

## Rethinking The National Legal Aid Service

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### **Abstract**

*Attention has been given to few rights in the constitution like the two-thirds gender rule and the right to emergency abortion, with others like the right to fair hearing cast on the back burner. This right includes, inter-alia, the right a state-funded legal representative. The passing of the Legal Aid Act was laudable, but it places many burdens solely on the shoulders of the National Legal Aid Service.*

*The service is charged with a multiplicity of roles that require resources and facilities which would otherwise have been used in ensuring and expanding legal justice for the indigent.*

*Some roles assigned to the service, like regulation and accreditation of legal practitioners, are performed by organisations like the Law Society of Kenya and Council for Legal Education and offering legal aid, by the Ombudsman, among others. Many resources go into these non-core functions, and the payment of the bloated workforce required to perform them.*

*The National Legal Aid Service has to be re-thought, and functions that are achievable by cooperating with other entities withdrawn. Its role can be limited to that of a fund or regulator, to facilitate the provision of legal aid through existing proxies. This will reduce its required workforce and free up more funds, allowing it to focus on fulfilling its core mandate and increase its impact and sustainability.*

## **1. Background**

### **1.1 Introduction**

Studies have demonstrated that during their lives, most people arrive at a point where they run into a legal problem of some sort. The Open

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Government Partnership (OGP) in its 2019 Global Report highlighted that 51% of people that live in OGP countries had at least one legal problem in the period of the immediately preceding two years.<sup>2</sup> It is estimated that only 37% of the number that sought help, with just over half of this demographic reporting satisfaction with the outcome.<sup>3</sup> This low figure casts doubt on the issues of quality and efficacy of the legal assistance they were able to acquire. Almost half of the majority who did not access legal services, on the other hand, expressed dissatisfaction with the eventual outcome of their legal issue.<sup>4</sup> This suggests an involuntary inability, on part of the victims, to seek the required legal aid given the high cost of legal services. This scenario is replicated here in Kenya, as per a 2017 report by Hiil and the Judiciary. The report established that 63% of Kenyans experienced a legal problem in the preceding four years.<sup>5</sup> The findings of the study further showed that of the respondents who had legal problems and were willing to seek legal aid, over half failed to access assistance either due to lack of knowledge or finances.<sup>6</sup> The high number of people unable to access quality legal aid is the basis for the Kenyan government's intervention in the provision of legal aid in the country.

It is important to note that prior to the establishment of the National Legal Aid service, there was no single harmonized state effort to provide legal aid and services and to the indigent and those in need of legal assistance. During this period, legal aid was provided by the state through various government departments. These include the Office of the Attorney General whose main responsibility is to uphold the rule of law as well as ensure that both state and non-state parties' actions are congruent to the prevailing public interest.<sup>7</sup> In line with this role, the office is mandated to initiate and conduct proceedings with the aim of seeking protection and compensation of

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<sup>2</sup> Open Government Partnership, *Open Government Partnership Global Report 2019* ( Justice Policy Series Psrt 2019)

<sup>3</sup> Ibid

<sup>4</sup> Ibid

<sup>5</sup> Hiil, *Justice needs and satisfaction in Kenya* (Hiil, 2017) [https://www.hiil.org/wp-content/uploads/2018/07/hiil-report\\_Kenya-JNS-web.pdf](https://www.hiil.org/wp-content/uploads/2018/07/hiil-report_Kenya-JNS-web.pdf) Accessed 23 November 2020.

<sup>6</sup> Ibid

<sup>7</sup> Constitution of Kenya 2010, Art 156

vulnerable victims of offences and crimes.<sup>8</sup> The Office of the Director of Public Prosecutions is similarly established under the constitution, with its major role spelt out as the institution of criminal proceedings in line with the law and public interest.<sup>9</sup> The Director of Public Prosecutions, through his prosecutors, has carried out its mandate of prosecuting offenders and instituting legal proceedings to aid victims of criminal offences to get retribution and closure through the conviction and subsequent fining or imprisonment of the offenders.

The office of the Ombudsman which is established under the constitution,<sup>10</sup> has its main function outlined as the protection of individual rights by investigating complaints of abuse of power and contravention of rights and thereafter, taking necessary legal steps to assist the victims.<sup>11</sup> It has since acted as a safeguard and deterrence of power for individuals and entities against oppressing the poor, as demonstrated in 2019 when its relentless efforts ensured the return of a widow's property irregularly acquired by a former governor in Kiambu County.<sup>12</sup> Similarly, other constitutional commissions like the Kenya National Human Rights Commission were also mandated to provide legal services and assistance to citizens in need.

Non-government players also provided legal aid. For instance, a large chunk of legal assistance for women and their children was also provided by Non-governmental Organisations like federacion Internacional de Abogadas – Kenya (FIDA-Kenya)\*. FIDA-Kenya came into existence in 1985 through the efforts of female professionals who noted with worry, the negative repercussions of lack of appropriate legal counsel, especially on indigent women and their children.<sup>13</sup> It was thus established to provide legal aid to indigent and deserving people, especially females, with a niche in family law matters.

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<sup>8</sup> Victim Protection Act 2014, s 31; see also, Office of the Attorney General and the Department of Justice <https://statelaw.go.ke/services-to-the-public/compensation-of-victims-of-crime/>

<sup>9</sup> Constitution of Kenya 2010, Art 157

<sup>10</sup> Ibid, Art 59

<sup>11</sup> Commission on Administrative Justice Act 2011, s 8, 38, 29, 32

<sup>12</sup> A Magut and E Kamurungi, *How Waititu Used his position to take away a widow's land*, (Nation Africa 2019)

<sup>13</sup> FIDA Kenya <https://www.fidakenya.org/site/founders> accessed 23 November 2020; See also <https://www.fidakenya.org/site/history> accessed 23 November 2020

This scenario: where the provision of legal aid is disjointed and not regulated by a central organisation, presented various challenges. Firstly, it increased the possibility of innocent parties being exploited by practitioners masquerading as providers of free legal aid due to inefficient safeguards\*. Secondly, it posed a challenge to the harmonization of legal aid services to ensure that all legal aid for the indigent were of acceptable standards\*. Finally, the overlapping of functions between various state agencies, offices, and commissions are a potential source of confusion over mandates\*. They are also a breeding ground for chaos and disagreements over the extent of the limits of each entity. Furthermore, it risked the possibility of wasting scarce public resources due to duplicated functions of the various bodies.

It is against this backdrop that the dire and urgent need for the establishment of a coherent single regime for regulating legal aid became more evident. The National Legal Awareness Plan (NALEP), a precursor to the Legal Aid Act, was set up to provide affordable, accessible, and credible legal aid to the poor at the expense of the state.<sup>14</sup>

## **1.2 Establishment of the Legal Aid Act**

The Legal Aid Act was enacted on 22<sup>nd</sup> April, 2016 and came into force on 10<sup>th</sup> May 2016.<sup>15</sup> The act came six years after the promulgation of the constitution, with its intention being to actualize the right to a fair hearing for Kenyans, as provided for under the constitution<sup>16</sup> The specific entitlement under the right to a fair hearing that it was intended to safeguard is the right of every individual to have legal counsel provided by the state. Some proponents have felt that the right is a progressive one and not yet as pressing as others like the right to healthcare and the right to food which affects a wider demographic.<sup>17</sup> It can easily be argued, in this regard, that this right should be limited to serious offenses where the possible sanctions faced by the accused are grave. This is the position in some jurisdictions within the United States of America where the right is has been reserved only for people

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<sup>14</sup> Legal Notice Number 220 of 2002

<sup>15</sup> Legal Aid Act, 2016; see also <https://www.idlo.int/news/highlights/kenya-first-legal-aid-action-plan-formally-launched>

<sup>16</sup> Constitution of Kenya 2010, Art 50

<sup>17</sup> *Soobramoney v Minister of Health (Kwazulu-Natal)* (CCT32/97) [1997] ZACC 17; 1998 (1) SA 765 (CC); 1997(12) BCLR 1696 (27 November 1997)

accused of committing capital offences.<sup>18</sup> This, coupled with the fact that the right can be limited under special circumstances provided by the constitution, thus not absolute,<sup>19</sup> casts aspersions on the need for utilization of limited public resources to actualize it as opposed to other absolute rights that are yet to be attained.

The foregoing notwithstanding, the legislature enacted the instrument, thereby effectively establishing the National Legal Aid Service and from the onset, adorning it with a host of functions including; the collection and availing of funds to be used for the provision of legal aid<sup>20</sup>; the screening, identification, and acceptance or rejection of potential beneficiaries and candidates. It was also given the mandate to determine those deserving of legal assistance<sup>21</sup>; the establishment of standards and requirements for the accreditation; and the accreditation of qualified legal practitioners who can it can work within the view of achieving its functions.<sup>22</sup> The service is also required to carry out investigations and establish that the beneficiaries have remained within the purview of deserving legal aid in order to determine whether or to withdraw or scale down its assistance, or reclaim resources needlessly spent.<sup>23</sup> In addition, the service is tasked with reclaiming or collecting awards from courts won by their beneficiaries. Furthermore, like other agencies, the national legal aid service has been accorded a corporate status, which means that in addition to its numerous functions, as a consequence of its legal personality, it is also open to legal battles of its own.<sup>24</sup>

## **2. Challenges of the Legal Aid Act**

From the foregoing, the first hurdle to the successful implementation of the objects of the act is glaringly evident.

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<sup>18</sup> *Betts v. Brady* 316 U.S. 455, 62 S. Ct. 1252 (1942)

<sup>19</sup> Constitution of Kenya 2010, Art 24

<sup>20</sup> Legal Aid Act 2016, s 7

<sup>21</sup> *Ibid*

<sup>22</sup> *Ibid*

<sup>23</sup> *Ibid*

<sup>24</sup> *Ibid*

## 2.1 Too many functions

The state agency has too many functions and duties that it is required to concurrently run. It has been asserted that when numerous functions and duties are housed under the hospices of a single entity, it is bound to become ineffective due to the fact that the entity will divert swathes of its attention and resources to ancillary roles. It also carries the risk of being complacent in delivering its core mandate.<sup>25</sup> This means that the National Legal Aid Service, in a bid to perform all the functions accorded to it under the act, some of which are merely ancillary to its main function, expends its limited resources and attention thereby leaving little time and resources for its main role.

The core role of the National Legal Aid service is the provision of legal aid to the indigent or those in need of assistance.<sup>26</sup> Although the ancillary functions it is accorded are meant to facilitate the attainment of his objective, they only serve to impede it. The main role fades into the background, overshadowed by the numerous other functions which it must fulfill. The reduction of these functions will accord the service more time to focus its attention and energy in availing and provision of funds for legal aid.

## 2.2 Duplication of roles performed by existing parties

Many of the functions that have been highlighted were and are still performed by other organisations and individuals as highlighted below:

### 2.2.1 Certification and regulation of legal professionals

Currently, the Council for Legal Education is tasked with assessing and evaluating the competency of lawyers and paralegals.<sup>27</sup> This is a function it shares with the Kenya School of Law, which also serves to train and certify the qualification of lawyers and paralegals in Kenya.<sup>28</sup> The Law Society of Kenya, another statutory body, is also tasked with certifying practicing

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<sup>25</sup> S Stowell, *The 5 Most Common Problems of Organizations*, (Center for Management and Organization Effectiveness)  
<https://cmoe.com/blog/organizational-problem/> Accessed 23<sup>rd</sup> November 2020

<sup>26</sup> Legal Aid Act 2016, s 7

<sup>27</sup> Legal Education Act 2012, s 3; see also <https://cle.or.ke/>

<sup>28</sup> See <https://www.ksl.ac.ke/>

advocates as well as maintaining a list of those licensed to practice.<sup>29</sup> The proposed Advocates Bill also outlines the Advocates Complaints Commission<sup>30</sup> and Advocate's Disciplinary Tribunal<sup>31</sup> whose roles are inter alia, ensuring that professional ethics and standards are maintained in the legal profession.

### **2.2.2 Accreditation of legal professionals**

There is a plurality of legally recognised bodies that are tasked with the accreditation of professionals involved in the legal process. For instance, the National Centre for International Arbitration is mandated to undertake the accreditation of qualified arbitrators and maintains a database of the same.<sup>32</sup> In the proposed mediation bill, a Mediation Accreditation Committee has been similarly tasked, but with regards to qualified mediators.<sup>33</sup> Reputable Non-governmental organisations within the same field, like FIDA<sup>34</sup>, have also developed systems of accreditation of their own that have proved to be efficient.<sup>35</sup>

### **2.2.3 Provision of legal aid Services**

The field of legal aid and assistance is a crowded one, with both governmental and non-governmental entities playing a part. The governmental entities include the Ombudsman, responsible for receiving and investigating complaints from the public and making recommendations with aim of aiding to facilitate appropriate legal intervention.<sup>36</sup> The Office of the Director of Public Prosecution has also been empowered to receive complaints and charge suspects on behalf of the complainants.<sup>37</sup> A role performed majorly in the criminal courts. The Kenya National Human Rights Commission has also staked its claim in the field of legal aid, often bringing

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<sup>29</sup> See <https://lsk.or.ke/>

<sup>30</sup> Advocates Bill 2015, s 80

<sup>31</sup> Ibid, s 87

<sup>32</sup> Nairobi Centre for International Arbitration Act 2013, s 5

<sup>33</sup> Kenya Gazette Supplement No. 92 (National Assembly Bills No. 17) Section 59A

<sup>34</sup> See <https://fidakenya.org/site/workcategory?id=1;>

Also see <https://www.ombudsman.go.ke/index.php>; Constitution of Kenya 2010, Art 57

<sup>35</sup> <https://www.fidakenya.org/site/faqs>

<sup>36</sup> <https://www.ombudsman.go.ke/>

<sup>37</sup> Constitution of Kenya 2010, Article 157

forward cases or playing a role in public interest litigation involving human rights violations.<sup>38</sup>

Non-governmental institutions have also established a niche for themselves in the provision of legal assistance with two of the better-known organisations in the field being Kituo Cha Sheria and FIDA.<sup>39</sup> These organisations have been widely involved in public interest litigation and are arguably more attractive prospects for indigent persons as opposed to government entities. Individual legal practitioners and professionals have also taken it upon themselves to provide legal assistance with one of the best-known parties being Okiya Okioti Omutatah, who has become a household name and the bane of government agencies and departments that have suffered sanctions arising from court orders, in addition to public humiliation and condemnation, courtesy of his legal exploits in the interest of public good.<sup>40</sup>

### **2.3 Conclusion**

This duplication of roles can and has led to much confusion with regards to where parties in need of legal aid should seek legal assistance. The different niches in which the different entities operate also result in apprehension by the needy parties as to which entity would best suit their legal aid needs. Adding the National Legal Aid Service to the fray, and with some unique functions of its own, will only serve to aggravate the situation.

### **3. Negative Impacts of the challenges**

The challenges outlined above have led to the following undesirable outcomes, which continue to plague the National Legal Aid Service.

#### **3.1 Cost Implications**

The costs involved in carrying out numerous functions are enormous. The workforce of the service is also bloated because there is staff required to perform these ancillary tasks that are effectively a duplication of what other

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<sup>38</sup> Constitution of Kenya 2010, Article 59(2)

<sup>39</sup> <http://kituochasheria.or.ke/about-us/>; see also <https://www.fidakenya.org>

<sup>40</sup> <https://www.pd.co.ke/news/national/its-just-a-passion-for-the-law-says-omtatah-after-uhuru-jibe-21607/>



parties already perform. In addition, on retirement, the benefits payable to the large number of staff further aggravates the circumstances.

Further, the National Legal Aid service will have to contend with numerous lawsuits filed against it and by it. The legal services required are paid for by the funds of the service which could have otherwise gone into performing its core mandate. If it faces multiple charges on different fronts and owing to the protracted nature of litigation, it stands to lose funds. This ultimately results in increasing the wage bill.

### **3.2 Divided attention**

A consequence of performing multiple roles is the inability to effectively perform all assigned duties due to divided attention. Paying attention to its ancillary functions could prevent the service from performing its main role in the regulation of legal aid. Lack of regulation ultimately provides unscrupulous parties with opportunities to exploit the candidates they initially masqueraded to help. There are advocates and organisations that have been accused of securing their clients; awards only to disappear with the whole amount or keep substantial portions.<sup>41</sup> This state of affairs defeats the very essence of the national legal aid service, which is to ensure justice.

## **4. Potential Remedies**

The aforesaid undesirable outcomes are, however, not insurmountable. With evident challenges faced by National Legal Aid Service arising, corresponding solutions have likewise come to the fore.

### **4.1 Reducing the functions**

The first sensible move for any overburdened entity would be to reduce its workload. In this instance, the functions of the National Legal Aid Service under the Act, need to be downsized. This can be achieved in one of two ways: Limiting functions of the service to quality assurance or reconstituting the service into a fund.

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<sup>41</sup> KNA, *Woman who lost one leg narrates how lawyer conned her Ksh 4 Million*, (Business Today 2018) <https://businesstoday.co.ke/woman-lost-one-leg-narrates-lawyer-conned-sh4-million/> Accessed 23<sup>rd</sup> November 2020; See also Agnes Oloo, *Nairobi lawyer sued by client over 'unfair' legal fees*, (Citizen Digital 2018) <https://citizentv.co.ke/news/nairobi-lawyer-anthony-oluoch-sued-by-client-over-unfair-legal-fees-196612/>

#### 4.1.1 Quality assurance (Regulation)

Quality assurance is a major component in realising access to justice.<sup>42</sup> The numerous governmental and non-governmental entities involved in the provision of legal aid largely go unregulated or have varying standards of self-regulation. This highlights the pressing need for a neutral oversight authority with its attention fully focused on quality assurance. The government carries the duty of facilitating quality assurance with regards to all the goods and services its populace consumes as well as put in place necessary frameworks for the protection of consumers.<sup>43</sup> This model has been adhered to in fields like information and communication with the Communications Commission of Kenya tasked with regulation and quality assurance in the goods and services by players in the industry ranging from telecoms and radio service providers to postal service providers and broadcasters.<sup>44</sup>

Quality assurance is a quagmire encompassing numerous aspects that work in tandem to ensure a suitable final product.<sup>45</sup> The quality assurance envisioned in this respect involves setting standards and continually revising and improving them, accreditation of legal aid providers and maintenance of the database of accredited parties, and carrying out investigations and fact-finding to ensure compliance with established standards.

This will ensure that the attention of the service is fully focused on ensuring compliance with required standards hence ultimately leading to a well-regulated and coherent legal service encompassing both public and private players.

A possible challenge of this model, however, would be how the service would regulate the services of independent state parties who are not subject

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<sup>42</sup> The National Action Plan for Legal Aid (2017-2022) recognizes the prudence in having quality assurance as among its chief goals in the realization of the service. page 33 see full action plan at <https://kecosce.org/wp-content/uploads/2020/02/NAP-Legal-Aid-2017-2022.pdf>

<sup>43</sup> Constitution of Kenya 2010, Article 46

<sup>44</sup> Kenya Information and Communications Act 1998, s 5

<sup>45</sup> M Thareja and P Thareja, *The Quality Brilliance Through Brilliant People*, (Quality World, 2007) 4 (2)

to external influence.<sup>46</sup> This hurdle can be cleared, however, through mutual cooperation and good faith between the service and the independent agencies and offices.

#### **4.1.2 Operating as a fund**

It can be argued that the main agenda for the enactment of the Legal Aid Act was to establish a framework that would enable the indigent to access much needed legal assistance. This core agenda can be achieved chiefly through the provision of necessary funds. Despite the many governmental and non-governmental players in place, the field of legal aid continues to be hindered by limited funds.

Focusing its efforts on raising and acquiring funds for the provision of public aid will not only greatly reduce its administrative costs of the National Legal Aid Service, but also enhance its efficiency. With the other functions such as accreditation withdrawn, the resources required to cover these services can be redirected to ensuring the provision of legal assistance. The staff required to perform these non-core functions as well will be rendered redundant, thus greatly reducing the workforce of the service and in turn reducing the strain on the exchequer.

A case study for this model is the research fund established under the National Science and Innovation Act.<sup>47</sup> The fund is tasked with cooperating with government entities and institutions as well as private stakeholders and individuals in the promotion of science, research, and innovation.<sup>48</sup> There are other government agencies like NACOSTI,<sup>49</sup> Kenya Research Agency<sup>50</sup> as well as institutions like KARI<sup>51</sup> that are tasked with the provision of facilities, developing the policies and framework, and generally, the regulation of science, technology, and innovation in the country. These entities that are complementary to the research fund are comparable to bodies

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<sup>46</sup> Constitution of Kenya 2010, Art 157(10)

<sup>47</sup> Science Technology and Innovation Act 2013, s 32

<sup>48</sup> *Ibid*, s 33

<sup>49</sup> *Ibid*, s 4

<sup>50</sup> *Ibid*, s 29

<sup>51</sup> *Ibid*, s 53, Fourth schedule

like the Council for Legal Education<sup>52</sup>, and Law Society of Kenya<sup>53</sup> that already serve similar functions with regards to legal aid. With these functions already catered for, the service can turn its attention solely towards the provision of funds for legal aid.

### ***Precaution***

There are safeguards however that must be employed to prevent the service if constituted into a fund. This would prevent it from realising the same fate as other government funds that have since become cash cows for corrupt public officers.

The proposed fund's avenues of raising funds should be greatly limited to government allocations, grants, and donations. Its investments should also be restricted to low-risk government-initiated investments such as Treasury Bills. The only monetary transactions it should be allowed to have with private businesses and individuals should be limited to those involving the acquisition of supplies required for administrative duties or any other goods and services required for administrative purposes.

The National Social Security Fund has been in the headlines regularly for engaging in fraudulent dealings ranging from botched land deals to acquisition of non-existent properties and overpriced projects that cost taxpayers billions. NSSF's latest blunder, the Hazina Tower's scandal, which potentially caused taxpayers 7 billion Kenyan shillings, is yet to be resolved.<sup>54</sup> Its counterpart the National Health Insurance Fund has also made the headlines severally for billions in public funds unaccounted for or lost due to unsustainable ventures, initiated with the sole purpose benefit a select few corrupt individuals operating in or out of government.<sup>55</sup>

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<sup>52</sup> The Council of Legal Education Act 2003, s 6 See also <https://www.idlo.int/news/highlights/kenya-first-legal-aid-action-plan-formally-launched>

<sup>53</sup> Law Society of Kenya Act 1980, s 4

<sup>54</sup> M Njagih, *MPs fury at Shs 7 billion Hazina Tower's project*, (The standard 2018) <https://www.standardmedia.co.ke/business/article/2001273335/mps-fury-at-sh7-billion-hazina-tower-s-project> accessed 23 November 2020

<sup>55</sup> E Mutai, *Civil Servants LOSE 3.5bn medical cover cash*, (Nation 2014) <https://nation.africa/kenya/business/civil-servants-lose-sh3-5bn-nhif-medical-cover-cash-1046280> Accessed on 23rd November 2020

Dissenters could argue that investing ventures beyond the scope of its mandate would raise funds that would facilitate financial fluidity, hence availing more funds for helping even more indigent people. These proponents should keep in mind the initial source of revenue intended under the act and the fundamental underpinning of the service, and by extension the act, as being to offer and not to raise money. The government already has numerous money-making vehicles, and establishing another under this act was not its intention. Furthermore, it is likely that involvement in revenue-generating ventures alone, or jointly with parties would expose the proposed fund to legal suits, administrative affairs, and undesirable financial implications that may arise from the ventures. This will only serve to further divest valuable time, attention and resources meant for its core function of providing legal aid.

Limiting the modes of acquiring funds, and the entities with which it can transact business will not only seal the loopholes through which the proposed entity could lose funds meant for the indigent but also directly allow it to direct its attention wholly towards the facilitation of legal aid by those in need.

## **5. Conclusion and Recommendations**

From the foregoing, it is evident that there are several challenges that the National Legal Aid Service, as is currently constituted, possesses numerous hurdles that prevent it from maximizing its potential in fulfilling its envisioned purpose of promoting the right to access to justice through the provision of legal services to the indigent. These challenges, as has been stated, can be alleviated by stripping it of its ancillary functions and allowing it to perform a single role. This could be functioning as a regulator or operating as a fund.

Concerning accreditation, the proposed entity can liaise with the highlighted bodies to obtain updated databases of qualified legal practitioners to facilitate the recognition and accreditation, and to help build and revise its database of the legal aid providers.

The proposed entity can also partner with the aforesaid entities and individuals with the view of managing the legal practitioners and parties it

engages. Regulation of legal aid also entails the maintenance of required standards, sanctions against those who break accepted standards, and fact-finding. The proposed entity can partner with the Law Society of Kenya<sup>56</sup> which already exercises its mandate of licensing advocates of the high court, as well as disciplining errant members in collaboration with the proposed Advocates Complaints Commission and Advocates Disciplinary Tribunal<sup>57</sup> in this regard. In fulfilling their mandate, the bodies have been able to ensure that errant practitioners are punitively fined and even disbarred<sup>58</sup>, and records of the same archived. Through this cooperation, activities such as screening viable candidates and excluding parties with questionable records as well as those who have been adjudged unfit to practice can, and will, be easily undertaken. Such a partnership would also provide a database for reviewing the conduct and ethics or lack thereof, of legal practitioners.

These would save the service's finances and time as it will not have to start from scratch to build its own database or inject its resources into the maintenance of the flow of information.<sup>59</sup> When it comes to bureaucracy-ridden government entities, fewer functions, fewer employees, less distractions and fewer liabilities are more desirable for optimum outcomes. This is one of the few instances where less is merrier.

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<sup>56</sup>Law Society of Kenya Act 1980, s 4

<sup>57</sup> Advocates Bill 2015, s 80,87 ; See also <https://statelaw.go.ke/departments/advocates-complaints-commission/>

<sup>58</sup>KNA, *Woman who lost one leg narrates how lawyer conned her Ksh 4 Million*, (Business Today, 2018) <https://businesstoday.co.ke/woman-lost-one-leg-narrates-lawyer-conned-sh4-million/> Accessed 23rd November 2020

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