
Malawi

Law & policies

The Legal Aid Act of 2010 describes legal aid assistants as individuals who are not legally qualified to be lawyers but have attained the “requisite minimum level of legal education” approved by the Council of Legal Education to become eligible for employment with the Legal Aid Bureau or serve in a clinical legal education programme.¹ This is the closest the Act comes to describing a paralegal. Civil society organizations train and deploy paralegals to communities across Malawi.²

The ratio of lawyers to paralegals

The Malawi Law Society lists 784 legal practitioners and notaries public for the current year.³ The Paralegal Advisory Service Institute (PASI) is the only network of paralegal organizations in the country but there are other organizations offering paralegal services that do not belong to PASI. PASI has a little over 1300 paralegals.⁴

Sources of funding

The main source of funding for paralegal work is international donors. The Legal Aid Act creates a Legal Aid Fund⁵ which could potentially defray costs and expenses incurred in the provision of legal aid, including by paralegals. However, the fund has yet to be operationalized.

Legal recognition

The Legal Aid Act of 2010 does not expressly recognize paralegals but it is fair to argue that they are impliedly recognized in the context of legal assistants.

¹ Section 2, Legal Aid Act of Malawi 2010 <<https://malawilii.org/akn/mw/act/2011/7/eng@2014-12-31#:~:text=A%20person%20shall%20be%20eligible.of%20a%20legal%20private%20practitioner>> accessed 10 May 2023.

² See NAMATI, “Malawi – Country Paralegals: Recognition and Financing.” Malawi Research Brief, March 2019 <<https://namati.org/wp-content/uploads/2019/03/Malawi-Community-Paralegal-Research-Brief-Final.pdf>> accessed 10 May 2023.

³ 1st February 2023 – 31st January 2024. See <<https://www.malawilawsociety.net/membership/licensed-member-list>> accessed 19 May 2023.

⁴ Interview with Clifford Msiska, Director of PASI on 19 May 2023.

⁵ Section 39 of the Legal Aid Act of Malawi 2010.

Challenges of paralegals

Funding is a challenge as most paralegal organizations rely almost exclusively on foreign donors for support. Expectedly, donor priorities often change and that could make the difference between staying on or packing up. Training is also a challenge because it is often episodic and organization-specific. There is no standardized training module for paralegals. Yet another challenge is mistrust within the legal community. Lawyers do not fully appreciate the role of paralegals and therefore sometimes feel threatened by paralegals working in rural areas as pseudo-lawyers.

Opportunities for collaboration

As funding is a fairly universal problem, the paralegal movement in Malawi might wish to learn from movements elsewhere with better results by tapping into Legal Aid Funds or diversifying sources of funding to include domestic donors. Concerning mistrust – which is also fairly universal – it might help to engage on a continental level perhaps with the Pan African Lawyers Union (PALU) to have this topic discussed at a future annual conference.

Recommendations

Recommendations include prioritizing diversification of sources of funding, including by looking more inwards; engaging with PALU on the possibility of convening a session at its annual conference to discuss mistrust of paralegals by lawyers and how that can be addressed. Finally, on training, groups such as the Paralegal Advisory Service Institute (PASI), which have been in the vanguard of the paralegal movement in Malawi might wish to take the lead in designing a model training curriculum which could then become a tool for engaging all stakeholders on what to teach paralegals across the country.