



IDRC Project No. 108787-005
Scaling Access to Justice Research Collaboration

BRIEF 4:

**STRUCTURAL AND FINANCING MODELS
IN THE CAO SECTOR**

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ACRONYMS AND ABBREVIATIONS

ACQ	Case Study 2
AIDS	Auto-Immune Deficiency Syndrome
AULAI	Association of University Legal Aid Institutions
AWAT	Case Study 3
CAO	Community Advice Office
CAOSA	Centre for the Advancement for Community Advice Offices of South Africa
CBA	Cost-benefit Analysis
CBJS	Community-based Justice System
CBP	Community-based Paralegal
CBPR	Community-based Participatory Research
CCJD	Centre for Community Justice and Development
CCL	Case Study 9
CCMA	Commission for Conciliation, Mediation and Arbitration
CLAP	Case Study 1
CLRDC	Community Law and Rural Development Centre
COIDA	Compensation for Occupational Injuries and Diseases Act
DAO	Daliwe Advice Centre
DCS	Department of Correctional Services
DHA	Department of Home Affairs
DoH	Department of Health
DoJ&CD	Department of Justice and Constitutional Development
DoL	Department of Labour
DSD	Department of Social Development
E&SR	Economist and Senior Researcher
EPWP	Extended Public Works Program
FA	Finance Administrator
GBV	Gender-based Violence
ID	Identification Documents
IDRC	International Development Research Centre
IOM	International Organization for Migration
JRS	Jesuits Refugees Services
KZN	KwaZulu-Natal
LAOM	Case Study 6
LHR	Lawyers for Human Rights
MCAN	Case Study 10

MD	Managing Director
MSF	Médecins Sans Frontières
NADCAO	National Alliance for Development of CAOs
NGO	Non-governmental Organisation
NPO	Non-profit Organisation
OA1	Organisational Affiliate 1
OA2	Organisational Affiliate 2
OA3	Organisational Affiliate 3
OA4	Organisational Affiliate 4
OA5	Organisational Affiliate 5
OMO	Case Study 7
P4P	Pay for Performance
PBF	Performance based financing
PfR	Payment for Results
PI	Principal Investigator
RACB	Case Study 8
RBF	Results-based financing
RC	Research Coordinator
RCP	Refugee Child Project
RLT	Rural Legal Trust
RULAC	Rhodes University Law Clinic
SA	South Africa
SACC	South African Council of Churches
SANAC	South African National AIDS Council
SAPS	South African Police Services
SANCO	South African National Civic Organisation
SASSETA	Safety and Security Sector Education & Training Authority
SAULCA	South African University Law Clinic Association
SCAT	Social Change Assistance Trust
SCSA	Save the Children South Africa
SRCB	Case Study 4
SRCI	Case Study 5
SWEAT	Sex Worker Education and Advocacy Taskforce
UIF	Unemployment Insurance Fund
UKZN	University of KwaZulu-Natal
UK	United Kingdom
UN	United Nations

UNHRC	United Nations High Commissioner for Refugees
USAID	United States Agency for International Development
VE	Village Enterprise

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1 Introduction

This brief discusses the structural and financing models used by the ten CAOs, located in five South African provinces, that participated in this study. An investigation was done during proposal development and preliminary visits to five CAOs to collect anecdotal evidence of the structural and financing model in the CAO sector. Four models were identified: intermediary, stand-alone, law clinic, and umbrella financing models.

This brief begins by reviewing data from the archives and previous primary and secondary research on the structural models by which CAOs operate. Next, financing models identified from secondary sources that are commonly used by NGOs, NPOs and CBOs are explored to investigate their relevance to the funding approaches used by the CAOs in the study. As none of these financing models are found to align with the approaches used by the ten CAOs, the approaches used by the CAOs are analysed and from this seven original financing models are defined.

Evidence from the study demonstrating the perceived structural and financing models of the ten CAOs is discussed and patterns and challenges that are identified with regard to funding are presented.

All 10 CAOs participating in this research are registered as non-profit organisations (NPOs).

2 Defining the Structural Models used by the CAOs in this Study

Community Advice Offices (CAOs) in South Africa operate using a range of different structural models. This study investigated how each of the ten participating CAOs operated in terms of the structural model it uses. While there are a number of reasons a deeper understanding of these structural models would have value, creating space for the voice of CBPs as there are the focal point of these models.

According to Smythe and Artz (2005), CAOs have developed a variety of structural models over the years, with some built on well-established local evidence. They explain that during the development of programmes there tends to either be a rigid structure put in place, that while carefully thought out may prove too inflexible to accommodate the realities encountered in implementation, or a loosely-defined structure develops without careful consideration for critical development and challenges faced by the programme. The latter model tends to be difficult to replicate in other settings as it is poorly defined.

In this study, the documentary evidence that was reviewed before the collection of primary data was not consistent in identifying the structural models used by the CAOs. Some documents used the terms 'umbrella' and 'intermediary' interchangeably. There is also a different understanding of what stand-alone and law clinic represent.

The CAOs were thus sampled based on the structural model they were perceived to be operating under from anecdotal documentary evidence as shown in Table 1.

Table 1 Sampling by perceived structural model

South Africa Province	Type of Model	Organisational Affiliates*	CAOs
Eastern Cape	Intermediary	Social Change and Assistance Trust (SCAT)	Case Study 1 (CLAP)
	Law Clinic	Rhodes University Law Clinic Association of University Law Clinic (AULAI)	
Free State	Intermediary	Rural Legal Trust (RLT)	Case Study 2 (ACQ)
	Stand Alone	CAOSA	Case Study 3 (AWAT)
KwaZulu-Natal	Umbrella	CCJD	Case Study 4 (SRCB) Case Study 5 (SRCI)
Limpopo	Stand Alone	CAOSA	Case Study 6 (LAOM) Case Study 7 (OMO)
Mpumalanga	Law Clinic	Association of University Law Clinic (AULAI)	Case Study 8 (RACB) Case Study 9 (CCL) Case Study 10 (MCAN)

*The organisational affiliates were coded for results reporting

The following sections discusses the four models as documented.

2.1 Intermediary Structural Model

The intermediary structural model involves periodic engagement by the CAO with institutional affiliates that act as intermediaries when sourcing funds. These may be short-term engagements that include financing administrative costs and training. Documentary evidence indicates that the affiliate may act as a go-between for funders, collecting and re-granting the CAOs. For example, Social Change and Assistance Trust (SCAT) supports some CAOs in South Africa (mainly in the Eastern, Western and Northern Cape provinces), primarily in the form of start-up funding. SCAT's relationship with these CAOs exemplifies the intermediary model. The CAOs manage themselves with guidance from the SCAT. According to Dugard and Drage (2013), SCAT provides initial funding with the aim of the CAOs moving as expeditiously as possible toward self-sufficiency. The CAOs are expected to find alternative sources of financial support, such as small contributions or levies from the community and private sector involvement. Dugard and Drage's (2013) found that while the approach taken by SCAT assumes that CAOs can attract funding elsewhere, there was no evidence that the CAOs were achieving this goal.

2.2 Stand-Alone Model

With the stand-alone structural model, the CAO is not affiliated with any external organisations in terms of management, funding, training, or other forms of governance. Dugard and Drage (2013) describe CAOs using this model as working autonomously or partnering with other organizations only on a project-by-project basis.

2.2.1 History of the stand-alone model

According to Fine (1991), stand-alone CAOs arose during the apartheid era in South Africa in direct response to the severe shortcomings of the criminal justice system, which was seen as a tool of apartheid repression and thus illegitimate as well as being inaccessible to oppressed communities in rural and underserved peri-urban areas. Poor access to legal services was exacerbated by several factors. The state legal aid system was dysfunctional and private legal services were prohibitively expensive. Most lawyers were neither inclined nor equipped to serve oppressed communities. For example, they were unable to speak African languages, unprepared or unable to assist with socio-economic and political problems, or they were unwilling or unable to service outlying areas.

2.2.2 The stand-alone approach

In CAOs using the stand-alone model, CBPs take up and resolve matters themselves, referring cases to lawyers only as a last resort when litigation is necessary. According to Dugard and Drage (2013), it is in this setting that CBPs contribute most broadly “to the promotion and enforcement of access to justice across South Africa, both through their wide geographic range and the fact that they are often the only legal or quasi-legal option within far-flung rural communities.”

2.2.3 Need for improved documentation, monitor and evaluation

Stand-alone CAOs tend to be weak in the areas of the documentation, monitoring and evaluation of their work. Franco *et al.* (2014) explain that monitoring and evaluation do not “seem a priority in light of the seemingly more urgent concerns of training paralegals and immediately making them work on issues facing the community. The issue of scarce resources comes into play, as limited funds are used more for training and actual dispute resolution rather than for trying to monitor the outcomes of their work”. In one study, community-based paralegals (CBPs) indicated that there was little monitoring and evaluation of their work (ACAOSA, 2013).

Franco *et al.* (2014) note that despite the long history of CBPs, “little has been done to measure the impact of paralegal work on access to justice”. Some CBPs do not routinely follow up on the cases they have reported or handled; such follow up could yield useful data for measuring the impact of the CAOs on the communities they serve.

2.2.4 Need for capacity building

A study commissioned by NADCAO found that the legal and technical competency of CBPs at stand-alone CAOs varies and capacity building is a key challenges confronting these CAOs. Capacity building needs include development of effective administrative systems for case management, training in computers and financial management skills (Buckenham, 2014).

The majority of the CBPs that participated in this study did not have paralegal qualifications at the time of the study. They had trained on the job and developed their expertise over years of community advocacy and service. The community-based participatory research (CBPR) methodology used in this study enabled six of the participating CBPs to be sponsored to study; at the time of this report they have been certified as an accredited paralegal practitioner by CCJD, which is an accredited training institution.

2.2.5 Need for cohesion and institutional support

Stand-alone CAOs have tended to struggle to attract funding as well as technical and capacity-building support. Several initiatives over the years have attempted to bring cohesion to CAOs using this model in order to leverage better access to support and resources.

The National Community-Based Paralegal Association (NCBPA) was formed in 1996 by CBPs who felt that a representative body was required to bring about transformation and development in the sector (for stand-alone CAOs, in particular) and lobby for formal recognition of CBPs within the legal profession (Benjamin, 2012). The NCBPA argued that such recognition would enhance the financial and operational security of the sector. The National Paralegal Institute (NPI) was established as a project of the NCBPA to deliver standardised and certified training for CBPs to enable them to work with the justice system.

In 2004, the NCBPA, and the NPI with it, collapsed. This left the stand-alone CAOs without support or cohesion, and they again became fragmented, and typically struggled to find funding. Concerned about this situation, the funders that had supported the NCBPA reopened discussions with stakeholders (Benjamin, 2012). In 2007, the National Alliance for the Development of Community Advice Offices (NADCAO) was established to provide strategic support and advocacy to the CBPs sector (Dugard and Drage, 2013). It was not constituted as a membership or funding organization, but aimed to consolidate a national footprint, position itself within the national legal and institutional framework, and increase the capacity and sustainability of individual affiliated CAOs (Dugard and Drage, 2013).” In 2013, when NADCAO’s mandate expired, a new, membership-based structure was launched to act as the voice of CBPs working for stand-alone CAOs: the Association of Community Advice Offices of South Africa (ACAOSA) NADCAO pledged to provide support to ACAOSA from 2014 to 2016. In 2018, ACAOSA

became the Centre for the Advancement of Community Advice Offices in South Africa (CAOSA). CAOSA is leading the process that will see stand-alone strengthen, better organised, formally recognised and funded.

2.3 Law Clinic Structural Model

At South African universities, law clinics provide legal education and support to clusters of CAOs in their area under the auspices of the Association of University Legal Aid Institutions (AULAI) Trust (The Community-based Paralegals: Practitioners Guide, 2010). The Trust acts as a support agency for eighteen university law clinics and their associated projects, one of which is the Access to Justice Cluster (AJC) which operates through eight clusters, Western Cape, Free State, Northwest (Potchefstroom and Mafikeng), Limpopo, Rhodes, and Stellenbosch, attached to eight university law clinics. The AULAI Trust supports paralegals in terms of training and back-up legal services to CAOs provided by lawyers from the law clinics. This is done under provincial clusters, for example, Mpumalanga Access to Justice Cluster (MAJC).

2.4 Umbrella Structural Model (exemplified by CCJD)

The umbrella structural model involves an NGO that oversees the CAOs it has established using an in-house, accredited training system. It is sometimes referred to as an ‘umbrella network’ because the organisation runs a network of CAOs.

CCJD works on the umbrella model. Smythe and Artz (2005), in their case study of CCJD, describe how the model was developed using an iterative process over a period of four to five years until a network of CAOs had been established under the parent NGO. This section explores the example of CCJD, as documented by Smythe and Artz (2005), to better understand the umbrella model.

CCJD aims to bring governance and access to justice closer to local communities. Its community-based justice programme (CBJP) began as an effort to assist communities to establish and run their own CAOs. Local ownership and community involvement were at the heart of the initiative. When community ownership was found to be impractical because of the lack of resources and skills within the community, the CCJD established the CAOs directly, leading to the birth of the umbrella model. CCJD is responsible for the overall administration and management of the CAOs, raises funds to ensure the sustainability of the CAOs and trains women recruited from the communities where the CAOs are based as CBPs. CCJD specifically targets women. CBPs refer to the premises of the umbrella organisation as the Head Office.

The following sections describe characteristics of CCJD’s umbrella approach with regard to the establishment of CAOs, values driving the model, selection and training of CBPs, documentation and reporting by the CAOs; and monitoring and evaluation by CCJD, the umbrella organization (CCJD, 2010).

2.4.1 Strategic placement of the CAOs

CCJD developed criteria for selecting communities where a CAO would be established. Firstly, communities were prioritized that were situated in a policing area or a magisterial district with a very high record of crimes against women and children. Secondly, the local police station or magistrates' court must see value in having a CAOs on its premises. Thirdly, community leaders and organisations should support the idea of having a CAO in their area and be allowed to participate in the process of selecting staff.

The CAOs have been intentionally placed in local communities to ensure geographical accessibility for the local community and thus reduce or eliminate transport costs. They have also been strategically placed on premises belonging to the Department of Justice. Clients visiting a CAO can thus easily access institutions of justice, whether police stations or courts, which are located on the same property; these institutions can also easily refer clients to the COA. The strategic placement of the CAOs on the same premises as these institutions of justice also provides a certain amount of vicarious credibility to the centres as well as enhancing the security of the CAOs and safety of the CBPs who may, at time, be targeted by perpetrators. Smythe and Artz (2005) found in their study that the community's respect for the CAOs was linked to the location of the CAOs in proximity to an institution of authority. Another incentive for sharing premises belong to the Department of Justice is that rent, utilities and, initially, even telephones were not charged.

2.4.2 Values driving CCJD's umbrella model

2.4.2.1 Collaboration with other stakeholders

The collaborative nature of the model brings community leaders and other stakeholders on board in terms of appointing CBPs from within the community and associated challenges. This process of inclusion is built into the umbrella model design. The inclusive design draws CBPs into constant engagement. This is most notable in their role negotiating with those who hold power in the community for access to the community through 'gatekeepers'. This may involve negotiating with traditional leaders, police officers, school principals, or other professionals, like social workers. The high number of referrals between the CAO and stakeholders is further evidence of the acceptability of the CAO to partner organisations. The recognition of the work of the CAOs is also apparent in the support given by institutions located in the communities where the CAOs are situated. Courts offer premises for the park homes (mobile offices), while police stations offer premises and transport for community visits. All park homes were donated by an organisation called Businesses Against Crime that partnered with CCJD.

The umbrella model enables the umbrella organization to maintain regular contact at the top levels with institutional partners. This foster understanding and a spirit of cooperation at the top which can filter

down to staff in the field, helping to overcome the animosity and professional territorialism that can hamper working together. Once high-level relationships have been established, the CBPs need to maintain these links at a local level, as staff turnover at partner institutions is very high. An important lesson is that while people tend to prefer flexible arrangements and avoid too many rules, service level agreements between organisations are necessary and desirable. The umbrella model allows CAOs to exercise pragmatism in managing relationships with stakeholders.

2.4.2.2 Connecting communities with providers

The ability of CBPs to work with institutional partners to bring together service providers and community members is a key aspect of the umbrella model. The model is aimed at increasing the access of underprivileged people to justice.

2.4.2.3 Community-based approach

CBPs are often required to respond quickly to problems that arise in their community and to adapt to the circumstances in which they find themselves. While the CAOs are already based in the community they serve, at CCJD CBPs are encouraged to spend their time out in the community, and not only stay at the office. They participate in community forums, meetings with stakeholders, make presentations, and launch projects and campaigns. CBPs operating this way operate on their own initiative. Working in and with communities requires a broad, holistic outlook. They become resourceful at finding solutions for clients who ‘fall between the cracks’ and have been turned away by other service providers because the issues fall outside of their scope. There are many examples of instances where a CBP took a mother and baby to their own home as an interim solution or published a story in the local newspaper to put pressure on an unresponsive service provider.

2.4.2.4 Flexibility

The umbrella model is flexible: services have constantly expanded to address new needs, ensuring that the programme has remained relevant to the communities it serves. The CBPs have demonstrated their commitment to assist clients even when a problem falls beyond the scope of their role. The CAOs are known for the fact that when a client ‘falls through the cracks’ because the problem does not fall into a recognizable service category, the community and stakeholders will escort that person to the CAO. It is as if the CAOs have ‘walked alongside’ the community, through the years. This has resulted in the reputation of, and demand for, the services of the CAO spreading to even more rural areas. Expanding to serve the growing numbers of clients and diverse range of cases has required CBPs to upgrade their skills and competence through intensive capacity building.

2.4.2.5 Bottom-up approach

This umbrella model embraces change using a bottom-up approach. A constant process of learning and adjustment is integral to the model (Smythe and Artz, 2005). The bottom-up approach ensures that CBPs are trained to meet whatever issues present themselves or come to their attention. This ensures that the programme remains at all times relevant to the communities it exists to serve (Friedman, 2003)

2.4.2.6 Low turnover

The significant investment CCJD makes in the training, capacity-building and individual mentoring of CBPs has paid off in terms of quality service provided to communities over time by a group of CBPs that has built up its expertise with very little turnover. CCJD's policy of recruiting members of the community to train as CBPs has also played a role in maintaining low turnover, as staff are able to live with their families while working in the CAO and know the communities in which they work, and live, well. A strong motivating factor for CBPs to remain with CCJD was because they are to be seen to be providing the best service to their community.

2.4.3 Selection, orientation, induction and training of CBPs

The process of identifying, training, and assessing potential CBPs is done in four phases. It is lengthy and may take eighteen months to three years. It now takes even longer because of the expansion of the programme to include economic & environmental justice issues. Phase 1 involves selection of potential CBPs; Phase 2 focuses on orientation; Phase 3 is induction of selected CBPs; Phase 4 centres on accredited paralegal training; Phase 5 involve post-accredited paralegal training.

The selection process is intensive. Candidates are short-listed based on the following criteria.

2.4.3.1 Phase 1: Selection/ Recruitment of CBPs

Education. CBPs enters the training programme with various educational qualifications. Generally, a matriculation certificate is required. An exception had been made to women who did not have matriculation. Initially, only women were recruited, but criterion was later dropped (Martins, 2011). The work of a CBP, however, requires training and skills equivalent to that of a tertiary National Certificate in Paralegal Practice qualification (NQF level 5). This process is possible in an umbrella model that has a deliberate policy of empowering people from the communities within which the CBPs operate.

Local knowledge of community. As educational background is not a key criterion, CBPs are selected primarily on the basis of their roles in the community. The fact that the CBPs are chosen from the community within which the CAOs are based helps to make the programme highly accessible. This also ensures that they are familiar with local problems and attitudes. In this study, case narratives revealed

that CBPs take culture and custom into account as well as the use of multiple justice systems: they are well positioned to understand the intricacies of customary law as it interfaces with civil law.

Personal attributes. In addition, the candidate must demonstrate that they have adequate emotional maturity and interest in the work to cope with the demands of the work. The passion of candidates for the type of work is given careful consideration.

After selection through an initial interview, the candidate undergoes a one or two-day orientation, which is conducted in the working environment. The orientation covers how to interview clients and take statements and how to work with community partners. After orientation, the candidate is observed over three phases of training. At the end of each phase, those found not to be suitable are excluded from the programme.

2.4.3.2 Phase 2: Orientation

During this period, the umbrella organization observes the candidate, looking particularly for commitment to their work and a love for what they do. The candidate's credibility within the community, and acceptance by the community, are also key. Smythe and Artz (2005) note that in their 2005 study credibility was found to be crucial in rural areas. In interviews during the present study, CBPs emphasized the importance of credibility within the community, pointing to their own difficulties when attempting to intervene in areas where they were not known. The screening process ensures that the candidate is not only compatible with the chosen model of service provision (i.e. the content of the work as well as working with clients and adjunct criminal justice agencies) but determines the candidate's suitability to continue with formal paralegal certification.

This is a volunteer period during which they receive no training and no stipend and during which their innate problem solving and people skills are tested.

2.4.3.3 Phase 3: Induction and probation

The induction phase lasts for six months. After orientation, the candidate spends five months at an allocated CAO partnered with an experienced CBP. After which the candidate spends one month at another CAO to learn diverse approaches of working with clients and different communities.

2.4.3.4 Phase 4: Accredited paralegal training

The accredited paralegal training is offered to staff who have been in service for six months and who have shown eagerness and willingness to improve their skills. This year long accredited training constitutes a significant investment in the personnel involved with the programme.

They are given a scholarship and are provided with a stipend, enabling them to attend interval training sessions, and help out at the allocated CAO when not training. The stipend assists with subsistence for families during the year of training. At the end of the training, they receive a recognised certificate in Paralegal Practice.

2.4.3.5 Phase 5: Post-accredited paralegal training

To ensure that all CBPs are properly equipped for their role, further assessment and training in specific services takes place on a regular basis, along with mentoring. Technical support at the work place is always available from the umbrella organisation and this ensures constant improvements in performance (CCJD Evaluation, 2003).

Ongoing internal and external training allows a CBP to stay updated and expand their expertise, investing in their capacity as a knowledgeable, committed professional capable of seeing beyond the specific problem presented by the client and investigating root causes such as equity, equality, discrimination, transparency and accountability. Investing in the professional development of staff also helps to keep turnover low.

Internal training

Capacity building of new recruits is accompanied by individual tuition by the director and field coordinators, and monitoring of the new recruits as they provide services to clients and conduct outreach work. This process involves evaluating their competence, taking corrective action where required and providing feedback on their progress.

Intensive capacity building took place between 1999 and 2004 as CBPs' skills and competences were upgraded to cope with the increasing numbers of clients and issues.

Capacity development training covers the characteristics of individual centres and the problems and special needs of communities in each area served by the programme.

Further training priorities identified by CBPs themselves are put into two general categories: new skills development and refresher courses to keep them up-to-date. Training topics have included counselling, community development, changes in substantive law and changes in procedure. Experts and practitioners have been brought in to brief the CBPs on current practice in various areas. For example, staff from CCMA have come to talk about labour issues –and particularly the position of farm workers; experts in social welfare have provided training on how best to deal with difficult cases relating to issues such as acquiring birth certificates, ID documents and foster grants. An officer from the Child Protection Unit spoke to the CBPs about the management of child abuse cases. These in-services have had the added benefit of not only providing useful knowledge, but also providing CBPs under the umbrella

model with the opportunity to build useful networks with colleagues working in these other sectors (Smythe and Artz, 2005).

Capacity building is also built into the design of the reporting that is required of the CBPs. The reports are explicitly focused on building the language and writing skills of the CBPs. The Format Guide for Bi-monthly Reports provides detailed guidance to CBPs on how to structure and present reports and when they should be submitted by the CAOs to the umbrella organisation. Because the case reports are published, the CBPs are also able to pick up substantive skills and strategies from their colleagues by seeing how they have dealt with difficult cases. At the same time, publication of the reports seems to provide an incentive for CBPs to improve their report writing. CBPs are continually assessed on their practical ability to produce reports of the required standard and are asked to attend additional days of training as needed.

Internal training is continuous and flexible, responding to the needs of the coordinators and the demands of the work they do. Continuous professional development keeps the coordinators interested in their work, and motivated to stay with the organisation.

Smythe and Artz (2005) in their 2005 study of CCJD, noted: “Our overall impression is that the CBPs supported by the umbrella organisation are very knowledgeable about their community-specific needs and that they are professional and confident in the delivery of their opinions on their work.”

External training

External training and workshops provide opportunities for CBPs to engage with other professionals at a provincial and national level. As CBPs are kept abreast of changes in the law, they are able to deal with the institutions of criminal justice with confidence.

CBPs may also participate in a variety of other courses on their own, toward which the umbrella organisation may contribute travelling costs; for instance, a paralegal may attend a specialized rape counselling course. Opportunities for individual CBPs to continue their education to qualify as a social worker or lawyer are also available.

Successful candidates proceed to a five-month contract assessment, where the candidate is trained to undertake basic paralegal work and support work with clients. This is crucial phase for screening, because it determines whether the candidate will qualify to proceed to the six-month paralegal course.

In recent years the CBPs were divided into groups to train them to network with others professionally and personally. Small groups encouraged more participation. CBPs were also divided into levels of language ability in order to target areas of weakness. The training programme is exhaustive and exacting. The training programme is a model in and of itself, in that allows the umbrella organisation to see the candidate 'in action' for a period of time before an investment is made in the formal paralegal training course (Smythe and Artz, 2005). The formal certification of paralegal training is an essential component to the success of the umbrella model. The umbrella organisation has its own standards and outcomes for training. The acquiring accreditation for diploma courses is complex and time-consuming. The umbrella organisation has a wealth of experience in this area and knowledge, skills and experience inhering in the coordinators (Smythe and Artz, 2005).

2.4.4 Provision of print materials by umbrella organization

Information has been produced by the umbrella organisation in various ways to support the CBPs in their awareness-raising activities.

2.4.4.1 Informational support materials for CBPs

CCJD has produced a range of posters to support the CBPs, designed to inform them of changes within the justice system, current human rights issues and topical issues affecting the communities they serve.

CCJP has also developed training material for the CBPs on an ongoing basis in response to the CBPs' assessment of their needs. An is the Format Guide for Bi-monthly Reports, mentioned previously, which provides detailed guidance to CBPs on how to structure and present reports and when they should be submitted by the CAOs to the umbrella organisation. The umbrella organisation has also produced a variety of plain-language handbooks on substantive aspects of the law for training purposes (Smythe and Artz, 2005).

In order to make complicated legislation more accessible to the CBPs who need to apply it in their daily work, over the period 2001 to 2006 CCJD produced a series of publications providing a simplified explanation of key legislation. The Legal Series has enabled CBPs to engage more confidently with other important role players, such as court officials and police officers, about the provisions of the law. Unexpectedly, the series has generated considerable interest and demand among a variety of professionals – including law students, prosecutors, magistrates, teachers, police officers, court officials and other service providers.

Less formal updates on new legal development and issues of concern or interest are done through a newsletter published by the CCJD and disseminated to the CAOs (Smythe and Artz, 2005).

2.4.4.2 Materials for distribution to participants

Flyers and brochures are produced in the home languages of participants for distribution at presentations and workshops. After a presentation on the topic, participants can review the key information in a concise and simplified form, with cartoon illustrations. If the participant is not literate, a family member can help them access the print resources.

2.4.5 Documentation and reporting by the CAOs

2.4.5.1 Information management system

The umbrella model facilitates the use of standardized data collection and information management tools across all of the CAOs in the organization. After a baseline evaluation, in 2000 CCJD designed an information management system to document the activities of its CAOs and assess effectiveness and areas for improvement. CBPs across the CAOs were trained to use the data collection instruments and provided feedback for their development.

2.4.5.2 Documentation of case data

In 1997, CCJD introduced a paper-based case management system. In 2005, the organisation introduced a central electronic database. The CBPs submitted paper records to CCJD and data was captured into the electronic database at the central office. In 2011, a dynamic electronic database (always updated to record the progression of cases to resolution) was set up at each CAO and CBPs began to capture data directly into the database in electronic form. This system is discussed in detail in Brief 6.

2.4.5.3 Reporting by CBPs

CBPs are required to write bi-monthly activity reports and three case reports per annum. These reports allow the CCJD to track emerging trends in cases, identify emerging issues in the community and provide the CCJD with evidence-based data to inform the development of in-house training. These reports also allow the umbrella organisation to track emerging trends in cases, identify specific community-based problem areas and provide the umbrella organisation with evidence-based data that can be used for in-house training purposes including refresher courses. A model that is regularly evaluated means that corrections can be affected, as a result of the analysis of strengths, weaknesses and obstacles.

2.4.6 Monitoring and evaluation by the umbrella organization

2.4.6.1 Monitoring and evaluation of the work of the CAOs and CBPs

The CBPs at the CAOs have freedom in the execution of their work. At the same time, however, the umbrella organization continually monitors their performance unobtrusively, partly through reporting requirements and partly through the hands-on support role of the field coordinator. The umbrella model has also developed indicators through which to monitor the performance of the CAOs activities. As the umbrella organization, CCJD has responded to the changing needs of communities by constantly standing back and reflecting on new challenges, strategizing to meet new needs and incorporating changes as needed.

2.4.6.2 Monitoring and evaluation of the umbrella model

The model is constantly assessed for its effectiveness. Many multi-level assessments have been done over the years. Initially, the focus of documentation by the organization was on its internal processes: recording, activities, progress and achievements, lessons learnt and challenges encountered. However, it was apparent that meticulous documentation of the process by which the CCJD umbrella model evolved could also facilitate the replication of the model by other organizations.

In the year 2000, CCJD launched a comprehensive monitoring and evaluation programme. The objective was to evolve an umbrella model that could be applied to other context, having proved itself effective in addressing the legal needs of communities in the context of the CAOs affiliated with CCJD.

The organisation commissioned an external monitor and independent assessors. A monitoring system was put in place based on the Input, Activities, Output, Outcome, Impact (IAOOI) model to assess justice services delivery by the CAOs. The monitoring and evaluation process was divided into three-year phases, during which the implementation of the model was documented, starting with a baseline evaluation at the end of the first phase of implementation of the community-based outreach programme. These phases, and the evaluations that followed them, are summarised below.

2.4.6.3 Foundation Phase and Baseline Evaluation (1997- 2000)

The focus of the Foundation Phase was to develop a practical model through which communities could access justice. CCJD therefore focused its energy on developing the operational and administrative systems necessary to make the community-based justice programme work effectively. This resulted in the establishment of victim support centres (VSCs), which were later called outreach support centres (OSCs) and, later still, resource and support centre (RSCs). CCJD commissioned an independent evaluation at the end of this phase so that the achievements, strengths and weaknesses of the programme and the umbrella model could be identified, and the data obtained could be used to improve performance and service delivery.

The first phase of implementation was documented through a baseline evaluation that covered all aspects of the umbrella model and its activities. The data collected provided baseline information against which future evaluations could be measured. This evaluation also identified a need for a reliable data collection system (Friedman, 2000).

2.4.6.4 Development Phase and Second Evaluation (2001 – 2003)

By the year 2000, the foundations of the programme were in place and the benefits it brought to communities had become evident. With the effectiveness of the umbrella model having been demonstrated, CCJD instituted a system to ensure that the impact could be measured, lessons gleaned and weaknesses addressed. The previous evaluation highlighted the need to develop mechanisms to ensure ongoing monitoring and evaluation. It also provided baseline information on the basis of which the impact of the programme could be measured. The assessment brought to attention the fact that there was a great need for a widespread public education campaign, for which CBPs would need extensive training. Initiatives were put in place to build the capacity of the CBPs.

After implementing corrective measures, a second evaluation was conducted in 2003 to assess the extent to which these changes had enhanced the performance of the CAOs. The result was a comparative report outlining the effectiveness of the measures implemented after the first evaluation and noting changes in the utilization of the services of the CAOs and the results achieved.

2.4.6.5 Expansion Phase and Third Evaluation (2004 – 2006)

This phase raised the question of the divergence from the original mission of the umbrella organisation, which was for the CAOs to be owned and managed by the communities themselves. This original intention was not possible at this time, owing to a lack of resources and expertise. A centralised approach was still needed to recruit and train suitable staff as CBPs, and for the ongoing training and field monitoring that was critical to the programme. Data collection, monitoring, evaluation and documentation were all important aspects of the process and of the umbrella model.

In the Expansion Phase, more activities were undertaken. Mapping was done in this phase to assess the terrain and infrastructure of the areas served and those beyond the CAOs. The CAOs expanded their services to new areas, extending the reach into deep rural and isolated areas. Energy was devoted to providing support and informative materials were produced and widely distributed. The relationship of the CAOs with other service providers gradually changed, with scepticism towards the CAOs eventually giving way to acceptance and appreciation, resulting in improved services and access. An electronic database was introduced to increase the capacity for in-depth analysis, resulting in the development of new strategic interventions. This phase also focused on providing technical assistance to CAOs seeking to reach isolated communities.

By the third evaluation, it was envisaged that the documentation would reach full maturity. Therefore, the evaluation of 2004-2006 undertook a comprehensive documentation process, with a focus on what had been achieved in the previous ten years and the benefits for the communities served. As part of the assessment, a separate but related *Independent Impact Study* was undertaken in 2006, to be read in conjunction with the Evaluation Report of 2004-2006. The aim was to assess and demonstrate the success of the community-based justice programme as a model that could be replicated in other places.

The 2004-2006 Evaluation Report incorporated the new indicators recommended by the past two evaluations and enabled umbrella organisations to compare the achievements of different phases using common indicators. It provided evidence of a more comprehensive service developing, in alignment with the vision that been expressed by the director in the first evaluation, in 2000.

2.4.6.6 Year of Reflection and Fourth Evaluation (2007)

After ten years of implementing the umbrella model, a year was allocated to reflect on the evolution of the model over the previous three cycles and the implementation strategies. Questions that were asked included: Were the objectives of the outreach programme still relevant? Were the strategies appropriate to the needs of rural people? Was the documentation adequate? Were the skills of the CBPs sufficient to meet future challenges?

Several new directions emerged relating to increased community empowerment. In moving toward the long-term goal of community ownership of the CAOs, it was decided that strategies that concentrated on prevention should be emphasized. This would involve strategies such as involving community members in support and focus groups where issues could be explored in greater depth and approaches for addressing them identified.

Strategic thinking also led to the idea of a research programme to run in parallel with the outreach programme. While returning to the roots of the work of the umbrella organisation, this parallel initiative would become the main focus of the community-based justice programme.

Also emerging was a new strategy to gather research data on the impact of the CAOs, involving the CBPs as field researchers. The rationale was that their understanding of, and sensitivity to, the local terrain and protocols would help to overcome many of the weaknesses that had been identified in the Impact Study of 2006.

In 2007, after a year of reflection, it was envisaged that the fourth evaluation would concentrate on an assessment of impact and on the sustainability of the umbrella model. Part of the sustainability strategy was to develop the programme so that it could continue to work outside of the umbrella model. This involved exploring whether the effectiveness of the CAOs could be sustained without the support of the umbrella structure.

2.4.7 Risks and challenges of the umbrella model

2.4.7.1 Staff Burnout

While CBPs are given a large degree of freedom in their work, there is potential that this could inadvertently create more pressure for them to perform and may encourage them to take on more projects within their community than they can handle sustainably (Smythe and Artz, 2005).

2.4.7.2 CBPs as research assistants

Challenges were experienced in enlisting the CBPs as researcher assistant. While initially they were enthusiastic, once they began some realised that they did not have the level of skills required. The level of written skills required to communicate research interviews were very variable, with only a small number already at the required level. Where those showing promise were mentored individually, they showed dramatic improvement. Others felt that the time requirements of involvement in research placed them under too great a load.

2.4.7.3 Lack of independence

The possible drawback of the umbrella model is that the collapse of the umbrella structure could result in its CAOs being forced to leave.

2.4.8 Evaluation of the Umbrella Model

The CCJD instituted a system to document the model in a more analytical way. It is through this umbrella model that CCJD was able to assist communities in developing the necessary capacity and skills to establish, develop, and manage sustainable interventions directed at improving access to justice in rural areas. Smythe and Artz (2005) point out that the model, though concretised in many aspects, has retained its organic characteristics that, according to the director, has kept the work of the CAOs under the umbrella model relevant.

The number of cases handled by the CAOs has remained consistent. This shows the relevance of the service to the needs of the people. Even more telling is the large number of new cases that are recorded at the CAOs every year. During a field visit to assess the relevance of the services, community members were vocal in their requests for the CAOs to expand their mandate to include access to economic justice issues (Martins, 2013).

Smythe and Artz (2005) assert that the success of the model is demonstrated by the calibre of staff and the professionalism and knowledge of the site coordinators. The CCJD is clear that the use of volunteers (unpaid or ad hoc staff) is not a possibility and would adversely affect the quality of the services provided. In light of the range of duties that each CBPs is responsible for, the option of volunteers is not viable. Not only does a formally qualified person demand more credibility from the community and

criminal justice agencies, but it ensures a strong level of commitment to the programme. The professionalism of CBP is another key element in ensuring consistency of services, low staff turnover and personal commitment to community-justice work, all of which are trademarks of CCJD's umbrella model. Despite the risks and challenges that accompany it, the CCJD model is readily replicable in other contexts across South Africa – particularly where rural and urban culture meet. The model ensures consistency and continuity of services. The umbrella model was illustrating the degree of coordination, systemization and maintenance inherent in this kind of model. (Smythe and Artz, 2005; Ruffin, 2019).

The strength of the umbrella model is creating a space for the CBPs to contextualise their work in a way that is specific to the community that they serve and is undoubtedly a notable factor in staff retention but, from a management perspective, it also requires continual monitoring and support. Opportunities are available to the organisation that manages the umbrella model are passed on to the CBPs (Smythe and Artz, 2005; Ruffin 2019).

The umbrella organisation has been very diligent in its documentation and analysis of services rendered, which may have the instrumental effect of keeping the services focused, effective, and functioning at a professional level.

The CCJD umbrella model is a work in progress. Continued rigorous monitoring and ongoing internal and external evaluation is needed. The model has put more emphasis on maintaining and developing the core functions and activities of the umbrella model, rather than expanding them. CCJD has instituted standardized reporting and data collection procedures. The umbrella model, though concretised in many aspects, has retained its organic characteristics that has kept the work of the CCJD relevant. This is critical if the umbrella model is going to be genuinely responsive to the needs of the community (Ruffin, 2019).

3 Defining the Financing Models used by the CAOs in this Study

3.1 Introduction

All ten CAOs under study are registered as Non-Profit Organisation (NPOs). The information that applies to NPOs also applies to CAOs under study. As NPOs serve society and do not generate profits, they are heavily dependent on public and private funding to sustain their operations. Directors of NPOs thus need a good understanding of the funding options available to their organization and the financial model of the organization needs to be aligned to these. Evidence suggests that the donor pot has been shrinking, with funding for legal aid having been cut by more than a third in the past four years (Manuel and Manuel, 2021). Manuel and Manuel (2021: 7) note that, as of 2019, “only 1,5% of all aid was spent on justice. Justice aid in LICs (excluding Afghanistan) totalled \$240 million compared to estimated need of \$13 billion. This amounts to 38 cents per person per year compared to \$4 per person for education and \$11 per person for health.”

In South Africa, all organisations that perform charitable activities are required to register as an NPO.

This section critically reviews the financing models identified in the literature as being used by NPOs, NGOs and CBOs, then considers whether the CAOs in the study use any of the financing models that have been reviewed and describes the models that are used by CAOs that are not found in the literature.

3.2 Financing models for NGOs

3.2.1 Official Aid

The most common sources of funding for NGOs is official aid, provided through organizations such as USAID and DFID. The NGOs selected for official aid tend to be more prominent and have an established track record. A small number of these NGOs also get financial support from other agencies such as the World Bank, UN agencies and other development banks (Pratt et al., 2006).

According to Pratt et al. (2016), which the funding available through official aid can be substantial, only a small number of NGOs benefit from it; for instance, about 400 NGOs (less than half the registered NGOs) based in the UK receive significant official aid. In South Africa, in 2014, only about 20 of the 40 national departments allocated funds for NGOs (Ratlabyana et al., 2016). In contrast, in the Scandinavian countries most of the local NGOs (for example, SIDA, Danida etc.) are funded by official donors (Bocquet et al., 2020). These official donors are now growing concerned about the high level of aid dependency of these NGOs and have begun to pressure them to diversify their financing mechanisms (Bocquet et al., 2020). This situation has been brought about, in part, by political and ideological pressures, financial difficulties, and increased dissatisfaction among the general public over tax money

being used to support other countries and overseas projects when their government sometimes cannot meet local demands due to lack of funds (Pratt et al., 2006).

The heavy reliance of some NGOs on official funding raises questions about their financial sustainability and reliability should budgets be abruptly cut. It also raises questions about how such heavy dependency on other institutions impacts their identity and autonomy (Pratt et al., 2006).

The official aid model has faced further criticism related to its financing scope. While the official funding of NGOs has been observed to be growing over time, this growth has been primarily in humanitarian and emergency work, and there has been debate about how this could be better distributed to support other sectors as well (Pratt et al., 2006). The projections are that official aid to NGOs will dwindle, as has already been seen in Australia, Canada, Ireland and the Netherlands (Pratt et al., 2006; Bocquet et al., 2020). Alternative financing models as being explored, such as gifting, payments by results commissioning, or the use of sizeable consortia-based funding frameworks based on competitive bidding processes. These alternative financing models are discussed next.

3.2.2 Gift Economy

Another source of funding to large and small NGOs is the ‘gift economy’. In this model, NPOs depend on personal contributions, once-off gifts, community collections at special events, legacies, regular bank-based giving by standing order or direct debit, child sponsorship, and new approaches to web-based giving (Hailey and Centre, 2014). Faith-based NGOs can also obtain funds from church collections, personal pledges and zakat funding. Dedicated humanitarian appeals also generate significant funds during extreme emergency scenarios such as the Asian Tsunami, Haiti earthquake, the Ebola outbreak in West Africa or the current COVID-19 outbreak (Antonio et al., 2020). Philanthropic donations or gifts from trusts and foundations are also viable sources of funding for the work of NGOs.

One of the attractions of gift-based funding is that it is perceived as ‘free money’ as it often does not have the conditions commonly attached to funds from official donors. While gift donations may be restricted by donor for use only for a specific project or purpose, they are often for unrestricted use – especially those provided by family trusts and foundations (Hailey and Centre, 2014). Unrestricted funds can be used for whatever the NGO sees fit to achieve its mission. Strategically, it is essential that NGOs establish a balanced mix of ‘unrestricted’ and ‘restricted’ funds.

If successfully embedded in the organisation's work, such gift-based funding strategies can be effective and sustainable in ensuring predictable income.

There has been significant growth in the donations provided from such private foundations and donors – although there are some difficulties in measuring this. Recent data from Africa suggests that about US\$7 billion is donated each year by African philanthropists (Appel and Leadership, 2020). Such donors

include Francois Van Niekerk from South Africa, who donates approximately \$170 million to his Mergon foundation every year to fund things like health, education, and skill-building programmes; Allan Gray from South Africa, who gives around \$150 million to his Gray Orbis foundation for high school scholarships; Theophilus Danjuma and Aliko Dangote from Nigeria; Donald Gordon (South Africa); and Strive Masiyiwa (Zimbabwe), among many others (Appe and Leadership, 2020). In the US and Europe alone, over 160 000 grant-giving foundations are actively involved in funding NPOs and it is estimated that at least 20 per cent (over \$10 billion per annum) of the total funds from these foundations goes to overseas development projects run by NGOs and CBOs (Appe and Leadership, 2020).

3.2.3 Innovation Partnership

Innovation partnership with private donors is another well-known funding source for NGOs and CBOs. This is an arrangement between NPOs and private sector entities that are actively pursuing a common goal (Kassem et al., 2020). The skills, knowledge and financial resources that the private sector brings to the partnership complement those of the NGO, while the NGO increases the social impact of its private partners by creating sustainable solutions (Dhanani and Thomas, 2019). These arrangements have a higher comparative advantage to donors as the NGOs and the private sector are partnering to pursue a common goal (Nevidjon, 2016, Kassem et al., 2020).

3.2.4 Micro-credit

Micro-credit is another viable form of funding for NGOs. According to Mall & Mishra (2013), the availability of credit in developing regions plays a massive role in improving the lives of the poor. Furthermore, NGOs can act as a reliable intermediary to transfer micro-credit to the poor through schemes such as loans and savings (Mall & Mishra, 2013; Parvin et al., 2020).

3.2.5 Enterprise-Supported Financing

Some well-established NGOs generate a portion of their funds from their high net worth individual, commercial ventures or business enterprises. These ventures are either purely profit-based (such as the subsidiary companies formed to financially support BRAC, a major NGO based in Bangladesh) or are complementary for-profit organisations serving development goals (such as Oxfam's high street shops in England) (Hailey and Centre, 2014). Usually, enterprise-supported NGOs also rely on other sources of income (such as official aid or gifts). The revenue generated from these subsidiary businesses usually makes up a relatively small proportion of the organization's total funds; however, there are examples of organizations that have built up supporting enterprises to provide the bulk of their funding. For example, in 2013, the Bangladeshi NGO BRAC sourced only a third of their annual expenditure of \$545 million from official donors, while the rest of their funding was generated by their enterprises,

which included banks, printing businesses, fisheries and mobile phone companies (Hailey and Centre, 2014).

3.2.6 Block Grants and Framework Agreements

A block grant is a type of funding whereby a single payment is made to the NGO for a set period to carry out specific projects. According to Pratt et al. (2006), the funded organisation must report regularly to the funder on the projects and activities supported by the grant.

A framework agreement is a funding mechanism that involves a general agreement to fund a particular NGO or a group of NGOs. Framework agreements supported an NGO depending on organisational assessment and agreed on outcomes. There may be minimal restrictions placed on how the funds are allocated, although the annual reports may require specific outcomes from the funded projects.

3.2.7 Payment for Results (PFR)

This form of funding that is based on the outcomes achieved by the NGO. The donor only transfers funds to the NGO when the desired outcome can be demonstrated or the project is complete (Sharma et al., 2021). An example of a donor agency that has adopted this financing model is the Department for International Development (DFID) in the United Kingdom. DFID offers up to \$30 million to Ethiopian educational programs depending on the number of students completing O level education (Sharma et al., 2021). Other examples of such development programmes which are funded using the payment for results mechanism include Educate Girls, a non-profit working on girl child education programs in India and the microenterprise development program run by Village Enterprise in Kenya and Uganda (Cheng, 2016, Instiglio, 2018).

This funding mechanism protects donors from risk but financially constrains NGOs that do not have an adequate funding base to be able to meet expenses until the outcomes are achieved. As a result, most young or small NGOs are not able to withstand the financial risk that the PFR entails (Sheil and Breidenbach-Roe, 2014, Sharma et al., 2021).

3.2.8 Government Grants and Contracts

Government grants and contracts are crucial funding mechanisms for many NGOs. Indirect subsidies such as forgone taxes, tax exemptions on corporate activities and tax credits account for a substantial portion of total revenue, but since they are not frequently attributed to the government, grants and contracts are considered as the major public funding sources for NGOs (Rushton and Brooks, 2007, Jang et al., 2007). Frumkin (2002) reports that most NGOs rely on government grants or contracts for more than half of their revenue regardless of their religious, altruistic, or political origins. Moreover, the dependence of NGOs on government funds varies across the non-profit sector (Frumkin, 2002).

3.2.9 Crowdfunding

Crowdfunding involves raising funds through marketing campaigns and social media platforms by asking for donations of small amounts of funds from a large number of people. This funding mechanism is free to set up with few risks. It avoids the complicated administrative processes associated with traditional donor funding and can potentially tap into an extensive marketing pool (Love, 2018) as technology has made it possible to reach people all over the world (Younkin and Kashkooli, 2016). This method is currently one of the most effective fundraising techniques being utilised by NGOs (Love, 2018). Crowdfunding promotes the organisation and the project it aims to raise funds and thus can also help to build awareness around the issues the organisation addresses. Supporters gain the satisfaction of participating in concerns they care about (Love, 2018).

3.3 Financing models for CBOs/CBPs

There are many ways through which CBOs raise their funds. Given that seeking funds and resources takes time and energy, it is crucial to prioritise the best and the more reliable funding mechanisms. According to Open Society Initiative (2010), the primary avenues through which CBPs acquire funds and resources are discussed below.

3.3.1 Small Scale Government Grants

Many governments have not fully institutionalised paralegal programs, so they are often willing to provide funding and support. Government involvement and support are often crucial to sustaining paralegal programs. Attracting government funding becomes easier once a paralegal program has started and has established its credibility, however. A CBP can improve its chances of attracting state funding if it understands the rights and services that the government in the country has promised the citizens (such as free legal aid) and documents how its program helps the government to provide these rights and services. In some countries, such as Hungary, civil society members may receive government support through a tax designation system (Conlin, 2020).

3.3.2 In-kind Contributions from Donors

In-kind contributions from donors are non-cash gifts given to CBPs by private businesses and individuals that help to cover the daily operating costs or serve more clients. In-kind donations may include:

- Office equipment (late model scanners, laptops, printers, shredders, copiers)
- Office supplies (ink, paper, books, furniture etc.)
- Office space.

Many CBPs rely on in-kind donations for their operations to run smoothly. These donations also allow organisations to access some of the resources they can't afford (Conlin, 2020).

3.3.3 External Donors

Most CBPs depend on external donors for funding. Some well-known organisations that support CBPs worldwide include the World Bank, the UK Department for International Development, the Open Society Institute, the Ford Foundation, the International Commission of Jurists, and the Mott Foundation. To get funding from such organisations, a CBO must demonstrate that their delivery of legal services to communities is effective and add unique value (Foundations, 2016).

3.3.4 Service Fees

While many CBPs provide their services free of charged, some may charge a nominal fee under certain circumstances. For example, some paralegals charge an initial consultation fee, with subsequent fees provided free of charge, or charge a nominal fee for cases that are resource-intensive. Open Society Initiative (2010) postulates that in public interest cases or strategic litigations, paralegals may consider requesting contributions from the groups or communities that will benefit from the legal action. This mechanism is not applicable in South Africa because by their nature CAOs are not supposed to charge a fee.

3.3.5 Performance-Based Financing

Performance-based financing (PBF), often referred to as pay-for-performance (P4P) or results-based financing (RBF), refers to payment to an organisation that is conditional to measurable goals or actions being achieved. With support from various donors, including the US Agency for International Development (USAID), CBOs in many low- and middle-income countries have used this financing model to improve the quality, availability and uptake of their services (Crawford and Houston, 2015).

3.3.6 Social Impact Financing

The social impact financing model is used for social welfare services based on payment for results (PFR). In this case, the investors use social impact bonds to provide upfront funding to CBOs to deliver a particular service. If the organisation meets the pre-set targets, the funders repay the CBOs with interest. However, if the CBO fails to meet the target, the funders reduce their payments to the organisation in proportion to the performance gap, thus diminishing their returns (Andreu, 2018).

3.3.7 Corporate Sponsorships

Corporate sponsorship can be an effective source of funding for CBPs. Corporations are motivated to select projects to fund in order to be socially responsible or improve their corporate image (Smith, 2019, Menon and Kahn, 2001). Corporate support comes in different forms:

- **Philanthropic** – no-strings-attached donations
- **Event sponsorship** – short-term support which is event-based

- **Cause marketing** – longer-term thematic engagement
- **Pro bono** – corporate professionals offering their expertise/services
- **Matching gifts** – corporations match donations made by their employees
- **Paid release** – companies' employees are given a few paid release days each year, allowing an employee or many employees to spend a day or two volunteering during regular work hours
- **Check-out campaigns** – consumers give at the cash register when checking out at a shop.

3.3.8 Braided and Blended Funding

This model involves bringing together federal, state and private funding streams and developing funding methods to support high-quality programs. Using a braided financing model, an organisation can improve coordination and alignment among partners, expand capacity in a limited resource environment, increase planning services and improve program outcomes (Harbin, 2019). Blended funding involves combining the acquired funds in a single ‘pot’ from which the directors of CBPs pay personnel or project expenses (Harbin, 2019).

3.3.9 Trust Fund

A trust fund is a funding pool set up by the state to fund community-based organisations such as CBPs and NGOs. This financing model can encourage innovation, growth, and sustainability (Crawford and Houston, 2015). Apart from the state trust fund, there is a charitable remainder trust fund called a charitable annuity trust. The charitable trust fund allows people to pass their assets to a specified charity, instead of to relatives, when they die. The assets within this kind of fund generate a certain amount of money in the form of interest to the attached NPO during the trust period (Klimashousky, 2019).

3.4 Financing models used by the CAOs in this study

3.4.1 Introduction

While the literature describes several financing models that apply to NPOs and CBOs, there is limited information on financing models for CAOs. In this study, the financing mechanisms used by the participating CAOs did not correspond to any of the models described in Section 1.3.3. The research team thus developed original models to describe the evidence that was gathered.

The South African government has developed a Draft Policy Paper on Recognition and Regulation of the CAO Sector (DoJ, 2020). This policy provides definitions for some of the financing models for the CAO sector, embedded in what they term ‘structural models’, which is problematic. The description of an umbrella or intermediary model for funding in the Draft Policy Paper does not align with the evidence collected in this study. The Draft Policy Paper (DOJ, 2020) defines umbrella organizations as national representative organisations (such as NADCAO and CAOSA) that have a national leadership council

and provincial councils elected by member CAOs in various regions, with a core mandate of leading their sector towards institutionalisation.

In contrast, the Draft Policy Paper describes intermediaries are described as

organisations that have developed an incubator model of funding for CAOs but at the same time are the 'partner' and umbrella organisations for some CAOs regionally. CAOs fall under the umbrella of these organisations by receiving funding, technical support and capacity building. These umbrella organisations include CLRDC and CCJD at the University of Kwazulu-Natal and SCAT (operating mainly in the Western and Northern Cape). The South African University Law Clinics Association (SAULCA) (formerly Association of University Legal Aid Institutions (AULAI) is a voluntary association of all South African University Law Clinics that, together with AULAI Trust, also supports several CAOs with technical expertise and funding. The intermediaries receive funding predominantly from large international and national philanthropic institutions." (DoJ, 2020:30)

While SAULCA could be considered to play the role of an intermediary in financing models, the same is not true of CCJD and CLRDC with regard to their associated CAOs, or to AULAI and its member law clinics. The differences are highlighted in the discussions of the models that were identified in this study that follow.

3.4.2 Stand Alone Financing Model

In a stand-alone financing model, an independent entity (in the context of this study, a CAO) applies to a range of donor organisations for funding. Any funds they are granted are not tied to a specific function or program and the CAO may use the funds at its discretion for its activities. This model relies on the capacity of individual CAOs to administer grants. This capacity varies across the CAOs; many follow only basic record-keeping practices and lack office equipment, such as computers, that are needed to support their administration of donor funds. The model also relies on the donor organization giving all applications equal consideration and using objective criteria to select recipients, so that certain applicants are not given preferential treatment.

3.4.3 Umbrella Financing Model

This model is found in organizations (such as CCJD) that establish a network of CAOs under their 'umbrella'. Funders contribute to the umbrella organisation, which manages all of the operational costs of the CAOs and administer the payroll. The CAOs are not required to look for funding. This structure is practical in that it avoids many small individual grants. Because the organisation knows the CAOs well, it is able to ensure accountability in their bookkeeping, monitoring and reporting.

A possible drawback of this model is if the umbrella organization fails to raise adequate funds the structure could collapse and the affiliated CAOs could be forced to close. The CAOs do have the option to build their capacity to become independent from the mother organization, however, and it part of the mother organization's responsibilities to ensure that the CAOs are correctly registered as NPO entities so that they can become independent if they chose to.

3.4.4 Intermediary Financing Model

In this model, the intermediary organisation channels funds from major donors and re-grants them to the CAOs as start-up funding. After that, the CAOs are expected to find alternative sources of financial support (such as Hlanganisa or SCAT). The intermediaries have the technical capacity to manage the donations, which the CAOs may not; this provides the transparent administration that funders require. At the same time, the local partnerships of the intermediary allow funders to extend their reach into local communities. The support may vary as others are given more support and others less for the same activity, which we could not find the criteria used.

3.4.5 Law Clinic Financing Model

In this model, CAOs are funded by the law clinics operating at universities (for example, the Rhodes University Law Clinic (RULAC) and the South African University Law Clinics Association, previously known as Association of University Law Clinic (AULAI).

3.4.6 Consolidated Government Funding of CAOs (Public Finance)

A new policy drafted by the Department of Justice proposes fund CAOs on an ongoing basis (DoJ, 2020). A governing body representing government, the formal legal sector and the CAO sector would administrate and oversee the fund, which would consolidate funding currently provided by government programs – for example, the victim empowerment and early childhood programs of the Department of Social Development; labour workshops and COIDA run by the Department of Labour; and the funding for community caregivers provided by the Department of Public Works Extended Public Works (EPW) program.

While this model would ensure a basic level of financial viability to the CAOs that register with the new regulating body, this may also undermine their role of working independently from government. A certain of self-financing may be beneficial.

3.4.7 CAO Collaboration Model

In the CAO collaboration model, an external organisation uses the CAO as a local host for implementing an independent program. While program is nested within the CAO, using its name (reputation) and premises, it is implemented independently, using its own staff, office infrastructure, database and

reporting, monitoring and evaluation systems. The director of the CAO has no control over the budget or the program implementation. When the program has been completed, the organisation leaves all of its acquired assets with the CAO. This model has been used at CAOs in Free State (sex worker program), Mpumalanga (HIV prevention and monitoring), and the Eastern Cape (Extended Public Works program).

3.4.8 Pooled-funding mechanism (Basket Fund)

In this model, international donors pool contributions into a country-level fund. This approach requires transparency in decision-making and the handling of funds, with accountability to the local CAO sector to avoid the perception of bias which could cause division with the sector. The funding mechanism should offer complementary funding to umbrella organizations or intermediaries as well as to individual CAOs, so that they do not have to compete with each other for funds. If individual CAOs are offered funding, their umbrella organisations or intermediaries should help these CAOs to develop their capacity for independence.

4 Analysis of the Structural and Financing Models Prevalent Among South Africa CAOs

4.1.1 Evidence from Financial Statements

To have a clear understanding of the difference between a structural and financing model, the study investigated (i) the background, foundation and management of each CAO and (ii) the history of funding at the CAO. Background details are provided in the profiles of the CAOs presented in Brief 4. To identify the structural models that apply to a specific CAO, background information given in Brief 4 was compared with the different structural models presented in Section 1.2. To determine the financing model used by the CAO, financial statements from their audit reports for the years 2016 to 2018 were reviewed to identify the funding sources for various activities. The findings were then compared with the financing models defined in Section 1.3. Table 2 summarises the analysis of this data.

Table 2 Structural and Financing Models and Funders of Participating CAOs

<i>Name of CAO and Structural Model</i>	<i>Funders (2016-2018)</i>	<i>Financing model</i>
<p>Case Study 1 (CLAP) <i>CLAP identifies itself structurally as a blend between a stand-alone organisation and an intermediary of SCAT. Over the years, they have relied on SCAT to fund the legal advice function. Other funded activities include home-based care and human rights education.</i></p>	<p>Funding for Outreach Activities Anglo Gold Cindi Network Department of Labour Dullar Omar School Government grant National Social Development NPF-CA Social Change Assistance Trust Tshwaranang US Embassy</p> <p>Funding for Access to Justice CAO Support & Assessment (CAOSA) NACOSA NADCAO National Alliance for the Development of CAOs Foundation for Human Rights Black Sash Trust</p> <p>Funding for Infrastructure Development National Lottery Commission</p>	<p>Mixed funding: stand-alone, public fund, intermediary, CAO collaboration.</p>
<p>Case Study 2 (ACQ) <i>ACQ identifies as an umbrella organisation with seven satellites under them, operating with a stand-alone financing model. The organisation is structured around three programs focussed on access to justice, victim empowerment and sex workers.</i></p>	<p>Funding for Outreach Activities Department of Labour Department of Social Development Soul City</p>	<p>Mixed funding: stand-alone, CAO collaboration, intermediary, public fund.</p>

Brief 4: Structure and financing of CAOs

	Funding for Access to Justice Hlanganisa Foundation for Human Rights Hivos Funding for Infrastructure Development National Lottery Commission CAO collaboration NACOSA (Commercial sex work program)	
Case Study 3 (AWAT) <i>AWAT identifies itself as a stand-alone.</i>	Funding for Outreach Activities Magi Department of Social Development Grants Funding for Infrastructure Development National Lottery Commission	Mixed funding: stand-alone, public fund, intermediary.
Case Study 4 (SRCB) <i>SRCB identifies itself as falling under umbrella organisation. They are not involved in any fundraising activities for the legal advice function. They are a registered NPO that allows them to apply for outreach activities as a separate entity.</i>	CCJD	Umbrella
Case Study 5 (SRCI) <i>SRCI identifies itself as falling under umbrella organisation. They are not involved in any fundraising activities for the legal advice function. They are a registered NPO that allows them to apply for outreach activities as a separate entity.</i>	CCJD	Umbrella
Case Study 6 (LAOM) <i>LAOM identifies itself as a stand-alone office that lobbies and applies for funding for different activities. The current funders mainly cater for immigration and labour issues. The paralegal services arm is not</i>	Funding for Outreach Activities Department of Labour HCI Foundation	Mixed funding: public fund, stand-alone.

Brief 4: Structure and financing of CAOs

<p><i>funded, and services are offered for free. To sustain their operation, they take anything they are offered even if it does not fully compensate for services rendered.</i></p>		
<p>Case Study 7 (OMO) <i>OMO identifies itself as a stand-alone office that lobbies and applies for funding for different activities. The current funders mainly cater for the outreach activities by covering costs around a targeted workshop or training. Foundation for Human Rights partly funds the access to justice arm. To sustain their operation, they take anything they are offered even if it does not fully compensate for services rendered.</i></p>	<p>Funding for Outreach Activities Department of Social Development (Limpopo) Department of Social Development (National) Department of Labour</p> <p>Funding for Access to Justice Foundation for Human Rights Multi Agency Grants Initiative (MAGI)</p> <p>Funding for Infrastructure Development National Lottery Commission</p>	<p>Mixed funding: stand-alone, public fund, intermediary.</p>
<p>Case Study 8 (RACB) <i>RACB identifies itself as a stand-alone and sometimes partners with TVAP, home base carers, Municipality (through EPWP) and Hlanganisa on some outreach activities depending on the availability of funds.</i></p>	<p>Funding for Outreach Activities Department of Social Development Department of Labour Joint Gender Fund</p> <p>Funding for Access to Justice AULAI Trust Foundation for Human Rights NADCAO - National Alliance for Development of Community Advice Offices Black Sash Trust</p>	<p>Mixed funding- Public fund, stand-alone, law clinic, intermediary</p>
<p>Case Study 9 (CCL) <i>CCL identifies itself as a stand-alone.</i></p>	<p>Funding for Access to Justice AULAI Trust Mpumalanga Access to Justice Foundation for Human Rights</p>	<p>Mixed funding: stand-alone, law clinic</p>

Brief 4: Structure and financing of CAOs

Case Study 10 (MCAN) <i>MCAN identifies itself as a stand-alone.</i>	Funding for Outreach Activities Department of Social Development Department of Labour Funding for Access to Justice AULAI Trust Funding for Infrastructure Development National Lottery Commission	Mixed funding: stand alone, law clinic, public fund,

Six CAOs identified themselves as purely stand-alone (Cases 3, 6, 7, 8, 9 and 10), one a mixture of stand-alone and intermediary (Case 1), two under umbrella organisation (Cases 4 and 5), and one identifies itself as an umbrella (Case 2). Case 2 does not qualify to be an umbrella according to the definition of umbrella structure given in section 1.2.4. None of the case studies is affiliated with a law clinic structural model.

Only two financial models were identified among the 10 cases, umbrella financing (Case 4 and 5) and mixed financing (a combination of different financing models).

4.1.2 Perspectives of CBPs on the Financing Models used in the CAO Sector

The 10 CAOs sampled were unaware of the financing models operational in the sector. After the six models had been defined for them, they were able to identify with some of them. Table 3 below highlights the perceptions of the CBPs on the different financing models in the sector.

Table 3 Perspectives of CBPs on CAO financing models

	<i>Advantages</i>	<i>Disadvantages</i>
<i>Stand Alone</i>	<ul style="list-style-type: none"> - Funding corresponds to needs - CAO manages funds according to their plans - Funders pay facilitation fees - Funders don't query how you are using the money - Funders only ask for one report at the end of the contract 	<ul style="list-style-type: none"> - No pension or other benefits - Work on contract - Processing of funding is too long (can take over a year) - CAOs lack proposal writing skills - Funders notify unsuccessful applicants or provide feedback - CAO lacks the capacity to attract funding or manage and account for funds
<i>Intermediary</i>	<ul style="list-style-type: none"> - CAO can pool stipends from different programs, and CBPs can receive a decent remuneration. 	<ul style="list-style-type: none"> - The allocated funds cover administration costs only - Funding is for a few months only - Funding is not guaranteed for subsequent years. - Preferential treatment of some CAOs. - A proposal must be submitted every year as there are no long-term contracts. - Suitable training is provided, but it is not accredited. - Funds are inadequate. - They think more about themselves than us when looking for funding. Less money comes down to us as the implementators of the service. - They take advantage of service providers, using CAO reports to reflect their work to funders. - They try to control the CAO even though they are not funding it fully.
<i>Umbrella</i>	<ul style="list-style-type: none"> - Guaranteed salaries throughout the year. - The sourcing of funds and reporting to funders is removed, and paralegals can focus more on doing their work. 	<ul style="list-style-type: none"> - CAOs do operate independently. - If paralegals are not diligent with reporting, this will impede the umbrella organization's ability to report to funders.

Public Financing	<ul style="list-style-type: none"> - Good relations can guarantee the success of funding applications. - Funds are always available. - Guaranteed funds from Social Development. - Terms and conditions encourage you to account for the work and expenditure. 	<ul style="list-style-type: none"> - Late disbursements of funds. - Funds are not guaranteed. - Allocated funds are too little. - As staff turnover changes at the public offices due to management changes, funding prospects changes. You need to establish new relations and prove your capability each time new management comes in. - There is too much reporting for small fund allocations. - Social Development and DoL employees do not understand the scope of the CAOs' work to align it with the amounts allocated. - Funding is project-based.
Law Clinic	<ul style="list-style-type: none"> - Training offered - Assistance with cases - Will help with fundraising 	<ul style="list-style-type: none"> - No funding or financial support. - Use CAO reports for their reporting.
CAO collaboration model	<ul style="list-style-type: none"> - Financial benefits for CAO - All acquired assets are left with the CAO at the end of the project. 	<ul style="list-style-type: none"> - Unsustainable - Creates division: some employees get a monthly salary from the program whilst others struggle with minimal stipends. - Generates confusion as to the focus of CBPs' work.

4.1.3 Evidence from CBPs

In interviews, the CBPs described their experiences with funding. This is organized into five themes.

4.1.3.1 Multiple sources of funding

Maru and Gauri (2012:36) argue that the paralegal movement can only become more resilient if they can secure a diverse mix of revenue that includes both foreign and domestic philanthropies.

Several CBPs described receiving funding from multiple sources, as illustrated in the following comments:

"Combination of funders for different programmes. Our organisation is funded by JIZ, HRF, AWULAY, DSD, DOJ, CAWUSA, LOTTO, DOH." **LP-01**

"Combination of funders – depending which one is willing." **IP-01**

"Combination of public and intermediary organisations: for example, DoL, JGF, AULAI, INSET." **BP-01**

"Combination of funders: intermediary, public finance, stand-alone funders. Funders do not fund individual CAO: they fund CAOSA. Other funders we have dealt with are Atlantis, Council of Churches, FHR, NDA, Constitutional fund, DoL, OXFAM, IEC, Pro Bono project," **MP-01**

"Funded by different organisations. Sometimes no funding at all" **MP-02**

"Funded by different funders for different programmes" **OP-01**

4.1.3.2 Loss of funds and control to the ‘middle man’ (intermediary)

Respondents noted that, in addition to the challenge of limited funding, CAOs find that donors are reluctant to fund CAOs directly and prefer to channel it through intermediary institutions who then disburse and administer the funding to CAOs. However, this approach further undermines the status of CAOs. It can even worsen their financial situation as the intermediaries involved do not always act fairly and in the interests of the CAOs. Three participants commented on this issue:

"We cannot refuse; we are operating on an empty stomach. OXFAM SA doesn't want to give us money. They give CAOSA R20 million, and we get R1000. Instead of Pro Bono giving money directly to us, they give it to FHR. Currently, FHR is funding us with R13000 per month for three people, telephone and administration costs – not to mention WIFI. What can we do with R13000?" MP-01

"DSD is telling funders to stop funding us and give money to them because they are funding us, yet they are not doing anything; they are not funding us." OP-01

"AULAI approved funding for casework. MAJC is responsible for M & E of the programme; they imposed a template for monitoring. MAJC is imposing demands on CAOs beyond the scope of funding. They are interested in new cases but not paying for the work we do." BP-01

4.1.3.3 More powerful organizations infringe on the work and funding of CAOs

Participants explained that, over the years, there had been an influx of elite national and international civic organisations and NGOs operating at grassroots, community levels. This is a space that CAOs have traditionally occupied. Once established, they tend to dominate the discourse and flow of funding, alienating local organizations in the process. Their leverage is their affinity and proximity to national and international funding agencies. They have the benefit of strong international links to funding agencies. Choudry and Kapoor (2013) note that aid and development agencies with funding relationships with donor organisations and established research and advocacy NGOs may position themselves as gatekeepers for other organisations. They act as intermediaries, yet their role and interest in doing so and the power inherent in acting in this way are frequently opaque and egotistic (ibid). One participant commented on this phenomenon as follows:

"We were the only organisation in the '80s handling immigration issues. After 2000, the area changed in the immigration work. We started to have more organisations doing similar work; namely, United Nations, (UN) International Organisation for Migration (IOM), Lawyers for Human Rights (LHR), Red Cross and Doctors without Borders. The issue of lots of organisations affects funding. LAOM has no funding because the donors say they fund Lawyers for Human Rights. They are doing local work, but they are internationally connected, more than anything." MP01

4.1.3.4 Targeted funding

The CBPs noted that the offer of targeted funding by a donor can result in the CAO losing its focus as it chases the funding. because of the lure of targeted funding, which can be used to cross-subsidize the core work of the organization, CAOs are now involved with a range of programmes (for example, HIV/Aids programmes, sex-worker projects and caregiver programmes) that do not relate to their original mandate, in a bid to secure funding. In some cases, the targeted funding has become their main source of funding as the CAOs have been forced to extend their footprint into other areas.

"Because of the issue of funding you end up extending your responsibilities and role – defining what your services are so that you can get the money." MP-01

"These organisations talk about funding a programme and not funding us to be sustainable." OP-01

"Different funders fund our organization for different programmes running on different timelines." LP01

"We don't get paid from other programmes. Paralegal programme runs out of funds." LP-02

"We got funding from INKUNZI Land Development program. Because of the need for money, you extend your responsibilities and role, becoming Jack-of-all-trade. Most funders tell you what they are funding – which is an insult. Sometimes, because you don't have the money, you do as they wish." MP-01

4.1.3.5 Cross subsidisation of programmes

Participants explained that while the main programme of the CAOs is legal advice, this is the programme that battles to attract funding. This situation forces the CAOs to be creative and think outside of the box. It leads them to cross-subsidise with funds from other programmes in order to survive and retain the staff who are working on programmes whose funds have dried up. Participants said that other CAOs have resorted to starting income-generating programmes outside of paralegal work to inject cash into the programme for salaries and different needs. These activities include debt counselling services and bead making. Maru and Gauri (2012), note this phenomenon as well: they mention that a CAO in Orange farm has a recycling programme to sustain the project. They advise that for a paralegal organization to be resilient and independent, it requires diverse support.

The CBPs commented on this issue as follows:

"Our main programme was paralegal work. This was the life of this organisation, but it did not secure sponsorship. This did not stop us. The programme was cross-subsidised by money from other programmes to keep staff and give stipend." BP-01

"DoL is giving us funding. We partner with them and run workshops for them. We put it down as a facilitation fee, but it helps us a lot with the issue of stipend." MP-01

"It is difficult to raise funds for legal advice, and it is why an umbrella model is envisaged. Our organisation is forced to do cross-subsidisation of programmes as a balancing act for when funding dries up." LP-01

4.1.4 Financial challenges experienced by the CAOs

As Maru and Gauri (2012) explain, a lack of sustainable financing is a significant challenge faced by paralegal groups in all countries. The CAO sector in South Africa has been under-funded for some time and has remained dependent on foreign donor support as the government has been slow to recognise and invest in the sector in a meaningful way. In fact, the funding of many CAOs has been unstable and dwindling for some time and there is no reason to expect this will improve in the near future. In South Africa, inadequate funding is partly due to the fact that the regulation of the sector has remained pending for several years. Maru and Gauri (2012) contend that formal recognition of the paralegal sector can open doors to public funding and the standardisation of paralegal qualifications.

At present, there are no standardised funding norms to level the playing field across CAOs. Without a strong knowledge of the various financing models used by NPOs and funders in the sector, the CAOs may be poorly prepared to assess whether various funding schemes presented to them by potential funders are in their long-term interests or not. While some of the CAOs have the capacity to raise funds themselves, without using an intermediary, without a thorough knowledge of the funding terrain they are poorly positioned to leverage funding options to their benefit. For example, Case study 7 was approached by Department of Social Development (DSD) to be an incubator organisation for small emerging organisations in the area. Evidence of a vote of confidence and testimony to their work ethic from a public funder. They can capitalise on this when seeking funding from national and international funders, which can improve their financial position as a stand-alone CAO.

Participants in this study identified the following challenges with regard to funding:

- Poor costing of projects. The funding received for the funded activities does not cover all aspects of the projects resulting in the office subsidising the projects. An example was given of a representative from the donor organization visiting the project and expecting the CAO to

transport them during their without contributing to vehicle rental costs or the cost of the wear and tear to the vehicle that was used, resulting in loss of income to the CAO.

- In some cases (for example, Port St John), there was no funding for the legal advice function of the CAO. Funding provided by SCAT only covered administration and stipends for three staff members.
- Absence of stable salaries and benefits for staff. Stipends are only received when there is a funded activity running. When the funds are exhausted, the staff member will continue volunteering to the office until the next project come through.
- Unguaranteed funding for the different activities results in discontinuing some activities that the community might need. There is no guarantee of financing from any funder as the office is expected to put in an application every time there is a call from the funders.
- CBPs are required to become 'jacks-of-all-trades' as funders offer targeted funding with requirements that fall outside of the core work of the CAOs.
- Corruption activities by people in decision making positions who interfere the funding applications.

5 Summary of Findings

In this study, a distinction could be seen between the structural models and financing models used by the participating CAOs. The structural model relates to the approach used to manage the organization and the financing model to the funding of the organisation's activities.

Structural models. For the 10 case studies, two structural models were found to be in use in the CAO sector. Six CAOs identified themselves as purely stand-alone (Cases 3, 6, 7, 8, 9 and 10), one a mixture of stand-alone and intermediary (Case 1), two under umbrella organisation (Cases 4 and 5), and one identified itself as an umbrella (Case 2). Further investigation clarified Case 2 to be a stand-alone; at the time of this report it remained alone and dependent on the patronage of donor organisations.

While evidence was not found during the documentary review in this study of any of the participating CAOs using the intermediary model, one CAO indicated (during CBP interviews) that it received financial support from SCAT.

In this study, none of the CAOs were found to be using the law clinic model. Some had, however, received training support from law clinics and visits from lawyers to assist clients whose cases required litigation.

Financing models. Six financing models were found to be operational in the CAO sector, namely: umbrella, stand alone, law clinic, intermediary, public finance and CAO collaboration. Except for CAOs under the umbrella financing model, it was most common for at least three different financing models to be used simultaneously. The CAOs using an umbrella structure also utilised an umbrella financing model.

Overall, it was observed that no one single financing model could support the CAO sector. It was found that:

- Government departments were the primary funders for outreach activities.
- The National Lottery Commission was the only funder for infrastructure development.
- AULAI Trust was the primary funder for access to justice, funding Mpumalanga province only.

The following funding patterns were noted:

- Funding tended to be tied to short-term contracts, with no guarantee of renewal for subsequent years.
- Some funding covered only six months of operations while requiring deliverables/reports over an entire year.
- Some funders allocated different amounts of funding to different CAOs with the same funding requirements.

- Some funders offered the same amount of funding every year despite the applications by CAOs indicating changes in activities and associated budgets.
- Funding was short term and not guaranteed in the next period.
- Some funders worked with organizations in only certain provinces.
- Those CAOs with greater influence and sophisticated fundraising skills were better positioned to secure funding.
- Most funders prioritized outreach activities over legal advice functions.
- Focus group participants proposed that mixed funding from different sources was preferable over relying solely on funding by the government or a single donor, leaving the CAO vulnerable to interference by the donor in their operations.
- All ten CAOs were seeking funding from the government.
- Paralegals preferred funding to be direct to the CAO, without the use of an intermediary.
- CBPs expressed the need for funding that guaranteed their salaries/stipends for the whole year. All of the CBPs interviewed worked full-time although not paid every month. They also incurred other costs in the course of their work, such as transport costs for home visits to clients who were unable to travel to the CAO.

6 Conclusion

The study revealed a distinction between the structural and financing models used by the CAOs that participated in the study. It is thus helpful to define these separately in the sector. The structural model speaks to the formation, management, governance and operations of the CAO. On the other hand, the financing model relates to the funding of the activities for the CAOs. The study identified only two structural models amongst the participating CAOs: the stand-alone and umbrella models. The stand-alone CAOs used a collection of different financing models – often combining stand-alone, intermediary, public, law clinic and CAO collaboration financing models to sustain their operations. The CAOs that were part of an umbrella structure also used an umbrella financing model. It was found that the legal advice service – the core business of the CAO – was often underfunded relative to other activities driven by the targeted interests of funders.

Sampled CAOs believe that their work would be enhanced if all funding was provided to them directly and intermediaries were eliminated. The vision put forward by the DoJ&CD proposed in the draft policy (DoJ, 2020) of a coordinated fundraising initiative called the 'basket fund' model does not align with this, however. The proposal envisions that the basket would be funded through contributions from private and institutional donors and government entities and disbursed through intermediaries. The proposal also emphasises the need for the basket fund to be independent of the government and governed by a body representing CAOs across the country.

The evidence collected in this study demonstrates that CAOs can operate successfully as stand-alone entities. While the hybrid financing model can work effectively, CAOs need to be empowered through the development of the management, accountability and case management capacity required to solicit and manage funding. To reach and sustain all of the CAOs in the country, each of these models needs to be involved. We feel that in KwaZulu-Natal, the umbrella model is systematic in its operation which helps with stabilising, standardisation of operation and training. We suggest that all of the models should provide monthly salaries for paralegals, paid regularly and without interruption, which enable them to afford their basic household and family needs. This area has been neglected in the past. For example, some offices that receive funding from intermediaries and legal aid clinics do not have salaries. In general, it would be a great help if there is core funding that is guaranteed for at least three years and that includes salaries, travel, physical infrastructure, workshops for the community, and internal development.

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