



The UK Sierra Leone Pro Bono Network: a case study on demand led pro bono assistance

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LASER

LASER (Legal Assistance for Economic Reform) is a DFID-funded programme aiming to improve investment climates in eight developing countries by helping to identify and solve problems in commercial law and justice systems as well as documenting and sharing lessons about how to do this. Problem-driven and iterative in nature, LASER supports partner governments to develop initiatives that are country owned and led. Its log frame commits to activities under broad outputs but the specifics are determined at the country level with counterparts on a rolling basis.

Introduction

One of the assumptions being tested through LASER is that international legal advice can make a significant contribution to commercial law and justice reform processes. Leveraging pro bono legal support and specifically UK pro bono expertise for commercial law and justice (CLJ) reform is one of the pilot activities being tested under LASER.

LASER's detailed design took place between December 2013 and March 2014. During that period LASER adopted two different approaches to its pro bono work that were piloted in Rwanda and Sierra Leone. In Rwanda the focus was on a 'demand-side' entry point for pro bono services, building the capacity of the government to identify the need for and to engage with pro bono support. In contrast, in Sierra Leone, LASER's pilot has engaged with the 'supply side entry point', and those already providing pro bono support in Sierra Leone.

The primary reason for selecting Sierra Leone as a pilot country for learning lessons on the supply side was the strong, pre-existing engagement the UK legal pro bono community has with Sierra Leone.

The objectives of the Sierra Leone pilot were to (i) engage with the breadth of the legal profession, including members of the judiciary, barristers, solicitors and public sector lawyers, as well as related associations and organisations, to begin to develop a holistic, coordinated and demand-led approach to pro bono assistance in Sierra Leone; (ii) provide a platform for strategic engagement on CLJ issues with the GoSL and (iii) enable the LASER programme to learn.

LASER has supported the establishment of a formalised structure, the UK Sierra Leone Pro Bono Network (UKSLPBN), which is intended to coordinate the different sources of UK based pro bono support available to Sierra Leone. It is important to note that the establishment of a permanent network that brought together the pro bono community working in Sierra Leone, was a step envisaged by the pro bono providers themselves and LASER's role has been to support this development.

This case study – co-authored with the Government of Sierra Leone – looks at the evolution of the Network, and asks whether this type of structure could serve as a 'supply' best practice model for coordinating UK pro bono assistance on a country-led basis.

The case study is also intended to enable LASER to learn lessons about engagement with the UK pro bono legal community that can be shared with DFID, other development practitioners, the wider UK pro bono community, and furthermore, to help inform the development of DFID's new Rule of Law Expertise programme (ROLE UK).

Identifying the problem

One of the main reasons for selecting Sierra Leone as a pilot for learning lessons about engaging with pro bono providers was that a large number of UK pro bono suppliers were already engaged in Sierra Leone through a wide variety of initiatives; including Herbert Smith Freehills' Fair Deal Sierra Leone Project, Project Umubano¹ and the Bar Council's Sierra Leone Special Interest Group.

These pro bono suppliers, led by the Bar Council's Sierra Leone Special Interest Group, had themselves identified the need to develop a more coordinated pro bono offering to Sierra Leone and had discussed with LASER the need for assistance in structuring this coordinated effort.

The Bar Council's Sierra Leone Special Interest Group had organised a summit in London in 2013 which revealed that at the time, there were over 50 UK individuals and organisations separately involved in supporting justice sector capacity development in Sierra Leone.

The summit revealed that support was almost completely un-coordinated, largely ad hoc and had an unmeasured impact. Additional challenges included (i) the nature of this support being supply-driven, rather than based on coordinated articulation of Sierra Leonean demands/needs, (ii) some concerns² about the quality and appropriateness of some of the assistance provided and (iii) Sierra Leone's absorption capacity for this volume of support, particularly in relation to training based assistance.

Building on the findings of the summit, LASER worked with the community of pro bono suppliers to develop a coordinated and demand-led approach to legal capacity and training in Sierra Leone.

One of the first issues that became evident was the need to develop a structure that would provide both the UK side with a mechanism for interaction and co-ordination between pro bono suppliers, and the Sierra Leone side; be it Government, legal professionals or other bodies, with a focus for requesting assistance in legal matters.

The Bar Special Interest Group provided a model for this type of coordination. However, in order to widen its representation to other members of the UK profession (solicitors, civil servants, public sector lawyers, and members of the judiciary), the development of a unifying Sierra Leone pro bono network was proposed which would have a wider remit than representing one section of the legal profession and thus would be able to provide an umbrella association for all legal professionals interested in engaging in pro bono work in Sierra Leone. The inaugural meeting of the new network, 'the UK Sierra Leone Pro bono network (UKSLPBN)' was held in March 2014.

¹ Project Umubano is a Conservative Party supported social action project in Burundi, Rwanda, and Sierra Leone

² Expressed by the GoSL, DFID, and the DFID-funded Access to Security and Justice Programme (ASJP)

A new approach

The focus for the new UK Sierra Leone Pro bono network's (UKSLPBN) first year has been: i) to establish and consolidate pro bono efforts, and ii) develop a coordinated, strategic and operational plan in coordination with the Government of Sierra Leone's (GoSL) Justice Sector Coordination Office (JSCO)³ that meets national priorities as identified in the GoSL's Agenda for Prosperity and the Justice Sector Reform Strategy and Investment Plan III (JSRSIPIII).

At the inaugural meeting of the network LASER facilitated and funded the attendance of the then Head of the GoSL Justice Sector Coordination Office. The objective of having a representative of the GoSL attend the meeting was to enable UK legal suppliers to better understand both wider GoSL justice sector priorities and demand for pro bono services, and to deliberate collaboratively on how UK legal providers could in turn match their expertise and 'supply' of their services to meet this demand. The pro bono community had held meetings previously with Government representatives during visits to Sierra Leone but the attendance of the Head of the GoSL's JSCO was the first time that a representative from the GoSL had met with the Network as a collective organisation representing all UK pro bono providers. Many of the UK pro bono providers had considerable expertise in particular areas of commercial law and justice in Sierra Leone but were not as familiar with developments in the wider justice sector.

The initial intention of the LASER project and UKSLPBN was to deliver timely support on the ground in terms of pro bono services and to fill gaps in justice sector needs. With this in mind, the provision of training on commercial contract negotiation to government lawyers and Ministries was identified as a potential first area of immediate engagement. It was hoped that this training would build on trainings that had taken place by individual pro bono organisations earlier in 2014 and demonstrate the value added benefit of pro bono to the GoSL. However, the outbreak of Ebola and subsequent crisis ended up putting this work on hold.

The Ebola outbreak has naturally had a significant impact on GoSL CLJ priorities, and in turn, an impact on what work has been possible for the UKSLPBN and LASER to take forward during its first year. For the GoSL, work has understandably been focused on emergency needs and Ebola recovery as new CLJ priorities have emerged as a result of the crisis. For the UKSLPBN and LASER, the outbreak has unfortunately delayed deployments, which has resulted in the Network focusing mainly on getting established and operational rather than being able to deliver any in-country pro bono assistance.

LASER has however been able to support the GoSL to develop the commercial law and justice component of its JSRSIP III working remotely through a local consultant who is a senior commercial lawyer based in Freetown, and with input from the UKSLPBN. In particular, work was taken forward on identifying CLJ priorities that had shifted or emerged as a result of the crisis. For example, in light of the Ebola outbreak, several commercial contracts were terminated by the invocation of force majeure clauses. As a result, assessing the GoSL's technical capacity and understanding of force majeure clauses became a critical area for programming.

³ The role of the JSCO is to coordinate resources and donor funding to the justice sector in Sierra Leone and provide a source of information for activities being undertaken in the sector.

The Network has also taken forward work on identifying longer-term CLJ priorities. In September 2014 it hosted a meeting of foreign investors and their legal advisers in a consultation exercise that resulted in the identification of priority CLJ constraints to foreign investors in Sierra Leone that fed into the development of the JSRSIP III's commercial law and justice component. This consultation marked the first opportunity for foreign investors and legal advisors to input into the national Justice Strategy. A key issue that came out of the investor consultation was the call for the GoSL to ratify "The Convention on the Recognition and Enforcement of Foreign Arbitral Awards" commonly referred to as the "New York Convention". This is one of the key instruments in international arbitration and viewed by investors as a barometer of legal certainty and enforcement.

With the gradual containment of the Ebola outbreak in Sierra Leone, work on developing the GoSL justice sector strategy has recently resumed. At the end of March 2015, supported by the LASER programme, the new Head of the JSCO, attended the UK-Sierra Leone Pro Bono Network's working group meeting in London. The objective of his attendance was to ensure that pro bono assistance being offered by the UKSLPBN was as closely aligned as possible to the GoSL's current needs. The Head of the JSCO then worked closely with the UKSLPBN in designing a draft offer of support for pro bono assistance that could be put to the GoSL.

In terms of the Network's operational development one of the issues that emerged was the need for the nascent organisation to have some sort of dedicated and permanent administrative support. LASER agreed to provide this resource through a part-time network secretary.

Lessons learned

Since the creation of the UKSLPBN, a number of lessons can be drawn that have implications for all the stakeholders: the LASER programme, the wider UK pro bono community, DFID and other donors. These lessons implicitly acknowledge that more can be achieved when both the development and pro bono communities work together rather than alone, and that each side can benefit from the experience of working with the other. Specific lessons are detailed below; they have been grouped under some of the assumptions that LASER has sought to test through this pilot.

A focus on matching supply and demand

The LASER programme assumes that effective dialogue between the supply and demand side ensures that there is real demand for pro bono assistance, and the value of that assistance is therefore increased. LASER recognises that pro bono providers have a variety of legitimate motivations for providing support – including commercial, political and personal. Ensuring that these motivations are better matched to the demand side is key to improving the pro bono offer.

Pro bono suppliers from the UK have a strong offer given the common law practice that both Sierra Leone and the UK share, along with much inherited legal procedure, case law and statute from the British system, as well as strong links between legal practitioners and diasporas in both countries. One of the key strengths of the Network is its ability to work with the Sierra Leone diaspora and lawyers who have 'feet in both countries'; both in terms of legal expertise and wider understanding and knowledge.

There is also a remarkable level of goodwill towards Sierra Leone (supported by both countries' diaspora communities) and a strong desire from the UK pro bono community to assist with Sierra Leone's CLJ development.

These are important to note as even given the strength of this shared legal tradition and goodwill, there have been significant challenges in developing a coordinated approach between matching the supply and demand side.

Lesson 1: developing a coordinated approach between the supply and demand side takes time, resources, and is greatly facilitated by ongoing and face-to-face dialogue.

Work undertaken in the last year with the UKSLPBN, through LASER and with the GoSL confirmed that there is appetite for developing a more coherent and coordinated approach to pro bono legal assistance in Sierra Leone both from the supply and the demand side.

Certainly over the past year there has been a growing understanding within the UKSLPN that in order to maximise the benefits of the assistance it can offer, it is useful to align its work more closely with both GoSL justice sector strategy and indeed priorities of other key justice organisations such as the Sierra Leone judiciary and Bar. This process that has been greatly facilitated by face-to-face meetings between the supply and demand sides i.e. the UKSLPBN and the JSCO. The presence of the head of the JSCO's mission to the UK at both the UKSLPBN inaugural meeting, and again a year later at the steering group meeting was instrumental in ensuring the UKSLPBN was fully informed in its demand led approach.

This has been a two-fold process as the GoSL, through the JSCO, has also highlighted the fact that from its side, closer engagement has provided greater insight into understanding how UK pro bono suppliers work and their approach to assistance.

Lesson 2: it is as important to identify a clear interface on the 'demand' side as having a coordinated approach on the supply side

The UKSLPBN case study has highlighted that having an effective and appropriate interlocutor or coordinating mechanism in the target developing country is vital. In this case, engagement with the JSCO as the coordinating body for the justice sector in Sierra Leone has been key. It is important to note that while LASER's support has been focused on supporting the Network to work more effectively with the GoSL, the Network engages with other interfaces on the 'demand' side, which include the Sierra Leone judiciary and Sierra Leone Bar Association.

The JSCO's aspirations to become a more effective interface from the Sierra Leonean side for pro bono support – both at the strategic and organisational level – have certainly facilitated better engagement between the pro bono suppliers and the GoSL; as one of the partners the Network's support. Securing government involvement early on through the JSCO helped catalyse this process.

Lesson 3: country level information and engagement is key at both high and operational levels to ensure initiatives have both political support, and are designed and implemented appropriately

The UKSLPBN had high-level in-country contacts (at Ministerial and Presidential level), with senior members of the judiciary, and Sierra Leone Bar Association and General Legal Council, which provided highly effective entry points for initial engagement. The importance of country knowledge/connections/information to provide up to date information on the current local context including political developments cannot be over emphasised.

However, what has become apparent as the Network has developed, has been the need for an on-going, consistent and regular dialogue between the UKSLPBN and the justice sector stakeholders with which it engages with in Sierra Leone. That is, not only at a high-level but also at an operational level to ensure that pro bono initiatives identified were designed and implemented appropriately.

Lesson 4: the country network offers a potentially good model for coordinating the diverse UK pro bono community. Time and resources are needed in order to develop effective functioning networks.

It is important to note that the initial need to better coordinate pro bono assistance to Sierra Leone was one identified by the pro bono providers themselves. LASER then set out to evaluate whether a countrywide network was an appropriate model for engaging and convening the diverse community of UK legal professionals already providing pro bono support to Sierra Leone. Further, whether as a model, it facilitated the process of developing a holistic, coordinated and demand-led approach to pro bono legal assistance in Sierra Leone.

UKSLPBN suggests that the country network model for pro bono engagement is a potentially effective one. The fact that the UKSLPBN was able to bring together a wide range of pro bono providers and represent all elements of the legal profession (from the judiciary, bar, to HMG lawyers and the solicitors' profession) has undoubtedly contributed to the expertise that it is able to offer. The Network has also been able to draw on its experience of working with businesses operating in Sierra Leone through its members' commercial connections, and this has added value to the depth of discussions.

The strength of commitment of the pro bono community to Sierra Leone, including from Sierra Leoneans in the diaspora (in the UK), has certainly been the focal point for engaging on the development of a more coordinated and coherent pro bono offer. This has also greatly helped the Government of Sierra Leone by providing an efficient and coordinated way of engagement.

However, the Network has taken technical and financial resources to get off the ground. These have included LASER team time, funding of a permanent secretariat, and visits by GoSL representatives. A key lesson to take from this is that undertaking pro bono work effectively and strategically, does involve earmarking support and resources from the outset.

Lesson 5: dedicated administrative/secretarial support has been a key support for the establishment of the UKSLPBN

Financial and technical assistance has been key in terms of developing the UKSLPBN. Pro bono organisations are frequently volunteer communities and not well placed to undertake the level of continuous effort needed due to time and availability constraints. In the case of the UKSLPBN, the funding of a dedicated resource was a significant support in terms of operationalising the mandate, work

and structure of the Network.

Lesson 6: access to international development expertise is key to ensuring that pro bono interventions are designed and delivered appropriately and in line with good development practice

The UK pro bono offer is a strong one, involving a diverse and in depth legal expertise. The very wide range of lawyers and legal providers engaged in pro bono provision in Sierra Leone is testament to the strength of the UK offer.

However pro bono suppliers often, quite understandably, have limited awareness of good development practice and project management that supports the design and development of appropriate initiatives. Access to developmental support of the type provided by the LASER programme has helped to ensure that the Network's programme is designed in the light of the local context, in keeping with international development emerging best practice, and with a view towards measuring impact of interventions.

Proposed way forward

The model of the UKSLPBN is in its early days, and progress to date has been impeded by Ebola. Further testing is needed with actual interventions on the ground. The case of the UKSLPBN to date supports the assumption behind LASER's pilot that coordinating pro bono assistance and ensuring that assistance on offer is matched to the needs of the sector adds real value to the pro bono services provided.

In the case of Sierra Leone there was a strong and long-standing commitment to the provision of pro bono from the UK side and this is important to bear in mind when looking at the country network as a potential replicable model. In cases such as this, the country network as a delivery mechanism offers strong potential for bringing together the diverse pro bono legal service providers engaged in Sierra Leone, and is certainly a model that could be replicated elsewhere.

However, what the case of the UKSLPBN does illustrate is that resources are needed; in terms of technical expertise (development knowledge/contacts), funding for administrative/secretariat support, and time, to develop a fully operational and functioning network that is better able to maximise the value of expertise on offer from the UK pro bono community.

Annex 1: UK Sierra Leone Pro Bono Network Governing document

The UK Sierra Leone Pro Bono Network (UKSLPBN) is an umbrella network for UK legal professionals and organisations interested in providing pro bono legal assistance to Sierra Leone.

The objectives of the UKSLPBN are to act as a focus for demand from Sierra Leone for assistance in legal matters, from both the Government of Sierra Leone and legal professionals and bodies, to set out a long-term rolling programme of work aimed at meeting that demand in collaboration with partners in Sierra Leone, and to co-ordinate UK lawyers to deliver that programme.

Membership of the UKSLPBN will be open to UK lawyers of all types, in both the private and the public sector, and will be free of charge. Members may be individual lawyers or contacts on behalf of law firms, chambers or other organisations. The UKSLPBN will in particular seek to recruit UK lawyers with a connection to Sierra Leone. The UKSLPBN will also seek to involve organisations delivering or capable of delivering legal assistance to Sierra Leone.

The work of the UKSLPBN will be overseen by a steering group, whose aim will be to represent the various elements of the UK legal professions: solicitors, barristers and government and public sector lawyers. The steering group will be responsible for developing the programme of work and coordinating the delivery of that programme. Should work with the judiciary of Sierra Leone be requested, the steering group will liaise with the Judicial College through its judicial member.

The UKSLBPN will be supported by the Law and Development Partnership as part of DFID's Legal Assistance for Economic Reform (LASER) programme, including through the provision of a secretary to the steering group and a legal contact point in Sierra Leone.

The UKSLPBN will in particular seek to support GoSL's Justice Sector Strategy and Investment Plan for the period 2015 to 2018. It will also work closely with representatives of private practice lawyers in Sierra Leone (including the SLBA and the GLC) and legal-related civil society organisations.

It is anticipated that the main initial objectives of the UKSLPBN's work will be:

- assisting implementation of JSSIP III
- assistance in relation to Ebola

This will be achieved through the following steps:

- professional support and exchange programme
- remote assistance (e-learning, knowledge and advice)
- capacity building training programme (both generic and specific⁴)
- assisting with the strengthening of legal institutions (e.g. legal education and resources, and pro bono provision)

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⁴ For example, commercial contract negotiation and management for extractives, energy, PPP, etc.