

Activities in support of ACCESS TO JUSTICE

The issue

Avocats Sans Frontières (ASF) contributes to the establishment of the rule of law in fragile countries or post-conflict settings. The promotion of the rule of law necessarily implies improving access to independent and impartial justice for all. Moreover, access to justice is cited in various international conventions as a fundamental right in itself, and as a basic condition of respect for the principle of fair trial.

ASF promotes this fundamental right in the countries in which it intervenes, and has developed a variety of strategies to make this right a reality for the most vulnerable groups of the population. At a structural level, access to justice is understood as the set of processes and mechanisms which guarantee the implementation of this fundamental right to ensure a legal response to individual and/or collective issues. Access to justice therefore contributes to development and to the fight against poverty and insecurity.

There are six major challenges in guaranteeing vulnerable populations effective access to justice. These challenges stem from the demand side of the population as well as from the supply side of legal aid providers.

The challenges and ASF's expertise

1) Population's lack of knowledge about rights and legal procedures

In order to demand full realization of their rights, people have to know what those rights are. ASF has developed several types of activities: radio broadcasts, theatrical plays, and creating community liaisons (or volunteer community leaders). These legal education campaigns cover a variety of themes, including, among others, the prohibition of torture and inheritance rights. ASF's experience proves that the information provided contributes in itself to a change in behaviour as a result of improved knowledge of what is permitted and what is prohibited by the law.

Nepal: since June 2011, more than 30,600 people have been sensitised in 5 of the most inaccessible provinces of the country, via radio broadcast, awareness programmes in schools, and mobile legal clinics. Target beneficiary groups include community leaders and grassroots women's organisations. Through this project, ASF has contributed to bringing justice to the people while respecting the traditions and social structures of Nepalese society.



2) Lack of financial means among the population

In the contexts in which ASF operates, the majority of the population does not have the financial means to seek legal recourse (this is made even more onerous by the distances they would need to travel to reach legal aid services, work-days missed, etc.). In response to this reality, ASF promotes the *pro deo* legal aid system and promotes *pro bono* work among lawyers.



Pro deo legal aid in Burundi: in four Burundian prisons, lawyers advise and assist those who are being held in illegal preventive detention. Between August 2011 and February 2012, 472 prisoners were assisted in Bururi, Muramvya, and Mwaro jurisdiction prisons, of whom 156 were freed, and 316 of whom had their imprisonment confirmed. Lawyers working on this project, in line with *pro deo* legal assistance, are compensated for their work (but they do not receive fees).

3) Geographical distance from legal services

In most areas where ASF intervenes, the accessibility of legal services is limited by the size of the country, the small number of functional jurisdictions, and/or by the very small number of lawyers practising in the country (for example, Chad, which has a population of 11 million, has only 90 lawyers, all practising in the capital of N'Djamena). ASF has developed models, which have since been drawn upon by numerous organisations, allowing information, advice and legal aid (judiciary and non judiciary assistance) to be provided in the most remote areas. In the Democratic Republic of Congo (DRC), ASF has also introduced mobile tribunals (mobile courts).

Mobile courts in DRC:

Mobile courts move lawyers, magistrates and clerks to remote areas to hear cases. The process involves a number of stages: the local population is informed of the tribunal's arrival; lawyers take on case files; an observation body made up of civil society organisations (CSOs) is created to monitor the legality of proceedings; the tribunal arrives; cases are processed; and checks are made to ensure that judgements are carried out (more than 50% of judgements handed down at mobile courts are carried out compared with a national rate of less than 5%).



4) Weakness and lack of coordination among legal aid services (State, bar associations, Civil society organisations)

Despite the numerous initiatives put forward by the various national bodies, responses to the public's requirements for justice remain insufficient. ASF is leading several projects to support national bodies in strengthening their intervention strategies, their capacity to implement cooperation, the quality of their service to the public, and their capacity to measure and make use of the results, particularly concerning advocacy.

Tunisia: Supporting the civil society in the transition period

ASF is supporting human rights organisations thus helping civil society to express its expectations and needs in view of the transitional justice which will address crimes committed under the past regime. ASF is supporting 6 Tunisian organisations in the delivery of accessible and quality legal aid service. It also supports the Tunisian Forum for Economic and Social Rights; the objective is to promote the social and economic inclusion of vulnerable groups in the Monastir and Gafsa regions.

5) Lack of technical capacity in defending human rights

Victims of human rights violations generally do not have access to quality representation. ASF provides practical training and individual coaching to support specialist in-country lawyers (or defence lawyers) specialising in the defence of human rights. Evaluation tools and follow-up activities to the training and coaching have been put in place to measure the impact of these activities.

Pool of lawyers specialising in international crimes

In the DRC, ASF trained 131 lawyers (in 5 provinces) in defending international criminal cases. Since the beginning of the first national and international trials of crimes against humanity and war crimes. Since 2006, they have represented more than 3.000 victims and 106 accused at the International Criminal Court and in Congolese courts. 41 cases related to war crimes and/or crimes against humanity have been brought before Congolese courts, and 27 judgements have been handed down.



6) Lack of Sustainability of national legal aid services

ASF mobilises local actors in order to lobby for improved legislation and policies, as well as to ensure that they are effectively put into practice.

Burundi Legal Aid Forum and adoption of a national strategy

In 2011, at ASF's initiative, 15 stakeholders met to contribute to a brainstorming session on the state of legal aid. A number of activities had been carried out to provide food for thought, including a study of legal aid in Burundi and two study trips to look at the legal aid systems in Belgium and Cameroon. The process came to an end in 2012 with the drafting of a national legal aid strategy. Since then, ASF has supported the legal aid Forum which has been institutionalised by the Ministry of Justice as the "Demand for justice" sectoral group. ASF also provides technical support for the setting of a system able to fund a sustainable legal aid service and for more lawyers in rural areas.

ASF's principles

- Sustainability
- Local ownership
- Achieving and evaluating results
- Human rights-based approach

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More information on www.asf.be