



***RESOLUTIONS OF THE 1st PAN-AFRICAN CONFERENCE ON “COLLABORATION
BETWEEN THE JUDICIARY AND INDIGENOUS/HOME-GROWN COMMUNITY
JUSTICE INSTITUTIONS”***

African Centre of Excellence for Access to Justice (ACE-AJ)

WE, the participants in the Continental Conference on the Collaboration between the Judiciary and Community Justice Institutions (CJI), met in Kigali, Rwanda from 22nd-24th August 2017 to map out effective strategies for deepening and broadening access to justice in Africa;

BEARING IN MIND that access to justice is a fundamental principle that is essential to ensuring sustainable rights-based development;

NOTING that the global Sustainable Development Goals (SDGs); goal 16(3) aims to realise access to justice for all, especially vulnerable and marginalised groups by 2030;

RECOGNIZING that the African Union (AU) Agenda 2063 and the Shared Values agenda prioritize access to justice as a critical enabler of sustainable development, prosperity and peace in Africa;

RECALLING the commitments and resolutions made by previous gatherings in Kampala 1996¹, Kadoma 1997², Dakar 1999³, Ouagadougou 2002⁴, Lilongwe 2004⁵, Bamako 2011⁶ and Johannesburg 2014⁷ towards the strengthening of the rule of law and access to justice in Africa and that these commitments envisage the creation of integrated, inclusive and holistic justice delivery services and institutions, including meaningful and effective legal services for all and especially the poor and vulnerable groups in society;

NOTING particularly that the delivery of effective legal aid should include paralegal services;

REITERATING that access to justice for most Africans begins with the often unrecognised primary and Indigenous/home-grown Community Justice Institutions

¹ The Kampala Declaration on Prison Conditions in Africa

² The Kadoma Declaration on Community Service Orders in Africa

³ ACHPR Resolution on the Right to a Fair Trial and Legal Assistance in Africa (the 'Dakar Declaration')

⁴ The Ouagadougou Declaration on Accelerating Prison and Penal Reform in Africa

⁵ The Lilongwe Declaration on Accessing Legal Aid in Criminal Justice Systems in Africa

⁶ The Bamako Declaration on Impunity, Justice and Human Rights

⁷ The Johannesburg Declaration on Implementation of the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems

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(CJIs) and systems. These are more accessible, relevant and affordable especially to the poor, vulnerable groups and the communities in which they live;

FURTHER NOTING that whilst formal legal systems are often adversarial and do not necessarily provide an inclusive, timely, holistic and restorative solution to litigants; community based indigenous or home-grown justice institutions provide a critical bridge between communities, centres of power and the formal justice system;

AWARE that the growth in community-based paralegals and community advice offices have been effective in reducing the pressure on formal justice service providers and contributed immensely to social and economic justice through advocacy, community rights education, empowerment and capacity development; and particularly in situations of conflict and post-conflict settings where legal systems and/or transitional justice mechanisms are not able to function. These CJIs also play a critical role as enablers of healing, reconciliation, peacebuilding and mediation at the community level. They offer other services including providing mediation at the community level, referral services, legal empowerment and access to justice at the frontline of the criminal justice system in police stations, prisons and in the lower courts.

These notwithstanding, African Indigenous/home-grown community justice institutions continue to face numerous policy and operational obstacles and challenges;

CONSCIOUS of the enduring impact of colonial legacies that denigrated community courts, customary law, traditional and other Indigenous/home grown community justice systems used by African people across the continent as backward, inferior and only acceptable to the extent that they were not repugnant to Western law and culture;

NOTING the tension and relatively negative attitude of the legal profession across Africa towards paralegals and indigenous/home-grown Community Justice Institutions and processes, as well as the need to minimize and eradicate such tension;

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REITERATING our collective commitment to strengthening the direct participation, leadership and ownership of access to justice ideas, innovations and institutions by Africans;

ACKNOWLEDGING that the values, needs and aspirations of African peoples and communities should shape the design of an inclusive and holistic justice ecosystem in which people's interests are central;

WELCOMING the growing efforts by some African governments across Africa to provide for legal recognition of paralegals and other Indigenous/home grown community justice institutions in providing access to justice;

EMPHASIZING the symbiotic and mutually beneficial relationship between CJIs and other key stakeholders and that the Judiciary and the legal profession have a unique role to play in the recognition of the value added by Indigenous/home grown community justice institutions in the African society;

COGNISANT of the inadequate representation within this Conference of certain regions and countries of the African continent and the urgent imperative of a truly inclusive process;

ACKNOWLEDGING the long-standing and urgent need to promote the African Centre of Excellence for Access to Justice to serve as a bridge and enabler between formal Western systems and home-grown community justice institutions;

We, therefore, **RESOLVE** as follows:

African Values, Vision and Culture

1. Access to Justice in Africa should be infused with the values of community participation, co-operation, 'Ubuntu' and not atomized by the pursuit of individualism, self-interest and competition in the provision of legal and other justice services. In this regard, African justice practitioners should seek to integrate within the framework of Community/Indigenous/home-grown community justice; a human-based value system that promotes integrity,

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accessibility, effectiveness, affordability, transparency and collaboration as principal components.

Legal Education and the Law in Practice

2. The uneven development of formal and indigenous/home-grown justice systems is a political choice that African leaders at all levels can remedy. Thus, balance is required and must begin with deliberate prioritization of African values and systems in amongst others: legal education (e.g. curricula development); legal empowerment; legal access and legal aid(i.e. State and non-State).

Timely, Transparent and Accountable Justice Services

3. An inclusive, holistic and restorative justice system for most African communities is critical to releasing the pressure on justice systems including prison overcrowding, case backlogs in courts and delayed investigations by police through referral of appropriate cases to Indigenous/home grown justice systems. In order to sustain such an approach, African governments should formally recognize and invest in strengthening home-grown community-based justice systems.

African Union (AU) Organs and Institutions

4. African governments, parliaments, judiciaries and the African Union organs and institutions should adopt policies, procedures and mechanisms to enable the development of indigenous/ homegrown justice institutions based on shared African values of “Ubuntu”.

Africa Centre of Excellence for Access to Justice (ACE-AJ)

5. The newly established African Centre of Excellence for Access to Justice (ACE-AJ) shall be inclusive of linguistic, geographic, cultural and other diversities of the African continent.

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ACE-AJ shall also seek to serve as our common platform for supporting the work of Indigenous/home-grown community justice systems, service providers and users.

Further, that the ACE-AJ shall ensure regular convening of the judiciary across Africa to evaluate progress made in the collaborative efforts with paralegals and other Indigenous/home-grown community justice systems.

National Constitutions, Laws and Policies

6. African governments should legally recognize paralegals and other Indigenous/home-grown community justice service providers systems and structures.

That independence of paralegals as well as Indigenous/ home grown justice systems shall be guaranteed through governance and accountability mechanisms. These shall where appropriate include self-regulation.

State and Non-State Financing

7. African governments should provide adequate funding for paralegals and indigenous/home-grown justice systems in their justice budgets.

Regional and International Framework for Paralegals and Indigenous/ Home grown Justice Systems

8. The African Union and Regional Economic Communities (RECs) shall take measures to support paralegals, indigenous and home-grown access to justice institutions.

The quality and consistency of community paralegal efforts shall be strengthened through certified training courses; ethical guidelines; monitoring and evaluation mechanisms; and procedures for community oversight.

Also, that standards and mechanisms will be developed in order to ensure that paralegals and other Indigenous/home-grown community justice systems adhere to Constitutional and International Human Rights standards.

Comprehensive Justice Eco-System Design and Coordination

9. African governments should put in place mechanisms and processes to ensure meaningful collaboration between the key stakeholders within the justice delivery system; including: the judiciary, legal profession, national human rights institutions, prosecution, police and community justice systems.

The African Union, national post-conflict reconstruction authorities and development partners should formally recognize and integrate paralegals and other services of Indigenous/home grown community justice systems in the early recovery stage.

African ideas, knowledge and experiences should inform the design, purpose and outcomes of a people-centred justice delivery system. In particular, governments should invest in research, evidence-based policy, capacity development for paralegals and other Indigenous/home grown community justice service systems.

African Indigenous/home grown community justice practitioners should prioritize the use of data and research to shape their internal and external engagements with communities, governments and other stakeholders.

Harmonization of External Financing and National/Local Priorities

10. International development partners should invest in strengthening African paralegalism and other Indigenous/home grown community justice systems in their organizational development.

Traditional and faith-based community justice mechanisms should be capacitated and supported to align with Constitutional values and principles.

Capacity Development for Justice Sector Stakeholders

11. Paralegals and other Indigenous/home grown community justice systems should:

Be capacitated to optimise the use of relevant modern technologies and non-traditional media;

Develop standards and 'how-to' develop tools for effective performance management of their programmes and processes, including monitoring and evaluation of impact of their work and;

Develop codes of conduct and other forms of self-regulatory mechanisms.

Further that Africa-wide impact assessment, shared learning platforms for paralegals and other Indigenous/home-grown community justice systems shall be developed including, through skills sharing.

Broad-Based Partnerships for Access to Justice

12. Effective partnership with African governments, development partners, individuals, private sector players and application developers shall be put in place towards deepening and broadening access to justice in Africa as well as towards enhancement of data management and documentation.

Paralegal and Indigenous/home grown community justice service providers shall develop innovative sustainability mechanisms and processes.