid constitution. Article 19(2) focuses on the preservation of the dignity of individuals and communities and promotion of social justice for all. Article 48 has placed a constitutional mandate on the state to ensure access to justice for all. Article 50 (2) (g) has touched on the right of representation and (h) outlines the importance of assigning an advocate to an accused person by the state and at the state's expense.

The act is progressive in various ways as shall be discussed later in detail. However, it might need a few tweaks to fully realise the potential of access to justice for all. As shall be discussed later in detail, the establishment of the National Legal Aid Service (hereinafter *the NLAS*) and the Legal Aid Fund is commendable. The promotion of alternative dispute resolution mechanisms is worth applauding. The act has clearly outlined what legal aid entails and has even gone further to elaborate on who would be eligible for legal aid. All these provisions, this study argues, are instrumental in achieving the objectives of legal aid.

However, this study advances the argument that the Act is in need of various amendments and reforms if the concept of access to justice for all is to be fully realised and integrated. For instance, the Act is characterized with occasional ambiguities and vagueness in its provisions. This, together with various conflicting provisions, might impede the principal object of the Act as such provisions are open to abuse. In addition, the Act aims to promote alternative dispute resolution mechanisms and out of court settlements, but there is still heavy involvement and intervention by the courts in decision making as will be examined later in detail. It is also argued that there is no oversight mechanism for the NLAS in that it is the sole body that makes most decisions. These and other weaknesses of the Act are some of the concerns this study will seek to address.

### **The Concept of Access to Justice**

Article 48 of the Constitution of Kenya 2010 stipulates that 'the state shall ensure access to justice for all persons and, if any fee is required, it shall be reasonable and shall not impede access to justice'. What exactly does 'access to justice' entail?

Justice is a broad concept. It may refer to a situation where people in need of help find effective solutions available from justice systems which are cost-effective, accessible, and which will dispense justice fairly, expeditiously, and

without discrimination, fear or favour.<sup>1</sup> It could also refer to a fair and equitable legal framework that protects human rights and ensures delivery of justice<sup>2</sup>. It may also mean judicial and administrative remedies and procedures available to a person (natural or juristic) aggrieved or likely to be aggrieved by an issue<sup>3</sup>. In addition, it refers to the opening up of formal systems and structures of the law to disadvantaged groups in society, removal of legal, financial and social barriers such as language, lack of knowledge, of legal rights and intimidation by the law and legal institutions<sup>4</sup>.

In *Dry Associates Limited v Capital Markets Authority & another*<sup>5</sup>, the court's view was that access to justice includes the enshrinement of rights in the law; awareness of and understanding of the law; access to information; equality in the protection of rights; access to justice systems such as formal or informal and affordability of legal services.

The court in *Kenya Bus Service Ltd & another v Minister of Transport & 2 others*<sup>6</sup> further deliberated on the concept of access to justice. It held that access to justice is two-fold. It involves procedural access (fair hearing before an impartial tribunal) and substantive access (fair and just remedy for violation of one's rights).

Gargarella<sup>7</sup> posits that the inability of the disadvantaged to access justice in courts is premised on a number of conundrums. These include, inter alia: lack of information, which the author terms as 'legal poverty'; excessive legal formalism; corruption; inordinate delays; and geographical distance. The author argues that the general problem of legal poverty comprises many subsidiary challenges, such as lack of basic knowledge on what rights one is constitutionally entitled to; not knowing what to do in order to vindicate their

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<sup>1</sup> Francis Kariuki, "Applicability of Traditional Dispute Resolution Mechanisms in Criminal Cases in Kenya: Case Study of Republic v Mohamed Abdow Mohamed [2013] eKLR" (2014) 2(1) *Alternative Dispute Resolution Journal* 210.

<sup>2</sup> *ibid.*

<sup>3</sup> *ibid.*

<sup>4</sup> Global Alliance against Traffic in Women (GAATW), available at <http://www.gaawt.org/ati/> accessed on 6 December 2020.

<sup>5</sup> *Dry Associates Limited v Capital Markets Authority & another* [2012] eKLR in the High Court of Kenya at Nairobi Petition No 328 of 2011.

<sup>6</sup> [2012] eKLR.

<sup>7</sup> Roberto Gargarella, "Too Far Removed from the People. Access to Justice for the Poor: The Case of Latin America" 1, available at [http://www.ucl.ac.uk/dpuprojects/drivers\\_urb\\_change/urb\\_society/pdf\\_violence\\_rights/gargarella\\_removed\\_from\\_people.pdf](http://www.ucl.ac.uk/dpuprojects/drivers_urb_change/urb_society/pdf_violence_rights/gargarella_removed_from_people.pdf) accessed on 6<sup>th</sup> December 2020.

rights; and the inability to understand the legal language and procedures. Concerning economic challenges, Gargarella argues that the disadvantaged are more likely to be unable to initiate a legal process, let alone carrying it through. The high court fees and the costs of hiring a good lawyer are a heavy burden for them. It is important to note that the absence of a good lawyer drastically reduces the chances of succeeding in a case. Thus, this paper advances the argument that lack of free legal services for the poor is a teething barrier to access to justice. In addition, the author asserts that, within the formalistic and bureaucratic subtleties in the adversarial system, an advocate is likely to perform better if he knows how to exploit the prevailing legal complexities to his or her advantage.<sup>8</sup> These complexities transform justice into something exclusive, reinforcing existing inequalities to the detriment of the disadvantaged. According to Gargarella, these challenges represent significant obstacles for the disadvantaged and greatly obstruct their access to justice.

One of the arguments dominating Gargarella's paper is that the judiciary is far removed from the underprivileged. In his view, most of the aforementioned difficulties exude from the very laws that apply to the poor through the judiciary<sup>9</sup>. Some court decisions may be against the poor not out of the judge's personal prejudice, but because the laws applied are inherently skewed against the poor. Accordingly, judicial reform to provide the underprivileged with better legal representation and impartial judges could still not be a panacea to access to justice. As Garro explains<sup>10</sup>, reforms may not shape the rules of law or increase the poor's legal bargaining power. Much broader institutional reforms are required to enhance the poor's access to justice. Gargarella's work is very useful to this study on the barriers to access to justice.

Article 14 of the International Covenant on Civil and Political Rights (ICCPR) also demonstrates that all persons are entitled to the right of equal access to justice systems without discrimination<sup>11</sup>. Article 14(1) of ICCPR reads in part:

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<sup>8</sup> *ibid*, (n 4).

<sup>9</sup> *ibid*, (n 9).

<sup>10</sup> Alejandro Miguel Garro, 'Access to Justice for the Poor in Latin America' in Mendez Juan E, O'Donnell Guillermo, and Pinheiro Sergio Paulo (eds), *The (Un) Rule of Law and the Underprivileged in Latin America* (Indiana, University of Notre Dame Press 1999) 286-7.

<sup>11</sup> International Covenant on Civil and Political Rights (ICCPR), adopted 16 December 1966 GA Res 2200A (XXI) 21 UN GAOR Supp (No 16) at 52, UN Doc

“All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.”

Further, this paper argues that an essential prerequisite to a fair legal system and access to justice is the ability to access legal assistance for the purpose of obtaining a fair trial. This was noted by the Human Rights Law Resource Centre (HRLRC)<sup>12</sup>. The authors argue that accessibility of the law depends on the awareness of legal rights and the availability of procedures to enforce such rights. In the absence of legal assistance, meritorious claims or defenses may not be pursued or successful. In its General Comment 32 on Article 14 of ICCPR,<sup>13</sup> the UN Human Rights Committee encouraged states to provide free legal aid to individuals who cannot afford it.

Similarly, in *P, C and S v United Kingdom*<sup>14</sup>, the European Court of Human Rights held that the failure to provide a person with an advocate was a violation because, in the circumstances, legal representation was deemed to be necessary. The Court observed that the absence of a lawyer prevented the applicant from articulating their case effectively due to the complexity, high emotional content and serious consequences of the proceedings.

This position was reiterated by Lord Justice Denning in *Pett v Greyhound Racing Association*, who stated that:

It is not every man who has the ability to defend himself on his own. He cannot bring out the points in his own favour or the weakness in the other side. He may be tongue-tied, nervous, confused or wanting in intelligence. He cannot examine or cross-examine witnesses. We see it every day. A magistrate says to a man: “you

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A/6316 (1966), 999 UNTS 171, entered into force 23 March 1976, retrieved from <http://www.refworld.org/docid/3ae6b3aa0.html> on 6 December 2020.

<sup>12</sup> Human Rights Law Resource Centre, “The Right to a Fair Hearing and Access to Justice: Australia’s Obligations” (2009) *Submission to the Senate Legal and Constitutional Affairs Committee: Inquiry into Australia’s Judicial System, the Role of Judges and Access to Justice*. Human Rights Law Resource Centre Ltd, 6 March 2009, 8, available at <http://www.hrlrc.org.au/files/hrlrc-submission-access-to-justice-inquiry.pdf> accessed on 5<sup>th</sup> December 2020.

<sup>13</sup> United Nations Human Rights Committee, *General Comment No 32*, CCPR/C/GC/32, 23 August 2007.

<sup>14</sup> *P, C and S v The United Kingdom*, Application No 56547/00 [2002] ECHR 604 (16 July 2002).

can ask any questions you like;” whereupon the man immediately starts to make a speech. If justice is to be done, he ought to have the help of someone to speak for him; and who better than a lawyer who has been trained for the task?<sup>15</sup>

Based on this jurisprudence, this paper argues that a person’s access to justice should not be curtailed on grounds of inability to afford the cost of independent advice or legal representation. Any failure to provide legal aid to those who are otherwise unable to access an advocate is likely to engender inefficiencies and additional costs in the legal system.

Having analysed the concept of access to justice in detail, this paper will proceed to critically analyse the Legal Aid Act in a bid to demonstrate whether the Act is effective and efficient in the promotion of access to justice.

### **The Legal Aid Act 2016 and its Efficacy in the Promotion of Access to Justice**

As discussed hereinabove, the principle objective of the Act is founded on the provisions of the Constitution of Kenya 2010. This is a progressive provision as it depicts the supremacy of the Constitution and the fact that all other laws have to abide by it.

The Act under section 2 has outlined what legal aid entails. It entails: legal advice; legal representation; assistance in-resolving disputes by alternative dispute resolution; drafting of relevant documents and effecting service incidental to any legal proceedings; and reaching or giving effect to any out-of-court settlement. It also includes: creating awareness through the provision of legal information and law-related education; and recommending law reform and undertaking advocacy work on behalf of the community. This provision is instrumental as it deliberates what entails legal aid in order to promote awareness about it. Awareness ensures that the community has knowledge of how to access justice through legal aid. Whether this list is conclusive and all-encompassing remains to be the question as legal aid may entail many other activities not captured in this provision.

Section 3 has outlined other objects of the Act which entail establishing a legal and institutional framework to promote access to justice by: providing affordable, accessible, sustainable, credible and accountable legal aid

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<sup>15</sup> *Pett v Greyhound Racing Association* (1968) 2 All E.R 545, at 549.

services to indigent persons in Kenya in accordance with the Constitution; providing a legal aid scheme to assist indigent persons to access legal aid; promoting legal awareness; supporting community legal services by funding justice advisory centers, education, and research; and promoting alternative dispute resolution methods that enhance access to justice in accordance with the Constitution. It is worth noting that these objects of the Act reflect on what entails access to justice as discussed in the previous section. This is a progressive provision as it depicts the intention of the Act as that of promoting access to justice in general.

The Act also outlines the principles that will guide the National Legal Aid Service (an institution which will be discussed shortly) in the performance of its functions and the exercise of its powers.<sup>16</sup> They include: the national values and principles of governance set out in Article 10 of the Constitution; the values and principles of the public service set out in Article 232 of the Constitution; the principles of impartiality, gender equality and gender equity; the principles of inclusiveness and non-discrimination; protection of marginalized groups; the rules of natural justice; and the provisions of any treaty or convention ratified by Kenya, relating to the provision of legal aid.

Part II of the Act establishes the National Legal Aid Service (hereinafter *the Service*)<sup>17</sup>. Section 6 states that the Service ‘may establish branches in every county in Kenya to ensure reasonable access of its services.’ However it is worth noting that the service has so far established regional offices in a few counties such as Nairobi, Mombasa, Kisumu, Nakuru, Eldoret, Kakamega, Malindi, Kisii, Embu, Machakos, Meru, Nyeri and Garissa. It is hoped that in the years to come, the Service will have established offices in all counties as envisaged by the Act in order to fully realise the potential of access to justice for all.

The service is tasked with various functions, which include to: establish and administer a national legal aid scheme that is affordable, accessible, sustainable, credible and accountable; advise the Cabinet Secretary on matters relating to legal aid in Kenya; encourage and facilitate the settlement of disputes through alternative dispute resolution; undertake and promote research in the field of legal aid, and access to justice with special reference to the need for legal aid services among indigent persons and marginalized groups; take necessary steps to promote public interest litigation with regard

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<sup>16</sup> Section 4 of the Act.

<sup>17</sup> Section 5 of the Act.

to consumer protection, environmental protection and any other matter of special concern to the marginalized groups; provide grants in aid for specific schemes to various voluntary social service institutions, for the implementation of legal aid services; develop and issue guidelines and standards for the establishment of legal aid schemes by Non-Governmental Agencies; in consultation with the Council of Legal Education, develop programs for legal aid education and the training and certification of paralegals; promote, and supervise the establishment and working of legal aid services in universities, colleges and other institutions; (j) promote the use of alternative dispute resolution methods; take appropriate measures to promote legal literacy and legal awareness among the public and in particular, educate vulnerable sections of the society on their rights and duties under the Constitution and other laws; facilitate the representation of persons granted legal aid under this Act; assign legal aid providers to persons granted legal aid under this Act; establish, coordinate, monitor and evaluate justice advisory centers; coordinate, monitor and evaluate paralegals and other legal service providers and give general directions for the proper implementation of legal aid programs and ; administer and manage the Legal Aid Fund.

The promotion of alternative dispute resolution (ADR) mechanisms as a function of the service is certainly a progressive provision as it facilitates access to justice for all. This means that people no longer have to contend with high court fees in order to have their cases heard. In fact, the act has defined ADR to mean 'settling of a dispute by means other than through the court process and includes negotiation, mediation, arbitration, conciliation and the use of informal dispute resolution mechanisms'<sup>18</sup>. This provision presents an important platform for the indigent to access justice.

Important to note however is the function of the service to develop programs for legal aid education. Whilst various universities are now participating in legal aid, this paper argues that legal aid education needs to be addressed more. There is a need to instill this education as a core unit in the legal curriculum. It is important that students understand early enough what legal aid is all about. Such education will form an instrumental foundation for the provision of legal aid services to the community. It means that students and other actors alike will be well trained in this field and will be equipped with basic knowledge and skills in this arena. This will definitely boost the chances of providing efficient legal aid services to the beneficiaries, thereby promoting access to justice for all.

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<sup>18</sup> Section 2 of the Act.



The provision that the service shall 'perform such other functions as may be assigned to it under this Act or any other written law' is a cautious approach by the drafters of the Act as it demonstrates that the activities of the service can never be conclusive in an ever-evolving legal field.

Part V establishes the Legal Aid Fund (hereinafter *the fund*).<sup>19</sup> The Fund consists of moneys allocated by Parliament for the purposes of the Service; any grants, gifts, donations, loans or other endowments given to the Service; such funds as may vest in or accrue to the Service in the course of the exercise of its powers or the performance of its functions under this Act; and moneys from any other lawful source accruing to the Fund. The Service may use the monies of the Fund to: defray the expenses incurred in the representation of persons granted legal aid; pay the remuneration of legal aid providers for services provided in accordance with the Act; meet the expenses incurred by legal aid providers in providing services under the Act; and meet the expenses of the operations of the Service as approved by the Board. This is vital provision as it ensures that at all times, the service is well funded to ascertain the smooth performance of its operations in helping the indigent access justice.

The Act goes on to stipulate that the Service shall provide legal aid services at the expense of the State to persons who qualify for legal aid services under the Act<sup>20</sup>. In fact, it is the duty of the service to establish a cost effective and efficient system for providing high quality legal services within the financial resources available to the service<sup>21</sup>. The fact that the services are at the expense of the state should encourage anyone who may not be able to afford legal services that all hope is not lost. Indeed, the Service provides legal aid services in civil matters; criminal matters; children matters; constitutional matters; matters of public interest; or any other type of case or type of law that the Service may approve<sup>22</sup>. This is an important provision as it shows that regardless of the nature of the case one has, one is in good hands when it comes to accessing legal aid from the service.

Section 36 has outlined the persons eligible for legal aid. Such a person should be indigent, resident in Kenya; a citizen of Kenya; a child; a refugee

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<sup>19</sup> Section 29 of the Act.

<sup>20</sup> Section 35(1) of the Act.

<sup>21</sup> Section 35 (4) of the Act.

<sup>22</sup> Section 35(2) of the Act.

under the Refugees Act; a victim of human trafficking; or an internally displaced person; or a stateless person.

The service shall not provide legal aid services to a person unless the service is satisfied that the claim in respect of which legal aid is sought has a probability of success<sup>23</sup>. This poses a great risk to the concept of access to justice because it's directing the service to be choosy with the kind of cases they should handle based on merit. Ordinarily, lawyers are required to handle a client's case regardless of their private opinions as to its credibility or merits and should vigorously seek to defend client's rights to obtain a favorable outcome<sup>24</sup>. Lawyers should not assume the role of judges and pick cases which they think have merit. To do so would be to limit access to justice to specific individuals whose cases seem 'favorable'. It is argued that this provision should be amended so as to achieve the objective of the Act which is to ensure access to justice for all.

Furthermore, section 37 has stipulated that legal aid will not be available in certain civil matters. The Service shall not provide services: to a company, corporation, trust, public institution, civil society, Non-Governmental Organization or other artificial person; in matters relating to tax; in matters relating to the recovery of debts; in bankruptcy and insolvency proceedings; and in defamation proceedings. This provision may be a little problematic since it is unclear why legal aid services does not extend to such cases. It also therefore means that the concept of access to justice for all is not 'for all' per se.

The act also stipulates that 'the officer-in-charge of a prison, police station, remand home for children or other place of lawful custody shall ensure that every person held in custody, is informed, in a language that the person understands, of the availability of legal aid on being admitted to custody and is asked whether he or she desires to seek legal aid. Whether this provision is obeyed in practice is a different story altogether, but this paper commends the provision for providing a means through which even the accused are made aware of their right to seek legal aid. Awareness of one's rights is such a fundamental principle of access to justice.

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<sup>23</sup> Section 36 (4) (e).

<sup>24</sup> This is a requirement under the Law Society of Kenya (LSK) Code of Standards of Professional Practice and Ethical Conduct (SOPPEC) of June 2016 under SOPPEC 8, paragraph 131.

Moreover, the Act states that a court before which an unrepresented accused person is presented shall inform the service to provide legal aid to the accused person. This is a progressive provision as it obeys the principle of the right to representation which is one of the foundations upon which the Act is premised<sup>25</sup>. However, a conflicting provision presents itself in Section 43 (6) which stipulates that 'despite the provisions of this section, lack of legal representation shall not be a bar to the continuation of proceedings against a person.' This provision, this paper argues is not only conflicting but also ambiguous as to the intention of the drafters. It is unclear why the Act would emphasize the importance of representation to an accused person and yet still go ahead to declare that such representation is inconsequential when it comes to proceedings in court. Such ambiguities are open to abuse and mischief by relevant actors and this will definitely occasion grave injustice to an accused person. This provision, this paper argues, is an outright negation of the very objectives the Act has set out to achieve- the objective to ensure access to justice for all by ensuring the right to representation is enjoyed by an accused person.

Indeed, the Act even goes ahead to stipulate that the service may refuse to grant legal aid to an applicant<sup>26</sup>. This paper notes that the Act has specified persons eligible for legal aid and cases excluded from legal aid services. However, the drafters should have done more than briefly outlining such a provision. No criteria for such a refusal have been put in place by the Act and therefore the provision remains open to a lot of abuse and misinterpretation. This paper recommends that the provision is made more specific to avoid mischief.

Section 44 (7) stipulates that 'where the Service does not grant legal aid to an applicant, the Service shall send a written notice to the applicant stating the reasons for refusal to grant legal aid; and the right to seek review of the decision of the Service and of appeal to the High Court.' This provision presents two legal issues. First, is the fact that one seeks review from the decision maker, which is the service. This is problematic as the same institution that makes the decision is being empowered to review its own decision. There couldn't be a better illustration of conflict of interest. This problem is also present in section 49 (1), Section 66 (4) and Section 67 (4) of the Act. It is suggested that an independent institution is chosen to review the

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<sup>25</sup> Section 43 (1) (c).

<sup>26</sup> Section 44 (1) (c) of the Act.

decisions of the Service in order to ascertain impartiality in the process of promoting access to justice.

Secondly, is the involvement of the court in appeals. This issue is also prevalent in Section 55 which states that ‘an applicant, an aided person or a legal aid provider who is aggrieved by a decision of the Service may appeal to the High Court within thirty days of the decision.’ The thought of an indigent person having to pay court fees to appeal a decision of the service may not sit well with those advocating for access to justice for all. This paper does not in any way advance the argument that the appellate courts should be stripped of their jurisdiction, but however proposes that an alternative out of court process is used to hear appeals particularly for the indigent persons who cannot afford court fees.

Section 69 (1) also provides that an aided person who receives legal aid shall pay a fee of such amount as may be determined by the Service. This provision is quite ambiguous as to the specific amount payable. It offers a wide discretion to the service as to determine such fees and this may be subject to abuse. There is need to specify the amounts payable and make such amounts known to the public as a way of obeying the principle of transparency.

Section 72 (1) of the Act is a progressive provision. It stipulates that ‘If an aided person receives legal aid for civil proceedings and loses the case, the court shall not award an order of costs against the aided person, unless there are exceptional circumstances. The words ‘unless there are exceptional circumstances may offer a bit of an ambiguity, but this provision provides a safety net for the indigent persons who may not be able to afford to pay for such costs.

Section 79 of the Act offers conflicting provisions. It stipulates that ‘an aided person shall not be required to make any payment in connection with the provision of services, except where it is otherwise provided.’<sup>27</sup> It goes ahead to state that an aided person may be required to pay for: the cost of services; a contribution in respect of the services; administration costs; and any other service provided to the aided person. The last provision ‘any other service’ is not only conflicting with section 79(1) but is also ambiguous and open to abuse. ‘Any other service’ could mean anything and such a provision poses a huge risk for mischief, in that any service might be charged as ‘any other service’. Such provisions may impair the ability of the service to ensure

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<sup>27</sup> Section 79(1) of the Act.

access to justice for all as the fees may be too exorbitant for an indigent person.

It is worth noting that the service has come up with legal aid regulations known as The Legal Aid (General) Regulations, 2020 that have bolstered some of the provisions of the act. For instance, they provide for criteria for accreditation of legal aid service providers, criteria for eligibility for legal aid, payment for legal aid services among other provisions. These regulations have not been a part of the discussion entrenched in this paper as this study had a particular focus on the Act. However, it is commendable that the service has delivered on its promise of formulating the regulations. This is an instrumental step in the journey to achieving access to justice for all.

### **Conclusion**

This paper has critically analysed the efficacy of the Legal Aid Act in promoting access to justice. It began by examining the concept of access to justice in detail while using case law and various literature sources to buttress the arguments. The paper determined that the concept of access to justice is broad and entails various components such as the right to representation and affordable legal services. The paper went ahead to critically analyse the Act. Some provisions were found to be progressive in promoting access to justice. Others were marred by ambiguities and conflicts.

This paper recommends thus those various amendments are needed to cure any mischiefs discussed hereinabove. To crown it all, the government should ensure efficient implementation mechanisms are put in place to fully realise the objectives of the Act. All in all, the Act is a positive step in the right direction towards achieving access to justice for all.