



OPEN SOCIETY JUSTICE INITIATIVE

Outcomes Summary: Portfolio Review on Community-Based Paralegalism, 28th April 2015

Moderator: Eleanor Kelly
Portfolio lead: Lotta Teale
Discussants: Christopher Stone, Nancy Sesay
Other participants: Zaza Namoradze, Jim Goldston, Rob Varenik, Peter Chapman, Sumaiya Islam, Kamran Arif, Tamar Ezer, Ostalinda Maya, Marguerite Angelari, Zsanett Borsos, Daniel Sershen, Akos Lipcsey, Johanna Chao Kreilick, Rebekah Walter

Lotta Teale: Overall, the program feels the portfolio has made a lot of progress in building up the field and improving the quality of community-based paralegal programs. While it's our concept, it needs to be empowering and we don't want to control it in the long term. We have provided potential models, helped people learn from each other, and encouraged people to strive towards a higher standard of services and to be ambitious enough to take it to a larger scale. Despite the critique in the review document, we are pleased with what we've achieved: for example, in Sierra Leone, most of the organizations we helped to initiate paralegal programs are now funded, Namati is continuing as an umbrella for the effort, DFID is likely to carry on funding for many years, and the legal aid framework we established is an essential starting point for government taking responsibility for basic legal services. We're also proud at having raised the bar for paralegal standards, improving quality and consistency.

A few outstanding questions include: How to take paralegal services to scale (financial and institutional questions) – especially those which are issue-specific? How could we use technology more seriously in scale up? When taking paralegal services to scale, how can we best ensure they are still empowering communities, finding strategic solutions and bringing about policy change, rather than just solving individual problems? In our work encouraging support by donors and governments – did we have the right balance, what could we have done better? On the global network – how could we improve on this now and should we?

Chris Stone: noted how timely the review is given the shared framework discussions and complimented the materials. He set out three questions:

1. How we have changed in our thinking on the financial side of the scaling – the strategy will likely be very different if it is donors vs governments. Why do governments fund this? Chris thinks that aid agencies invest in paralegals to “solve problems” over a short period, but that this isn't realistic, and that Governments do it to build constituencies, getting people to trust govt.
2. Terminology: the documentation contains an error, one headed legal empowerment, the other community based paralegals. What's the difference and which do we think is more useful?
3. What would we have done differently – particularly on the community of practice work – what was the most successful/ disappointing gathering and why? Which was the best partnership with a local foundation, which the most challenging, and why?

Nancy Sesay asked about the Sierra Leone scale up. She inquired, after learning from our experiences with Timap, how would we have handles the relationship if we did it again? How should we seek to scale up in particularly poor countries where government will not be able to finance it in the near term?

Zaza reflections: The Legal Empowerment Commission report didn't advance the global or national conversation like the Post-2015 agenda has – this has provided an opportunity to deepen and reinvigorate our commitment to legal empowerment in partnership with governments and donors. OSF is seen as a

leader in this field. He flagged the challenge we experienced that JI is operational and foundations are grant making, and some of the managerial tensions we experienced as a consequence, for example in Indonesia. He questioned how OSF can build capacity in leaders to take it forward - Namati is one voice, but there need to be more.

Further discussion highlighted the following key points:

On government vs donor funding: what is compelling for which audience, why and how to alter our strategy accordingly?

- **Jim** thought that aid agencies and governments are interested in checking boxes, numbers of cases, and as such there may be a fundamental tension in the way we view legal empowerment, enabling people to use their agency in a transformative way. He asked whether there is a fundamental tension between our aims for legal empowerment and those of our governmental partners, and if so, how we address that?
- **Zaza** noted that we haven't had much traction on donor funding at an international level, and that we see more progress with governments on community based justice services. On the other hand, criminal legal aid reforms were mostly driven by donor support, but they wouldn't have pushed were it not for OSF efforts. Now in Ukraine, the government is looking to link up with community based legal services we have established in order to enable their new civil legal aid scheme to work. There are similar opportunities in a few other countries where OSF's work has been transformative in assisting governments to develop a systemic approach to publicly funded criminal legal aid services at a national scale, for example Moldova, Mongolia, and Georgia. These, and other locations, now offer opportunities to develop context-specific national models of community based justice services at scale.
- **Lotta** noted that the local government in Ukraine provides support because under Communism the local mayor was responsible for resolving people's problems, and as such the CLCs are taking a burden off local government which they are happy to pay for. She noted that we have had success in encouraging donors to support these efforts at a national level, just not globally, but that part of the reason we have taken this approach is because it's easier than getting governments to fund it – both because in very poor countries the governments simply don't have the money (unlike middle income) but also because of our ability to access donor staff members. National foundations have thus had more success with national governments because doors are more open to them.
- **Sumaiya** likewise noted that doors are more open to us as OSF staff members, but flagged that we have used this strategically, making sure we raise the voices of local groups. For example, in Indonesia, national partners such as YLBHI are now playing a stronger role in discussions with government and with donors because of our involvement.
- **Kamran** observed the challenges of seeking government support in places like Pakistan, where the relationship between CSOs and the government is currently very tense. Governments have funded things like UNDP, but such support is problematic because they want the funds to go directly to government agencies to do the work. The government also gave money to the RSP network though, and we are making use of this – our long term plan is that this endowment money by the government will help sustain paralegal programming – but it is not directly through the government.
- **Ostalinda**: With Roma in Czech Republic, we've learned about how communities can make contributions themselves – both in time and money – if they are really invested in an outcome. This is essential to consider as part of sustainability.
- **Pete**: On the issue of subversion, we're encouraging donors and governments to invest in active citizenship – participation by the poor and vulnerable. We can frame this in different ways and have been doing so – we're using every tool we can to get projects oriented to the poor: for governments, it can be about reducing burden on courts and getting more votes. For donors, we can frame this as

improving impact and efficiency. He noted that pretrial detention in Liberia is an example of such convergence of interests.

Balancing focus on the most vulnerable

Tamar raised how should we handle the tension between strategies that help most marginalized groups and general legal services.

Community of Practice/ global network

Rob noted that the Global Campaign on pretrial justice also ended up focusing on regional communities of practice or networks as a more realistic goal, and asked whether there has been any consideration of that experience (given that this portfolio and the Global Campaign have some overlapping personnel).

He also asked whether anyone else in the field is positioned to experiment with a “pay wall” (i.e. fee for services model) to complement or supplant donor or government funding that may be unsustainable. Or if this is going to be tested, will it be largely be up to the Justice Initiative to try it?

Lotta agreed we should be sharing lessons more across OSF. She felt that the Bangladesh practitioner gathering was the most successful, focusing on particular M&E strategies that were then taken forward. There should be more focus on the paralegals themselves, who are often isolated, to enliven a community of practice – for example Sierra Leone was one of the liveliest organic networks. We should also use facebook. Namati is leading on the network now and we have been encouraging them to focus on more on this; they’re putting more staff into it, assigning regional staff, and giving people more opportunities to do things together.

Chris added that there can be some danger of regional networks if they lose connection with each other, but one approach might be through a small community of practice globally and then participants emulating it regionally. In his experience, people like best to emulate.

Technology/ finance

There was consensus that we need to explore more how we can learn from other sectors – e.g. pay walls for services, or other types of alternative financing and cost reduction now available.

Legal Empowerment vs Community-based Paralegals and a Shared Framework:

The papers contained a clerical error and the focus is on paralegals. Looking forward, for the shared framework, we would likely want to look beyond paralegals to include a range of approaches, depending on the context, including use of technology etc. When discussing paralegals, we should also look at the function as opposed to the name.

Looking Forward:

Chris: We’ve learned a lot about building these programs, the question now is how we take these lessons and apply them in a focused next phase. He would suggest 2-3 places with a 5 year effort to build a nationally accredited system would be an ambitious and credible next step.

Key takeaways:

- Should do better job of sharing lessons across OSF about e.g., how to work with networks.

- Question how we should be thinking about ourselves as actors in the discussion on community-based paralegals, including how we should make most of our strategic position in the discourse to encourage others to invest in this area.
- Need to think more consciously about how strategies would be different for encouraging donors, governments, and others to invest.
- Next stage is to think about institutionalization in a few key countries – bearing in mind that partners might be diverse, incorporating alternative, strategic means of institutionalization (may not be useful to engage government directly in some contexts, eg. Pakistan).
- Need for better use of technology.

Most significant outcome: Going forward, we will take lessons from what we have learned in the portfolio, as drawn out through this process, to focus on the challenge of taking community-based paralegal schemes to scale, in a financially and institutionally sustainable way, in a manner that allows for the empowering elements of paralegals to thrive.