



# ARE MOBILE LEGAL CLINICS THE SOLUTION? ONE TINY AFRICAN COUNTRY THINKS SO

by *SHELLEY M. LIBERTO*



1. Villagers in Kurau, The Gambia, assemble at the village meeting place under a bantaba tree 2. Official court reports produced by the author's project 3. Retired Minister of Justice and Access to Justice Team expert on Customary Law, Hon. FaFa M'bai 4. The lead attorney for the Mobile Legal Aid Clinic makes an announcement to local villagers in Brikama, West Coast region of The Gambia 5. Director of the National Agency for Legal Aid of The Gambia, Charles Thomas with the author 6. Legal Aid team and the author meet with the Governor (center right) of the Lower River Region of The Gambia 7. An attorney and paralegal conduct intake of a Mobile Legal Aid client in Kwinella, Lower River Region of The Gambia 8. Village girls attend legal aid meeting in Kurau, The Gambia 9. The author with jurists commemorating the publication of the official Supreme Court and Sharia' Law Reports of The Gambia

In late 2014, I left my Huntington Beach practice for another long-term commitment to lead a team of experts to improve Access to Justice and Legal Education in The Gambia, located on the West Coast of Africa. While maintaining a low-profile legal practice at home, I have worked on these international development projects for donors such as USAID, the World Bank, and the European Union since 2004. All of my experiences have yielded lessons learned that, notwithstanding their international context, shed light on how access to justice might be improved here in Orange County. This article focuses on how the mobile delivery of legal services to disenfranchised clients has worked in West Africa, and how it might be used to reach the elderly, homeless, infirm, and others unable to reach legal services due to circumstances here at home.

### **Nature of the Legal Aid Delivery Problem**

Access to Justice is recognized as a right of great urgency not only internationally but also domestically. The U.S. Department of Justice's Access to Justice Initiative describes one of its principles as promoting accessibility by eliminating barriers that prevent people from understanding and exercising their rights. To implement these principles, the Department of Justice program pursues strategies to leverage and better allocate justice resources to, among other things, development of quality indigent defense and civil legal aid delivery systems at the state and federal level. On a more local level, the State Bar of California Commission on Access to Justice was established in 1997 "to pursue long-term fundamental improvements in our civil justice system so that it is truly accessible for all, regardless of income, geographical location, or language ability." A simple and intuitive solution to these challenging policy goals that successfully delivers legal services to those who cannot access them otherwise has been surprisingly successful in The Gambia, the tiny West African river state with a population of 1.8 million.

### **Beating Obstacles to Legal Aid: How The Gambia Does It**

The Gambia is a small narrow country whose borders follow the meandering Gambia River from the Atlantic Ocean to approximately 200 miles inland. It is less than thirty miles wide at its widest point

and covers territory slightly less than the size of the island of Jamaica. It is the first colony of the British Empire and was used as a primary port for exacting and exporting slaves to the Americas. The Gambia is also the country of origin of Kunta Kinte, the subject of the novel and film *Roots*. At its more remote locations, villagers representing any of several tribes and ethnic groups are generally illiterate and lack the simplest of resources for subsistence without government support. Many are unaware of their fundamental civic and human rights. Those who understand that they have a dispute can do nothing more

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than resort to the village chief for advice and resolution in a manner that may be dismissive or biased.

The Gambia follows a Tripartite System of Justice reflecting its history that incorporates English Common Law, traditional tribal law, and a limited form of Sharia' Islamic Law. As complex as this system is, and notwithstanding the geographical, lingual, and social constraints, the government funds the National Agency for Legal Aid (NALA) which is charged with delivering legal services to the citizenry regardless of

their financial means or geographical location. It is this agency with which my project worked in support of delivering legal aid to those who could not otherwise access lawyers, paralegals, representation, counseling, and referrals to solve their problems. Over a period of four months, with funding from international donors such as the European Union, we traveled to forty-nine villages in three regions ranging in profile from urban to rural in the extreme. The methodology we used was fairly simple but very well-organized.

The Mobile Legal Aid caravan in our campaign set out from NALA's home base in the country's capital, Banjul, with the entire complement of a working law office. Local and international lawyers, interpreters, paralegals, clerks, and support staff were housed in the local villages, guest houses, or, in some cases, government administrative buildings. Electricity and potable water was never available on a consistent basis. They carried with them law treatises, statutes, intake forms, files, and referral information. Members of adjunct organizations such as staff of Gambian Social Services and religious leaders, as well as dialectal interpreters, joined the team on site. They were also joined by staff of the Alternative Dispute Resolution Secretariat who advised on mediation and arbitration of disputes. All visits were preceded with announcements to the Ministry of Lands and Regional Governments, local governors, and village chiefs who made sure that the public at large was aware of the arrival of the Mobile Legal Clinic, and to ensure that the team was afforded whatever service facilities were available. These would range from quarters in a private housing compound, a local school, or an area where villagers could meet under a community "bantaba" tree.

After a general meeting, clients were segregated into groups according to the nature of their legal problems, which were predominated by divorce, custody, support, child abuse, spousal abuse, and land disputes. One by one, each villager would be called to sit with an intake technician who would fill out a form and then analyze the next step in solving the client's problem. This might include referral to another staff member for legal advice, a government agency, the ADR specialist, or a local community mediator. By close of the entire four-month period, the mobile legal clinic had counseled 1,551 clients who would otherwise not have received

any form of legal aid or found any path to a fair resolution of their disputes. Many issues were resolved by referral to a government-related agency responsible for paying entitlements or providing services, such as housing or family mediation, or non-profit NGOs such as the Female Lawyers' Association Gambia for advocacy.

### **The Demand for Mobile Legal Aid in Orange County**

Too easily, we assume that anyone seeking legal services can find an attorney through any number of portals regardless of financial means. While this may be true, what if the client is unable to travel to an attorney's office or other location where a face-to-face meeting can occur? Think for a moment of the thousands of people in Orange County who are immobile, either for lack of transportation or physical impairment, and deprived of the most rudimentary legal advice and representation. These "invisible" clients include, most predominantly, the elderly who are confined to senior communities, elder care facilities, and their own homes who, even if transportation were available, are not physically mobile enough to travel to consult with an attorney. These "shut-in" clients require legal services just as much as anyone else on the entire spectrum of issues. These may range from the simple preparation of testamentary trusts to complex disputes involving public and private adversaries.

Other obvious clientele who are unable to access legal services due to mobility issues include homeless people. The Orange County Commission to End Homelessness estimates 15,291 homeless countywide in 2015. Although most remain homeless for the short term, many suffer long-term physical and mental health issues as well as addictions that render them unable to travel even locally. Just as any other demographic group, homeless people have a host of civil and criminal legal issues that involve everything from dissolution, child custody, support, and landlord-tenant issues, to simple government-based entitlements that would provide them financial resources if advocated properly.

The simplest of counseling can yield immediate financial relief, especially for children. The non-profit organization Point-In-Time reports that 31% of Orange County's homeless people have children under the age of eighteen. Although this most vulnerable clientele and their families have legal issues requiring redress,

their lack of transportation and frequent physical immobility deprives them of the access to legal advice they need in order to solve problems that lock them into an ever deteriorating circumstance. The borderline homeless also need reliable access to legal advocacy to avoid their descent into the class of the disenfranchised.

The formerly incarcerated who are released into the community through government-funded programs for social and economic reintegration are a focal point of borderline homelessness. The fight against recidivism requires support from many sources. One county-funded organization known as Opportunity Knocks in Garden Grove, serving the formerly incarcerated, is on the cutting-edge of homelessness avoidance for this particularly vulnerable group. They report that onsite legal assistance, referrals, access to benefits, and administrative advocacy, as well as dispute resolution services (ADR), would be major assets to their clientele in assisting their adaptation to "life on the outside."

### **How Might Mobile Legal Services in Orange County Work?**

Fundamental to the success of any legal services institution, be it a private law firm, government agency, or law school, is the core group of service personnel who make it work. Mobile legal clinics really require nothing more than human resources that are already plentiful in Orange County. Committed lawyers, paralegals, legal staff, and student interns with a minimum of training and resources need merely be placed in face-to-face contact with their clientele. While some non-profit organizations already provide in-house services to vulnerable groups, these need only be mobilized to geographical focal points that are accessible to client groups in need.

The organization and dispatch of mobile legal aid may be accomplished either by an independent nonprofit organization, or a group in partnership with an existing institution with a convergence of interest in delivering legal services to the immobile. Many local organizations have the capacity to initiate and implement mobile legal services at minimal expense or *pro bono* to meet their own mandates of public service by using existing staff or newly-recruited volunteers and law students. They might, however, be more easily enabled to do so in partnership with an entity specifically committed to delivering mobile legal services.

Taking lessons from other models, the administration of mobile legal aid would call for a relationship with a network of organizations willing to offer the temporary use of facilities local to the targeted clientele. For example, with regard to the elderly, arrangements might be made with elder care facilities to provide a makeshift "office" once or twice a month for its members upon advance notice. Other institutions might include schools, hospitals, jails, and other government-funded organizations where there is a need for mobile legal aid. A moderately funded organization might also be equipped with a vehicle that could operate as a free-standing—albeit minimalist—"mobile law office," complete with resources necessary to provide on-the-spot confidential counseling and referral services anywhere legal services are needed.

While these ideas may seem far-fetched at first glance, they can be realized with a small amount of organizational effort and human resources in a way that "brings the mountain to Mohammed" and, at the same time, fulfills needs among both a legal aid clientele, and the institutions who are bound to serve them. If it has worked in a tiny nation on the West Coast of Africa, it can work in our own backyard.



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