**GPC Task Team on Law and Policy on Internal Displacement**

**23 September 2021 - Meeting Notes**

**Summary**

This TTLP meeting was the occasion for IDLO colleagues to present IDLO’s latest publication on “[Community Paralegals, Customary and Informal Justice Systems, and New Pathways to People-Centred Justice](https://www.idlo.int/publications/community-paralegals-and-customary-and-informal-justice)". This is the fourth publication in the series[*Navigating Complex Pathways to Justice: Engagement with Customary and Informal Justice Systems*](https://www.idlo.int/what-we-do/access-justice/customary-informal-justice), following a [Policy and Issue Brief](https://www.idlo.int/publications/policy-and-issue-brief-engagement-customary-and-informal-justice-systems), [Practitioner Brief](https://www.idlo.int/publications/practitioner-brief-engagement-customary-and-informal-justice-systems), and [Issue Brief on Women and CIJ Systems](https://www.idlo.int/publications/issue-brief-women-and-customary-and-informal-justice-systems).

In addition, Anika Holterhof (UNODC) gave an update on the development of UNODC's “Legal aid in criminal justice systems” assessment tool, which will be finalized in the coming two months. TTLP members’ feedback on the draft tool is welcome.

**IDLO’s presentation**

* In order to improve the scope and quality of justice systems, it is fundamental to recognize the variety of justice actors and mechanisms, including dispute resolution outside formal courts. Estimates suggest that up to 90% of legal disputes in developing and fragile states are resolved through customary informal justice (CIJ) systems;
* Advantages of CIJ include accessibility, cultural relevance and room for reconciliation; however, the greatest challenge is the lack of procedural safeguards. For this reason, IDLO’s principled approach, that consider advantages but also risks and dilemmas, based on a case by case assessment;
* Paralegals play a key role in bridging the gap between informal and formal justice systems. A practical example is Somalia, where IDLO has established, in partnership with the MOJ, nine alternative dispute resolution (ADR) centers. Main aim is to enable elders to adjudicate civil disputes and minor crimes at community level complying with minimum standards of fair trial and procedural safeguards.
* Each ADR center is staffed with panels composed of clan elders and representatives of different constituencies, including minority clans, IDP representatives and women. Additionally, one clerk in charge of case file documentation and one paralegal for each center to provide technical support to adjudicators;
* The latest IDLO’s publication explores the role of paralegals in promoting ATJ highlighting good practices and challenges in Sub-Saharan countries;
* Good practices: paralegals can, among others:
  + provide technical support to customary justice actors;
  + support access to justice for women and vulnerable groups by providing tailored accessible legal advice;
  + monitor and participate in customary justice processes to increase accountability and diversity, including women's representation;
  + build partnerships and networks with government and civil society stakeholders to leverage resources to sustain paralegal activities.
* Obstacles faced by paralegals:
  + lack of comprehensive legal and policy frameworks regulating legal aid and paralegal services;
  + tensions with other legal and justice actors, especially lawyers and CIJ actors;
  + limited resources and networks;
  + lack of comprehensive skillset to navigate formal and informal justice systems and tools to monitor performance and ensure accountability of paralegals.

During the ensuing discussion, TTLP participants had the possibility to ask questions, provide comments and share their experiences.

* The findings and recommendations shared by IDLO were found very useful and aligned with the justice context of South Sudan, especially regarding the HLP resolution mechanisms;
* A colleague from GBV AoR asked to share further information about specific experiences of paralegals’ role with regards to GBV and about the existence of training packages for paralegals on handling GBV cases:
  + Through data analysis on cases received in Somalia, IDLO identified several cases related to GBV; however, some of them were not recognized as GBV cases by adjudicators but categorized as family disputes. Need to emphasize capacity building in this area, especially through technical support by paralegals in classifying cases to be referred to formal justice authorities;
  + Other challenges for people to access formal justice authorities for GBV cases are social stigma and operational and logistic gaps. Need to provide GBV victims with basic social and health services.
* It was also asked about potential risks faced by paralegals in conducting their work and ways to foster their security, which can often be at risk:
  + Indeed IDLO research also revealed that in many communities, paralegals are not able to operate freely and independently because of risks of backlashes from elders and from customary justice authorities. In order to overcome tensions, there is a need to involve both paralegals and local justice actors and activities of sensitization and dissemination since the first stages of projects.

**UNODC**

* Working on promoting the implementation of the UN Principles and Guidelines on Access to Legal Aid in Criminal Justice System. Previously, UNODC produced documents for member States and experts that have given practical guidance to reform justice systems and legal aid services in cooperation with UNDP, UN Women but also civil society and experts;
* COVID-19 has shown the need for an assessment tool on legal aid in criminal justice systems;
* IDPs, asylum seekers and refugees are part of this new study as vulnerable groups with specific needs but limited focus on them yet - hence a review by TTLP members would be welcome!
* Asked the TTLP to receive feedbacks, ideas and suggestions:
  + on general risks and solutions existing while conducting assessments in humanitarian settings;
  + on the specific needs of refugees, asylum seekers and IDPs in relation to access to criminal legal aid; and
  + guidance on how this system works in times of Covid with remote hearings and the increased use of e-justice.

**AOB**

* Updates from Martina (chair):
  + The recruitment of the consultant who will work on legal aid in humanitarian settings is ongoing;
  + The work for the Global Report is proceeding. Replies to TTLP survey and additional information received by field colleagues from over 25 countries;
  + The alpha version of the E-learning Course “Introduction to law and policy on internal displacement” will be received in October - *let Martina know if you’d like to be involved in the review and provide feedback!*
  + On Tuesday, Martina will
* Updates from Sudan:
  + meeting with the members of the national mechanism for protection of civilians: UN agencies agreed to support them with the development and implementation of the national plan for protection of civilians;
  + POC tracking tool, developed jointly with UNITAR and other UN agencies, will be launched soon;
  + decided to limit collection and communication of early warning messages through the protection of civilians advocacy briefs, usually issued after or on the eve of some incidents.

**Action points**

* IDLO is open to partner with and support TTLP members and others in legal systems’ analysis, also on issues related to migrants and IDPs. IDLO contacts in Geneva: Mark Cassayre ([mcassayre@idlo.int](mailto:mcassayre@idlo.int)) and Silvia Dodero ([sdodero@idlo.int](mailto:sdodero@idlo.int));
* UNODC will share the table of contents and two chapters of their draft Legal Aid Needs Assessment Tool relevant for the TTLP for TTLP members’ inputs and feedback by beginning of November (from any actors that work with stateless people, IDPS and refugees in order to have a better connection with traditional criminal justice aspects);
* Martina will share the alpha version of the e-learning on IDP law and policy with colleagues interested in supporting its review.

**Upcoming events**

* IDLO, Reducing Climate-driven Instability and Conflict Over Land and Natural Resources: What Role for Customary and Informal Justice Actors?, 6 October: <https://www.idlo.int/news/events/reducing-climate-driven-instability-and-conflict-over-land-and-natural-resources-what> ;
* Global Launch: World Justice Project Rule of Law Index 2021, 14 October: <https://www.eventbrite.com/e/world-justice-project-rule-of-law-index-2021-global-launch-registration-168956985893>