

THE PARALEGAL ADVISORY SERVICE & ACCESS TO JUSTICE IN MALAWI

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INCEPTION OF PARALEGAL ADVISORY SERVICE

- The 1996 Pan-African Seminar on Prison Conditions in Africa noted that under-trial prisoners constituted up to 80% of the total prison population in some countries in Africa due to lack of legal aid services
- Review of juvenile cases in 3 prisons in Malawi (1999) revealed 179 in Zomba prison illegally held
- Regional Seminar on Juvenile Justice recommends launching of Paralegal Advisory Service in prisons to monitor remand cases

ISSUES IN LEGAL AID SERVICE PROVISION

- Practical, affordable and effective legal aid service delivery scheme
- No one country has got it right-judicare has collapsed in many countries, pro bono schemes have hidden costs and many problems
- In Europe, legal aid costs have risen and governments are looking for radical alternatives

WHAT DO POOR PEOPLE NEED BEFORE LEGAL REPRESENTATION

- Advice: bail, appeal
- Assistance: trace sureties, parents/guardians
- Mediation: civil cases and petty criminal cases
- Referral services which are affordable and free

Prison

- Paralegals conduct Daily Paralegal Aid Clinics in prisons: empowering prisoners to apply the criminal law and procedures in their own case (arrest to appeal)
- Paralegals facilitate Camp Courts-screening sessions- held in prisons: magistrate screens the remand caseload:bail,discharge, set dates for hearing

Police

- Trace parents/guardians of juveniles
- Screen juvenile offenders with a view to diversion (24/7)
- Attend at police interview with juvenile
- Attend at police interview with adult accused

Court

- Attend outside court to assist:
 - Witnesses (role and orientation)
 - Accused persons not in custody (not represented by a lawyer)
 - Follow up individual cases from prison and police

Targeted interventions (1) Homicide backlog

- PAS involved in tackling homicide backlog through the Homicide Taskforce. The approach has been to try and address the backlog before trial stage-many homicide cases prove either ineffective or collapse when they finally come for trial at huge expense
- Following referral to DPP and LAD in 2003, 29 out of 33 homicide remandees enter pleas and are sentenced; 2 are not produced at court, 2 enter NG pleas: savings to judiciary \$33,000
- Census of homicide cases indicates 50% will plead to the right charge-manslaughter. Potential savings of >\$400,000 by the Judiciary
- This approach results in a three-fold benefit in terms of: 1) improved case management; 2) reduction of the backlog and breaking down the remainder into manageable numbers; and 3) substantial savings to the judiciary in terms of Judge days spent trying the matters and in terms of costs.
- This has been further carried on with the assistance of the Bluhm Legal Clinic of Northwestern University in Chicago in March 2007, 2008 and 2009

Targeted interventions (2): Juveniles at police

- Steps:
 - Parents/guardians traced
 - Liaise with Victim Support Unit for victim offender mediation
 - Recommendations to prosecuting authorities:
 - Bail
 - Diversion (formal caution + new link with Diversion Programme)
 - Sent to approved school
 - Remainder remanded to prison (majority charged with serious offences or jointly charged with adult accused)
 - ➔ with PAS follow up in prison and refer to Camp Court or secure early appearance in court

EVALUATION OF PARALEGAL ADVISORY SERVICE

- Energising the criminal justice system'
 - PLCs impact: >250,000 prisoners more 'sophisticated' in their understanding of the criminal law and procedure
- Criminal Justice Agencies talking to one another more (CUCs)
- Case flow improving
- Almost >5,000 prisoners released
- Remand population stabilized between 17.5% and 23%
- >80% Juveniles diverted at the police station out of the criminal justice system
- PAS replicated in Benin(2002), Kenya (2004), Uganda (2005), Niger (2006), Bangladesh (2008), Sierra Leone (2009).
- Invitations to start in Liberia, Lesotho, Zambia, Zimbabwe, Botswana, Rwanda and Tanzania.

END OF PRESENTATION

GOOD LUCK!!!!