



## WHO NEEDS LEGAL AID SERVICES? ADDRESSING DEMAND IN JORDAN

Paul Prettitore<sup>1</sup>

**Introduction:** With the launch of two World Bank-funded programs, Jordan is stepping where few countries in the Middle East and North Africa (MENA) region have gone before – the development of comprehensive legal aid services based more closely on demand. For many poor persons, regular avenues of dispute resolution may prove inaccessible due to the costs involved, the complicated nature of procedures, the inability to procure legal information and representation, and a general lack of knowledge about rights and the means to enforce them. Legal aid services – information, counseling and representation in court – can help poor persons overcome these obstacles. They are not only important as services themselves, but are gateway services they may ultimately lead to access to other services, such as social welfare benefits or basic services.

**Why Has Service Delivery Been So Poor?** While most MENA countries, including Jordan, have legal and institutional frameworks for delivering state-sponsored legal aid services, in reality service delivery remains highly inadequate. This is due to a number of reasons, including: lack of policy underpinning services; weak institutional capacity to develop and deliver services; poor targeting of services towards poor users; unclear eligibility criteria; complicated procedures for accessing services; and lack of understanding among the public and officials about services, and how to access/administer them. In addition, there is considerable lack of understanding of the demand-side of services.

Jordan is no exception. No single public sector body is coordinating policy development or implementation. This had led to policies that are at times contradictory. The Ministry of Justice, in its 2010-2012 Judicial Reform Strategy, included improving access to justice as a priority. However, no real resources were made available to improve services that would enhance access. Procedures for accessing legal aid services and deferring court fees – two of the core services targeted to the poor – are complicated, and there is little integration of legal aid services provided by civil society. Understanding of the demand-side of services is lacking, and public officials still tend to view legal aid services as a considerable cost to the state without proven benefit.

**Measuring Demand:** Government officials and civil society in Jordan are attempting to close the gap in understanding the demand-side of service delivery of poor communities. An initiative to measure demand, funded by a Japan Social Development Seed Fund Grant and led by the Justice Center for Legal Aid (JCLA), was launched in 2010. It involved an analysis of the caseload of JCLA's existing legal aid centers around Amman, and consultations with other CSOs working in poor communities. It also involved development of a survey questionnaire on the justice sector, which was adopted and administered by the Department of Statistics as a household survey to 10,000 households. This is the first such justice sector-focused survey to be conducted in Jordan, and its adoption by the Department of Statistics highlights increased government interest in the issue.

<sup>1</sup> Paul Prettitore, Public Sector and Governance Unit (MNSPS), The Middle East and North Africa Region, The World Bank. This Quick Note was cleared by Guenter Heidenhof, Sector Manager MNSPS.

With analysis of the household survey on the justice sector being finalized, the primary source of demand-side information is the JCLA caseload analysis. It found that the largest percentage of cases where legal representation was provided – 47% – involved personal status issues. In total the vast majority of cases – 81% – involve civil law, as opposed to criminal law, issues<sup>2</sup>.

Women are more than twice as likely to request legal aid services as men – at 71% to 29%, respectively<sup>3</sup>. In relation to personal status issues, which include alimony, divorce, child support and inheritance, women requested assistance in 94% of the cases. In Jordan personal status issues are the mandate of religious courts, the largest of which is the Sharia Court system. Jordan’s Sharia Courts, despite being part of the formal court system, have not received the development assistance provided to civil and criminal courts, and thus data on service delivery is much more difficult to compile and analyze given court records are paper-based.

What other sources of information on demand are available? There are several potential sources under consideration, including:

- The Ministry of Justice (MoJ) has automated the civil and criminal court case management systems. Data can be collected from courts in poverty pockets to compare against other courts to determine if there are specific types of cases affecting the poor. Another option is to link the MoJ database with that of the National Aid Fund (NAF) to determine what types of cases NAF beneficiaries have filed.
- The Ombudsman Bureau can develop its statistics and analysis to better identify complaints filed by poor persons, and to better highlight the specific public sector services in question. An automated case management system will help provide more comprehensive statistics.
- The Ministry of Public Sector Development could enhance its statistics to identify complaints stemming from poor persons, which can serve as a basis for prioritizing service

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<sup>2</sup> Assessment of caseload from 2011 for the five/six legal aid centers of the Justice Center for Legal Aid in and around Amman, out of a total of 925 cases involving legal representation

<sup>3</sup> Data is from the Justice Center for Legal Aid, Jordan.

delivery improvement activities undertaken by its Service Delivery Improvement Unit.

Development of these sources of information would help shed further light on the demand-side of service delivery. However, a number of gaps still exist. Data on demand in areas outside of Amman, and particularly in the most remote areas, remains considerably lacking. And access to data and information is still difficult in Jordan – information on the delivery of services is not always readily available to the public or CSOs, leaving the ability to analyze information solely in the hands of public sector entities.

**What Does Demand Tell Us About Current Service Delivery?** Existing sources of data on the demand-side demonstrate one point clearly – that there is mismatch between demand and existing service delivery, despite the intention of the Government of Jordan to improve services. This is evident in the following ways:

Poorly-targeted Legal Aid Services: State-sponsored legal aid, provided through the Jordan Bar Association, is limited primarily to the most serious criminal cases, though demand for legal aid services is higher for civil cases. In criminal cases, the right to legal representation does not apply at the stage of initial arrest and interrogation, despite reports that abuse can take place during this stage. Though the Bar Association can require members to provide *pro bono* assistance to poor persons, this is rarely done.

There is no state-sponsored legal aid services provided in Sharia Courts or other religious courts, despite high demand for services related to personal status issues. Services are provided on a limited basis by civil society organizations. While lawyers are not required in personal status cases, anecdotal evidence suggests having a lawyer impacts on success, not least because of the difficulty understanding the applicable laws and procedures.

Increasing Court Costs: Legislative changes to governing court fees for civil cases reversed the fee structure, so that the highest fees, as a percentage, are applied to the lowest monetary value cases, with fees dropping as the monetary value of the case increases. This provides a disincentive to bring lower value cases to court, despite the fact even cases of low monetary value may provide a

relatively high impact for poor persons. Additional legislative changes lowered the monetary value of cases at which lawyers are required, thus increasing the costs of court services for a larger number of cases. Together these measures raise overall court costs, while services to ease this burden on the poor remain ineffective

Linked to legal aid services, poor persons can request the deferment of court fees. Since court fees are relatively high in Jordan, this is an important service.<sup>4</sup> However, this service is not provided extensively for several reasons. Most poor persons, and even a number of judicial officials, are unaware of this right. In order to access this services, poor persons must produce numerous documents proving poverty, which is complicated, and socially the process can be viewed as humiliating. The documents needed are not uniform throughout the country, and judges are provided no comprehensive guidance on criteria for determining poverty.

Scope and Reach of Services: Where services are available there has been a heavy focus on information and counseling services, to the detriment of legal representation in court proceedings by lawyers, which is often necessary. Anecdotal evidence from legal aid centers, where all services are provided, shows that legal representation is needed in almost one-third of cases. Legal aid services are mostly non-existent outside of Amman, despite high rates of poverty in other areas of the country. Other vulnerable categories of persons face unique legal obstacles that are not fully addressed by existing services. For example, services for refugees focus on status-determinations, but longer-term refugee populations have begun to face other issues related to personal status, housing and employment. Comprehensive data on the extent of legal aid and court deferment services provided through the courts is lacking. Anecdotal evidence suggests provision of services is not widespread, at least in relation to demand.

**How Are Services Being Improved in Response to Demand?** Recently, two Bank-funded programs supporting the comprehensive development of legal

aid services were launched in Jordan - the 'Enhancing Community-Driven Legal Aid Services to the Poor' program funded by the Japan Social Development Fund (JSDF) for \$2.6 million, and the program 'Delivering Legal Aid Services to Displaced Iraqis and Palestinians' funded by the State and Peace-building Fund (SPF) for \$1.8 million. The JSDF-funded program focuses on providing comprehensive services - information, counseling and legal representation - to poor Jordanians in six governorates outside of Amman, focusing on the areas of highest poverty. The SPF-funded program is providing for the extension of legal aid services to displaced Iraqis and Palestinian refugees in Jordan.

The specific reforms these programs will support include the following:

#### Enhanced Service Delivery Mechanisms

- *Enhancing Service Delivery by CSOs* - JCLA will be delivering legal aid services through a system of more than fifteen legal aid clinics, in coordination with the Ministry of Justice, Jordan Bar Association, UNRWA, UNHCR and other CSOs. More comprehensive training programs are being developed for legal aid service providers, to raise the quality of services. Enhancement of case management procedures is underway, including the automation of case management functions.
- *Extension of Services* - More services will be available for civil and personal status cases, consistent with demand. Services will be available throughout Jordan, through a system of legal aid clinics, mobile legal aid offices and co-location of legal aid staff in other offices of CSOs providing social assistance programs. Development of an extensive referral mechanism, covering ministries, international organizations and CSOs, will also broaden reach and access.
- *Simplified Eligibility Criteria* - JCLA has developed simplified eligibility criteria for services, so that the most poor can receive free services and those able to pay even small amounts for services will be asked to do so. These criteria will reduce the considerable amount of time and resources that had earlier been spent on determining eligibility, to the detriment of service provision.

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<sup>4</sup> Based on the indicator 'Enforcement of Contracts' in the World Bank's Doing Business Report 2012. The court costs, as a percentage of the value of the claim, are as follows: Jordan - 8%; Syria - 4.5%; Lebanon - 3%; Iraq - 2.3%; West Bank & Gaza - 2.2%; and Egypt - 1.3%.

- *Introduction of a Sliding-Scale of Payments* – JCLA has attached a sliding-scale payment system to the eligibility criteria. Applicants with financial ability will make small payments for services, so that those with limited financial means can access services for a reduced cost, while providing a small flow of funds to the clinics. When cases are won on behalf of legal aid clients, JCLA will request the losing party pay representation costs, which will allow it to recover some costs.
- *Assessing Service Delivery* – JCLA has client feedback surveys and a mechanism for random evaluation of individual cases. Consultations will be held with local communities to get a better sense of broader impact of legal aid services. It will also establish an internal complaints mechanism to allow for systematic evaluation of service delivery.
- *Extending the Pool of Service Providers* – To help address the extent of demand, key stakeholders, including JCLA, law firms, law faculties and individual lawyers are developing a system of *pro bono* legal assistance to complement the legal aid clinics. A training program is being developed to allow recently-graduated law students to perform *pro bono* legal aid services during their mandatory apprenticeship.

#### Integrating the Demand-Side of Service Delivery

- *Public Consultations* – As part of routine legal awareness and information activities, consultations will be held with local communities to assess priority demands for services. These demands will be measured against current service delivery, and adjustments to services made as necessary.
- *Caseload Analysis* – Routine analysis of the caseload of legal aid clinics will be conducted to determine demand related to certain types of cases (personal status, civil and criminal) and the links with specific public sector services. This will provide a basis for advocacy for improvement of services.
- *Reporting* – JCLA will release periodic reports on the work of the legal aid centers, highlighting the demand-side of services determined through public consultations and caseload analyses.

#### Developing Policy as the Basis of Reform

- *Policy Development* – To fill the gap in the policy side of service delivery improvement, key stakeholders are discussing policy strategies for comprehensive reform. Determination and analysis of the demand-side of services, and measuring this against current service delivery, is the first step.
- *Measuring Service Delivery Impact* – The Bank will be working with JCLA and government counterparts to measure the social and economic impact of legal aid services on poor persons. The study will focus on areas where legal aid services are prioritized, for example in securing alimony and child support payments. This work will help to counter the view that legal aid services are at best a form of charity, and at worst a never-ending financial burden on governments with no clear benefit.

**Moving Ahead:** As with most forms of service delivery, there is no single effective model for delivery of legal aid services. The approach in Jordan has been to build on existing systems, by enhancing and extending services, and integrating different service providers. Combined with a better understanding of demand, the tools should be available to comprehensively improve service delivery. The objective of the Bank-funded legal aid assistance programs is to build capacity and make service delivery more efficient and effective. While improving the quality of services, this will also make the system easier to implement by key stakeholders over the long-term. Progress in Jordan should prove beneficial to other countries in the region, for example in Iraq and West Bank & Gaza, where governments are themselves launching initiatives to improve the delivery of legal aid services.

#### **Contact MNA K&L:**

*Laura Tuck, Director, Strategy and Operations.*

MENA Region, The World Bank

Regional Quick Notes Team:

Omer Karasapan, and Roby Fields

Tel #: (202) 473 8177

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