

For Whom Is Legal Aid: A Critical Analysis of the State-Funded Legal Aid in Criminal Cases in Tajikistan

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Abstract : Legal aid is a key element of access to justice. According to UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, state members bear the obligation to put in place accessible, effective, sustainable, and credible legal aid systems. Regarding this obligation, developing countries, such as Tajikistan, faced challenges in terms of financing this system. Thus, many developed nations have launched rule-of-law programs to support these states and ensure access to justice for all. Following independence from the Soviet Union, Tajikistan committed to introducing the rule of law and providing access to justice. This newly established country was weak, and the sudden outbreak of civil war aggravated the situation even more. The country needed external support and opened its door to attract foreign donors to assist it in its way to development. In 2015, Tajikistan, with the financial support of development partners, was able to establish a state-funded legal aid system that provides legal assistance to vulnerable and marginalized populations, including in criminal cases. In the beginning, almost the whole system was financed from donor funds; by that time, the contribution of the government gradually increased, and currently, it covers 80% of the total budget. All these governments' actions toward ensuring access to criminal legal aid for disadvantaged groups look promising; however, the reality is completely different. Currently, not all disadvantaged people are covered by these services, and their cases are most of the time considered without appropriate defense, which leads to violation of fundamental human rights. This research presents a comprehensive exploration of the interplay between donor assistance and the effectiveness of legal aid services in Tajikistan, with a specific focus on criminal cases involving vulnerable groups, such as women and children. In the context of Tajikistan, this study addresses a pressing concern: despite substantial financial support from international donors, state-funded legal aid services often fall short of meeting the needs of poor and vulnerable populations. The study delves into the underlying complexities of this issue and examines the structural, operational, and systemic challenges faced by legal aid providers, shedding light on the factors contributing to the ineffectiveness of legal aid services. Furthermore, it seeks to identify the root causes of these issues, revealing the barriers that hinder the delivery of adequate legal aid services. The research adopts a socio-legal methodology to ensure an appropriate combination of multiple methodologies. The findings of this research hold significant implications for both policymakers and practitioners, offering insights into the enhancement of legal aid services and access to justice for disadvantaged and marginalized populations in Tajikistan. By addressing these pressing questions, this study aims to fill the gap in legal literature and contribute to the development of a more equitable and efficient legal aid system that better serves the needs of the most vulnerable members of society.

Keywords : access to justice, legal aid, rule of law, rights for council

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