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## **Terms of Reference for an assessment on the integration of customary justice in Liberia**

ILAC will conduct an assessment in Liberia in Spring 2019. The aim of the assessment is to provide recommendations on how justice actors in Liberia can cooperate to ensure equal and effective access to justice.

### **Background**

Liberia has been scheduled for an assessment in 2019 in the ILAC list of geographic priorities and a decision approving preparation for the assessment was taken by the Board of Directors in December 2018. The Liberian Minister of Foreign Affairs has welcomed this assessment and it was also endorsed by the Secretariat of the g7+ Group of Conflict-Affected and Fragile States.

The assessment in Liberia will break new ground in two respects. First, it is the first time that ILAC has returned to a country where it has previously conducted an assessment in order to revisit its earlier conclusions. ILAC conducted its first assessment in Liberia in 2003 and followed up with a capacity-building programme there from 2004 to 2010. In the *ILAC Strategy, 2017-2021*, ILAC is committed to undertake at least one such “re-assessment” during the strategy period.

A second departure is the focus of the assessment on customary justice as a means of ensuring access to justice that complements the formal system. In the course of the policy dialogue work undertaken under the new *Strategy*, ILAC has examined the role of justice actors in preventing a return to conflict and human rights abuses in transitional settings, finding that the role of customary actors can be crucial in fragile settings where the formal justice sector lacks the capacity to secure access to justice for all. This focus was also endorsed by the g7+ group of conflict-affected and fragile states, as well as the Liberian Ministry of Foreign Affairs.

Liberia emerged from fourteen years of almost unbroken internal armed conflict in 2003. Since then, the country has made important progress in democratic consolidation and maintained stability but faced consistent challenges in providing access to justice.

### **Specific objectives of the assessment**

The aim of the assessment is to identify the actors currently involved in the resolution of legal disputes in Liberia and frame recommendations on how they could relate to each other in a manner that could secure equal and effective access to justice for Liberians in a sustainable manner.

The assessment will both take into account the many studies and initiatives undertaken on these questions in the past and seek to understand why none of them have yet resulted in sustainable outcomes at scale.

The main intended users of the assessment are the Government of Liberia in its efforts to continue promoting reforms to improve access to justice in the country, as well as justice actors including judges, prosecutors and lawyers in the formal justice system and corresponding actors in the traditional system.

By adopting the recommendations in the report, it is hoped that these actors will benefit the fundamental stakeholders, namely the users dependent on the justice paths available in Liberia, particularly women, children and other marginalized groups that have not historically enjoyed equal access to justice.

The report will also aim to support the broader efforts of the g7+ Secretariat to identify justice sector initiatives and reforms that can contribute to more rapid and effective access to justice. In a similar vein, the report will support international efforts to implement the “justice goal” of the UN 2030 Agenda, Sustainable Development Goal 16.3.

Although every assessment represents an opportunity for ILAC to draw lessons and work more effectively with its members, this report will include explicit analysis of the prior ILAC assessment in Liberia and the results of the subsequent program, providing greater scope for knowledge management.

## **Scope of the assessment**

Preparations for the assessment will continue during February and March 2019, including the selection of a team of 4-5 experts from ILAC member organizations, a second preparatory trip to Liberia on 04-08 March, the contracting of a consultant to assist in facilitating contact with communities in areas governed by traditional and customary law, and consideration of whether to undertake a survey on access to justice in Liberia.

The main assessment mission will take place on 01-12 April. The team will assemble in Monrovia, hold meetings and interviews there, and then spend up to five days based in Gbarnga, Bong County, in order to hold meetings in areas governed by traditional law. The assessment will conclude with a two day retreat to finalize the structure of the report and draft its main conclusions and recommendations.

The ILAC Team Leader will share the draft conclusions and recommendations of the report with national stakeholders, including Government ministries, actors in the formal justice sector and customary communities applying traditional law that the mission met. The experts may be asked to join in follow-up trips to Liberia to discuss and validate the conclusions and recommendations with these stakeholders.

After this process is concluded, ILAC will offer to present and discuss its conclusions with the g7+ group of conflict-affected and fragile states with a view to supporting its work on justice issues. ILAC will also discuss its findings with member organization

the International Commission of Jurists and its partners in the context of an ongoing ICJ inquiry on customary justice.

Dissemination activities will be based on a plan to be agreed with the participation of the experts and may continue through December of 2019.

## **Approach and methodology**

The assessment will be based on semi-structured interviews with informants in Liberia, with a primary focus on national actors. A desk study including information gathered from previous relevant assessments and the two pre-assessments will be prepared in advance and made available to the experts in order to assist them to move quickly to the specific questions to be addressed in the report. The level of corroboration found by the team for assertions made by informants will be the key criterion in weighting their significance to the analysis and conclusions in the report.

Because this is the first ILAC assessment to systematically address issues related to customary law, there will be several methodological steps taken to ensure that customary communities are approached in a sensitive manner. First, ILAC will hire a Liberian consultant with extensive knowledge of customary law issues in Liberia to provide an initial briefing to the expert team and facilitate meetings with customary communities. Second, ILAC will seek to validate the conclusions of the report with both formal and customary actors in Liberia prior to finalizing the report and will seek to engage with both sets of actors in any follow up activities, including design of proposals for programmes in furtherance of the recommendations in the report.

ILAC will also consider commissioning a study on access to justice in Liberia in order to be able to reach a wider set of respondents and generate a further set of data that can be cross-referenced with the results of meetings and interviews, as well as the desk-study.

ILAC will in all cases fully inform respondents on how the information they provide will be used and respect any requests not to use information discussed or directly quote respondents.

ILAC will incorporate a gender equality perspective at all stages of the assessment. We conduct our work with the aim to strengthen the ability of justice sector professionals (formal and informal) to respect, promote and protect the rights of boys, girls, men and women. We recognize that customary justice systems can perpetuate structural forms of discrimination against marginalized groups as well as women and children and are committed to reflect the significant disparities between the degree to which justice is fair and accessible to men, women, boys and girls in the report.

## **Deliverables and schedule**

40 page report, May 2019  
2-3 analytical blog pieces, by end 2019