**Outcomes Summary: Portfolio Review on Supporting Participatory Access to Justice for Socially Excluded and Criminalized Groups as Crucial to Health**

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*Presenters:* Tamar Ezer,Ralf Jürgens, Martin McKee,

*Participants in New York:* Volha Baraulia, Heather Benjamin, Marine Buissonniere, Mary Callaway, Jonathan Cohen, Brett Davidson, Cynthia Eyakuze, Kathy Foley, Krizna Gomez, Kiera Hepford, Judy Klein, Sebastian Kohn, Ivan Krastev, Sebastian Krueger, Krista Lauer, Daphne Panayotatos, Olga Rychkova, Alissa Sadler, David Scamell, Anna Segelman, Dan Sershen, Chris Stone, Rachel Thomas, Denise Tomasini-Joshi, Vinay Viswanatha, Daniel Wolfe

*Participants from Budapest (by video):* Peter Chapman, Zaza Namoradze

*Participants from Nairobi (by video):* Jaki Mbogo

Chris opened the meeting by inviting the participants to introduce themselves and share their aspirations and expectations for the discussion. He noted that this is a “hugely important portfolio” and that it is well-positioned to inform OSF’s work on legal empowerment in general. He remarked on the puzzle of situating OSF’s involvement among fields or concepts: are we supporting the field or creating it? He further pointed to cost as one of the biggest barriers to increasing access to justice.

Tamar presented a brief summary of the portfolio. She highlighted the impact of human rights violations on the health and well-being of the socially excluded and criminalized groups with whom PHP works. Access to justice programs have the potential to address these violations and are as crucial as a condom or medicine to their health. While PHP initially conceived of access to justice projects as a means to source strategic litigation, in 2011, we recognized this work as critical in its own right. We realized that legal services, which do not involve going to court, are often most needed and that it is necessary to address a community’s pressing everyday concerns before embarking on broader advocacy.

PHP also realized that traditional legal services are not reaching our target groups and that while we could never meet the demand for legal services, we could potentially make a valuable contribution by piloting, documenting, and promoting effective access to justice models. Effective approaches we identified include law and health partnerships, lawyering for the marginalized, paralegals drawn from the communities they serve, virtual legal aid, and engagement with community justice structures. The last two years saw an increase in operational work complementing our grantmaking activities, and we placed a greater emphasis on peer learning, documenting, and disseminating good practices.

Ralf explained that evaluation and fund leveraging work have further received greater attention in recent years as we have been grappling with the challenge of scaling up and sustainability. We wanted to promote access-to-justice-for-health interventions as human rights interventions and needed to better understand where there are opportunities to get governments onboard, as well as to bridge the gap between the health and justice donors since the latter are mostly not aware of the health benefits of such interventions. We learnt that rigorous academic evaluations are a long and costly effort; therefore, we have moved on to a more flexible and less costly approach that focuses as much on building grantees’ capacity to monitor and document work as on building evidence of health promoting legal interventions.

Martin, the discussant, stressed the importance of needs assessments to identifying the best strategy as the barriers vary from county to county, from context to context. Sustainability and scalability are complex issues. The puzzling question is “if the benefits of these approaches are so obvious, why are others not funding them?”

Further discussion highlighted the following key points:

* Building the capacity of groups to document their own work is critical to surfacing patterns for systemic advocacy and fund leveraging.
* In hostile country contexts, even the most effective projects have a hard time influencing change at a policy level. However, they can result in other systemic outcomes, such as the empowerment of people to represent themselves and changes in attitudes and behavior by those in power. This impact on practice can sometimes be more important than a policy change itself, which is not always implemented.
* PHP needs to define with greater clarity the different approaches we are holding up as good practices. When others begin implementing the work, it may change significantly. It is thus important to have a good manual detailing what works well and represents the gold standard of good practice. Additionally, in what contexts are particular approaches more effective than others? Is there a tension between the legal empowerment and the lawyering for the marginalized approaches we are supporting, or are these complementary?
* At the same time, PHP also needs to more clearly define which parts of particular approaches may be possible to scale up. In assessing scalability, it is important to look at what is doable, as opposed to what would be the ideal, gold standard. It may not be possible to scale up everything. For instance, compensated paralegals may obtain better outcomes than uncompensated ones. However, scaling up compensated paralegals may be impossible due to costs, whereas scaling up uncompensated paralegals can be doable. How can we maximize the value? Can we get the uncompensated model work better, if it is a more scalable one? There are lessons for this from paralegal programs in India, as well as a PHP-supported project in Uganda, where paralegals are hybrid workers, already employed and serving other key functions for which the paralegal role is complementary.
* In some cases, scalability may not be the end goal, and it is important to keep this in mind. Certain parts of PHP’s participatory access to justice portfolio are valuable even if they cannot be scaled up, enabling socially excluded and criminalized populations to challenge power relations and have their voices heard.
* In obtaining funding for scale up, PHP needs to understand the motivations of the funders to appeal to them. They may not necessarily be interested in funding effective approaches. The underlying assumption that if the program works, someone will be interested in paying for it, does not always hold. Providing political value has often been the key for realizing scalability. Whether it is national authorities or other private donors, decisions are not always evidence-based. Understanding the dynamics in adopting certain policies is crucial. Additionally, any change happens after a tipping point is reached. PHP needs to contribute to building a critical mass of interested funders (both traditional and private) and reaching such a moment.
* There may be untapped potential for funding from Ministries of Health by having public health officials on board and championing access to justice approaches. This could be possible in the context of HIV or palliative care, while perhaps more difficult in the context of sex work or drug use.

**Next Steps:**

* PHP will increase efforts to build grantees’ capacity to document their work and link it to advocacy and fund leveraging. We will do this through partnering with the Justice Initiative to provide technical assistance to our grantees on documentation.
* Over the next two years, PHP will work with grantees to better document systemic outcomes resulting from access to justice interventions. We will keep a running-list of these outcomes based on grantee reports and site visits. For our access to justice work with Roma, we will be working with an outside evaluator to report on changes against indicators across four dimensions: civil society capacity to challenge violations, changes in enforcement and accountability, changes in law or policy, and impact on beneficiaries. We will also partner with researchers to examine the impact of access to justice work focused on some of our other key populations.
* PHP will use the upcoming *Good Practice Guide*, reflecting on the seven years supporting access to justice projects, to more clearly define the different approaches we are holding up as good practices and what is most effective in different contexts.
* With the *Good Practice Guide* as a starting point, PHP will reflect further on what is actually possible to scale up and identify the components that are essential to a project’s success, as opposed to merely preferable.
* We will also explore the extent to which government funded legal aid schemes, such as in Ukraine, can address the needs of our populations by investing in standard-setting and training and carefully monitoring these programs.
* Over the next two years, PHP will increase efforts to better understand the motivations of different funders and develop a strategy for interesting them in supporting participatory access to justice projects.
* PHP will put more effort in obtaining Ministry of Health funding to support access to justice projects in the context of HIV and palliative care and explore particular openings in Kenya and Uganda.