

Taking justice to people in crisis: Mobile legal clinics

Alternative Law Journal
0(0) 1–6

© The Author(s) 2019

Article reuse guidelines:

sagepub.com/journals-permissions

DOI: 10.1177/1037969X19829550

journals.sagepub.com/home/altlj



Britane Hubbard, Mallory Saladen and David W Tushaus

Criminal Justice, Legal Studies & Social Work, Missouri Western State University, USA

Nirmal K Upreti

Forum for Nation Building, Nepal

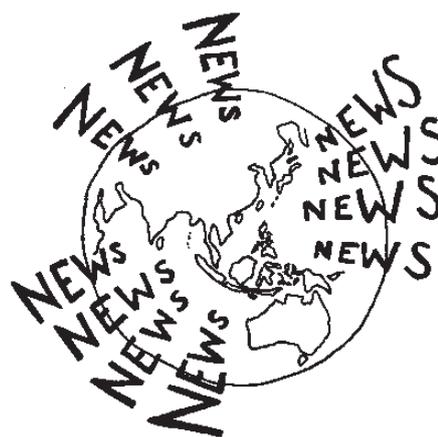
Abstract

Mobile legal clinics can be used to provide better access to justice in many different ways. The Nepal projects discussed and evaluated here used law students and private lawyer volunteers to conduct legal education programs, give counsel and advice, and provide legal representation. Mobile legal clinics like these can be replicated for people in personal crises or natural disasters anywhere. The goal of this article is to provide information the reader can use to create mobile clinics to meet the needs of people in crisis in any situation. Assessing these programs is also discussed.

Keywords

Access to the law, clinical legal education, domestic violence, legal aid, pro bono

The Nepal Mobile Legal Clinic project began with an international collaboration between a Nepal NGO¹ and a United States (US) professor to acquire grant funding to create mobile legal clinics for people in crisis. The funding enabled Nepal professors, students and legal professionals to become volunteers for mobile clinics. These clinics were formed to go out into the communities in Nepal to reach survivors of the earthquakes in 2015 under a grant received from the Organization for Development and Peace, Caritas Canada. Another grant was used to assist survivors of domestic violence, received from the Open Society Foundations' Higher Education Support Program.



People need to know their legal rights, entitlements and social services in order to have meaningful access to justice. Public knowledge of the law will result in a

¹Nirmal Kumar Upreti, Executive Director of Forum for Nation Building (FNB). Nepal played a key role in this project and article by collaborating on the design, funding and implementation of the Mobile Legal Aid Clinics.

Corresponding author:

Professor David W Tushaus, Criminal Justice, Legal Studies & Social Work, Missouri Western State University, 204E Wilson Hall, 4525 Downs Drive, St Joseph, Missouri 64507, USA.

Email: tushaus@missouriwestern.edu

more just legal system.² Vapnek asserts that, 'Without access to justice, people – especially the poor and disenfranchised – are unable to realize their rights, challenge discrimination, or hold decision-makers accountable'.³ 'A citizen with few resources facing civil procedures will never have the same chance as one who can afford the cost of a legal professional'.⁴ The World Bank's strategy to address poverty includes alleviating the barriers to access to justice.⁵ Justice systems provide effective delivery of social services such as health care and education by insuring the equitable allocation of entitlements and providing ways for citizens to seek redress in the event of a violation.⁶ Mobile clinics recognise the value of bringing justice education to the people.

In extreme circumstances, access to justice can be more difficult to obtain. Those affected by natural disasters and survivors of domestic violence have a more challenging time receiving legal assistance. For people affected by natural disaster, the lack of an established legal system has meant international disaster relief is often unpredictable and on an ad hoc basis, leaving no legal certainty for survivors.⁷ Survivors of domestic violence also face additional barriers to justice such as 'lack of representation, delays, costs, and procedural complexities'.⁸ Reaching people affected by these circumstances can be difficult. It can be challenging to provide assistance to those affected by natural disaster if their country refuses to accept assistance. For example, in Myanmar the humanitarian needs of the people were ignored in the interest of political power.⁹ Even in developed countries such as the US, rural areas still face a lack of resources for domestic violence survivors. The need for domestic violence shelters and transportation still goes unmet.¹⁰

Access to justice in a challenging environment

There are serious challenges to providing access to justice under any circumstances. These challenges can be exacerbated by poverty, a lack of education and geography. Mobile clinics addressed all these challenges in Nepal, showing the clinics to be a valuable tool for any challenging environment. Nepal is among the poorest countries in the world. According to the United

Nations Human Development Index, Nepal ranks 144th out of 188 countries.¹¹ Nepal has 25.2 per cent of its population living below the national poverty line.¹² Children are often forced to drop out of school for a variety of reasons. Economic hardships and household poverty are important factors related to Nepal's high dropout rate because parents cannot support their children's education when their income is insufficient to meet needs such as clothing and food.¹³

Nepal's geographic location also complicates providing legal services and disaster relief to underserved citizens. For many people, location is a barrier to legal assistance, such as those who live in the rural Himalayan part of the country. Transportation to these locations is treacherous and expensive because of poor infrastructure such as low-quality roads and unreliable electrical power.¹⁴ Because of the diverse location of the citizens and their poor economic status many do not receive, or have the same opportunity to receive, services provided by the government as those who live in urban settings. Extremely vulnerable to natural disasters and located on the edge of a tectonic plate, Nepal faces the financial costs of increasing disasters and typically lacks the means to provide legal services to those living in remote mountain villages.¹⁵

The mobile legal clinics in this project took place in some remote locations in Nepal, in an effort to reach those most distant and disconnected from access to justice and legal assistance. The clinics have a unique advantage because they are not dependent upon government funds. This is a benefit because it not only offers relief to the survivors but also to the resource-challenged government. Another advantage of the clinics is that they can move to different communities to provide meaningful access to justice to Nepal's many underserved citizens.

The needs of people in crisis

This project was implemented in Nepal as a response to the aftermath of the natural disaster crisis and the domestic violence crisis affecting the country. The needs of those affected by natural disaster and those affected by domestic violence can be very different. The mobile clinics used to reach out to these Nepalese

²Ginevra Peruginelli, 'Law Belongs to the People: Access to Law and Justice' (2016) 16(2) *Legal Information Management* 108.

³Jessica Vapnek, Peter Boaz and Helga Turku, 'Improving Access to Justice in Developing and Post-Conflict Countries: Practical Examples from the Field' (2016) 8(1) *Duke Forum for Law & Social Change* 27.

⁴Peruginelli, above n 2.

⁵Christina Biebesheimer and Peter Chapman, *A Role for Justice in Poverty Alleviation: The World Bank's New Strategy for Justice Reform* (26 September 2012) <http://blogs.worldbank.org/governance/a-role-for-justice-in-poverty-alleviation-the-world-bank-s-new-strategy-for-justice-reform>.

⁶Ibid.

⁷David Fisher, 'Law and Legal Issues in International Disaster Response: A Desk Study' (Report, International Federation of the Red Cross and Red Crescent Societies, 2007) 8 <http://perma.cc/64AD-AXLG>.

⁸Janet Mosher, 'Grounding Access to Justice Theory and Practice in the Experiences of Women Abused by their Intimate Partners' (2015) 32 *Windsor Yearbook of Access to Justice* 149, 149.

⁹Matias Thomsen, 'The Obligation Not to Arbitrarily Refuse International Disaster Relief: A Question of Sovereignty' (2015) 16(2) *Melbourne Journal of International Law* 484, 485.

¹⁰Sarah R Benson, 'Assisting Rural Domestic Violence Victims: The Local Librarian's Role' (2016) 108 *Law Library Journal* 237, 240–1.

¹¹United Nations Development Programme, *Table 1: Human Development Index and Its Components* <http://hdr.undp.org/en/composite/HDI>.

¹²Asian Development Bank, *Poverty in Nepal* <https://www.adb.org/countries/nepal/poverty>.

¹³Shree Prasad Devkota and Shiba Bagale, 'Primary Education and Dropout in Nepal' (2015) 6(4) *Journal of Education and Practice* 153, 155.

¹⁴World Bank, *The World Bank in Nepal* (11 October 2017) <http://www.worldbank.org/en/country/nepal/overview>.

¹⁵Ibid.

were developed to meet the specific legal needs of the survivors.

Natural disaster

Natural disasters can strike anywhere. There are commonalities that make the Nepal disaster response one from which much can be learned. In 2015, a 7.6 magnitude earthquake rocked 31 of Nepal's 75 districts, causing devastation.¹⁶ More than 300 aftershocks followed this earthquake leaving terrible road conditions caused by landslides and rubble from buildings. It was nearly impossible to reach already isolated Nepalese mountain villages, invoking a state of crisis in the country.¹⁷ An estimated eight million people – one-third of Nepal's population – were impacted by this earthquake and its aftershocks.¹⁸ The already fragile situation of the citizens' access to justice quickly disintegrated. As a result of the earthquake, 700,000 more people were added to the poverty line. The Government of Nepal confirmed over 500,000 houses were destroyed, 8700 people were killed and more than 22,300 were injured by the earthquakes.¹⁹

Many legal needs arose for the citizens affected by this natural disaster in these districts. One need was obtaining legal documents that affected many of the 500,000 Nepalese who had lost their homes. Other legal assistance as a result of this crisis included community legal education on the right to benefits and representation for those in need of benefits and those who were wrongly turned away. The mobile clinics were first located in the areas of Sindhupalchowk, Gorkha and Bhaktapur – districts most affected by the earthquake. It was easier for mobile clinics provided by this project to help people in crisis than clinics in permanent locations because they had the ability to take help directly to those most affected by the earthquake in remote locations.

Domestic violence

Domestic violence is also a global issue. Nepal legally defines domestic violence as 'any form of physical, mental, sexual or economic harm, including acts of reprimand or emotional harm, perpetrated by one person on another with whom he or she has a family relationship'.²⁰ As a societal norm in countries such as Nepal,

women become part of an extended family after marrying, which can lead to more potential perpetrators of violence than the spouse because the woman is exposed to more people capable of harming her.²¹ Cultural traditions can also contribute to a high rate of domestic violence. Studies in Nepal show risk factors associated with domestic violence include living in a patriarchal society, low social status, illiteracy, economic dependency and unsatisfactory dowry.²² In addition, factors such as 'poor health, livelihood, insecurity, and inadequate social mobilization' are attributed to domestic violence in Nepal.²³ After the earthquake, those who were already vulnerable and disadvantaged faced even harsher conditions – for example, the women who faced domestic violence.

From community assessments and knowledge of the risk factors, the needs of these women were identified so the volunteers of the mobile clinics would be best able to help them. Women without access to education often have no knowledge of their legal rights or laws that protect them from harm, leaving them dependent on their husbands. With no knowledge of their legal remedies, many women are forced to accept their situations and even adapt to domestic violence until it becomes normalised, which can then become a dangerous cycle.²⁴ The most demanding need for these women in crisis was to access information, including education on their legal remedies and the avenues available to take them out of this cycle of domestic violence. The mobile clinics provided by the volunteers of this project helped create this avenue for these Nepalese women.

Mobile legal clinic benefits for survivors

Legal information is not readily available to many communities.²⁵ Laws are sometimes outdated and poorly written, which can make it difficult for those needing to exercise their legal rights.²⁶ This creates a barrier for those who want to obtain access to justice.²⁷ Lawyers and law students volunteering for mobile legal clinics can assist in understanding and using laws available to assist vulnerable populations.

Distrust in the justice system can also be remedied by creating a safe environment with mobile clinics. Mobile clinics create a greater public awareness for access-to-

¹⁶Government of Nepal, *Nepal Earthquake 2015 Post Disaster Needs Assessment Vol A: Key Findings* (2015) <http://reliefweb.int/sites/reliefweb.int/files/resources/PDNA%20Volume%20A%20Final.pdf>.

¹⁷Bimal Kanti Paul, Bidhan Acharya and Kabita Ghimire, 'Effectiveness of Earthquakes Relief Efforts in Nepal: Opinions of the Survivors' (2017) 85(2) *Natural Hazards* 1169, 1169.

¹⁸Government of Nepal, above n 16.

¹⁹*Ibid.*

²⁰Kunta Devi Pun et al, 'Community Perceptions on Domestic Violence against Pregnant Women in Nepal: A Qualitative Study' (2016) 9 *Global Health Action* 1, 2.

²¹*Ibid.*

²²*Ibid.*

²³Krishna P Pandey and Gyanendra Shrestha, 'Assessing Current Situation of Domestic Violence against Women' (2014) 6 *Himalayan Journal of Sociology and Anthropology* 65.

²⁴*Ibid* 7.

²⁵*Ibid* 110.

²⁶Vapnek, Boaz and Turku, above n 3, 1, 8.

²⁷*Ibid* 7.

justice programs and interest in using the courts, thus creating better perceptions for the justice system. This helps countries create a better system for the future.²⁸ Programs created for survivors, such as these mobile clinics, may help foster positive perceptions of the legal system.²⁹

Mobile clinics overcome the barrier that clinics in set locations often fail to reach people in crisis. Inaccessibility creates many problems for the survivors of natural disasters. A clinic in a law school is convenient for the law students but can be a barrier to persons seeking help from the community. A business district or Courthouse location can be a problem for the survivor in crisis as well.³⁰

Emergency assistance given to survivors of crisis is often inadequate.³¹ The compensation and emergency assistance needed is essential to survivors. However, receiving compensation in a timely manner is more important because of their critical needs. Survivors need the assistance of lawyers and law students who work in the mobile clinics in order to navigate through a difficult legal system.

Most governments are unwilling to provide assistance for long periods. One way that survivors' lives may be improved after a natural disaster, such as the earthquakes in Nepal or the tsunamis in Indonesia, is to increase the duration of government assistance to survivors. There also is the risk of corruption and wrongdoing by a government. This limits the survivor's potential to take advantage of assistance intended for them.³²

Mobile legal clinics can support survivors in situations like these. The lawyers, paralegals and law students are there to help survivors with the legal and procedural processes that they face. The compensation process should be quick and fairly easy in the case of natural disasters. While it is not solely the responsibility of the government to provide aid for these survivors of crisis, the government should take responsibility and be diligent in helping the citizens of its country in their time of need.

There is no source of international law for legal rights, procedures and duties in natural disasters. Additionally, there has been no attempt to create or expand any international laws pertaining to disaster response and assistance for natural disaster survivors.³³ Mobile legal clinics must therefore tailor the curriculum and approach to the laws and culture of the particular community, to best serve the people in crisis.

Mobile legal clinics may help expand a pool of pro bono lawyers who will serve indigent clients after the

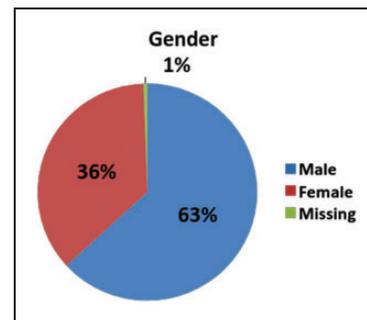


Figure 1. Earthquake.

clinics are over, which can improve access to justice overall.³⁴ Law students are exposed to the value of providing access to justice through volunteer efforts. They present information to, and interview, clients in great need of services. Students also see professionals donating their time to provide access to justice. In addition, improving access to the justice system may enhance the public's interest in the legal system. Recognising this benefit may involve new professional volunteers. This goes beyond the benefit provided by the volunteers of mobile clinics in terms of free legal education, awareness, consultations and representations for survivors to know their rights and have the ability to get access to justice.³⁵

Nepal mobile clinic client survey responses

Earthquake survivors in Nepal were surveyed after attending a mobile clinic to assess their needs and also assess the mobile clinics. The mobile clinic outreach, and therefore client response surveys, focused on three geographical areas in Nepal: Sindhupalchowk, Gorkha and Bhaktapur. These regions were the focus of the outreach services due to the serious need and vulnerability of these communities. Mobile clinics were held in the three regions for more than one year. Two-page surveys were distributed in order to gain more information about the needs of earthquake survivors. Information was gathered as to the demographics of the respondents, types of problems they experienced and whether the clinic was helpful.

The survey covered 516 earthquake survivors. Questions included age, income level, education level, family size, areas of need, issues help was sought for and the help they received.

²⁸Ibid 5.

²⁹Ibid 10.

³⁰Ibid 11.

³¹Heru Susetyo, 'Disaster Victimization and Victimology: Lessons from the Aceh and Yogyakarta Earthquakes in Indonesia' (2012) 6(2) *International Perspectives in Victimology*, 104, 104.

³²Ibid 105.

³³Ibid 107.

³⁴Vapnek, Boaz and Turku, above n 3, 1, 10

³⁵*Sri Lankans get Access to Justice through Mobile Clinics*, United Nations Development Programme <http://www.undp.org/content/undp/en/home/our-work/ourstories/in-sri-lanka-providing-access-to-justice-through-mobile-clinics.html#>.

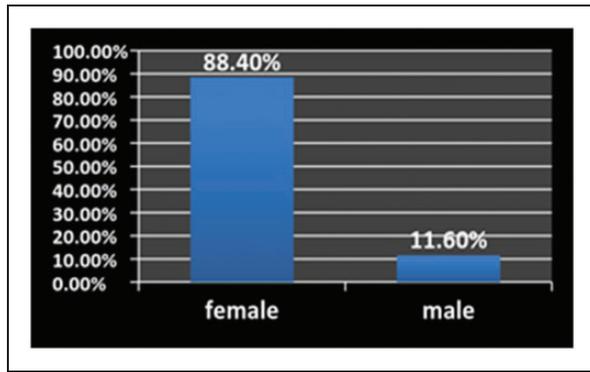


Figure 2. Domestic violence.

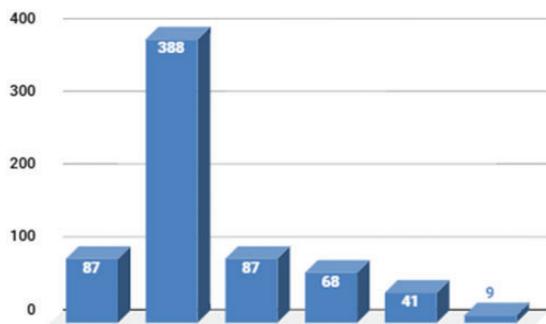
Age

The average age of survivors surveyed was 36 years old. The range was between 15 and 77 years. However, 67 people did not answer the question about age on the survey. Figure 1 shows the data regarding age for earthquake survivor surveys with 328 male and 188 female respondents. Figure 2 shows data provided from a domestic violence survey for gender. In the domestic violence survey, there was a significantly higher number of females who participated compared to males in the earthquake survivors' survey.

Income

A chart for income level is not included. However, 36 per cent of those surveyed reported income levels of 5000 Nepal Rupies or less per month. (This is about US\$50.) Of the other respondents, 27.4 per cent reported receiving 5000–10,000 Nepal Rupies in monthly income; 17.5 per cent received 10,000–20,000 Nepal Rupies and 7.1 per cent reported a monthly income of 20,000 or more Nepal Rupies. Finally, 11.9 per cent did not report on this section of the survey.

Education level



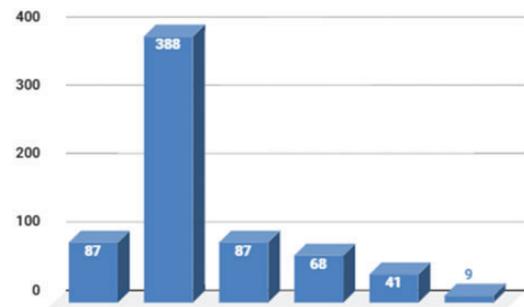
The statistics concerning education level do not accurately represent Nepal's population. Normally, in Nepal, citizens do not make it past the 12th grade. In this survey, there was an unusually high number of people recorded who had received higher education. This may be due to

the print advertisement for the mobile clinics reaching a disproportionate number of the literate population. A mobile clinic must strive to reach all segments of the population with marketing that will make clear the mobile legal clinic is to be accessible to all persons.

Family size

Family sizes for survivors in this survey were as follows: 11 per cent had three people or fewer; 50.9 per cent had three to five people; 23.1 per cent had five to seven people; 11.9 per cent reported seven or more in their family and 3 per cent did not report their family size.

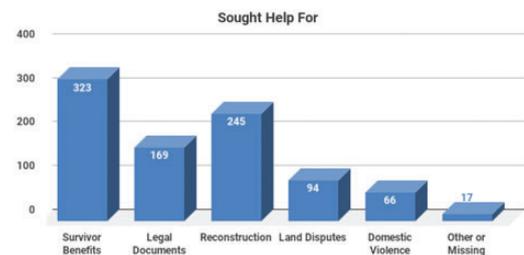
Area of need



Loss of home was the biggest problem that survivors indicated with almost three out of four reporting this need. Homelessness is a serious problem in any climate.

The second problem was tied between loss of income and loss of personal documents. Both were reported at 16.8 per cent. Loss of personal documents can make it difficult to prove eligibility for benefits, home ownership or land ownership needed for a livelihood.

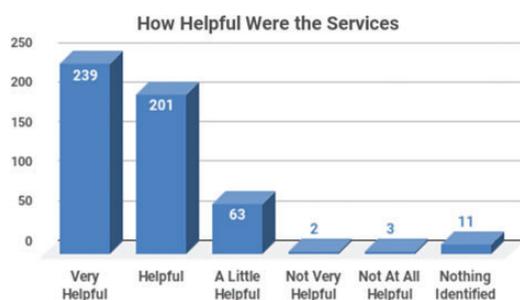
The next biggest problem was land dispute, which 13.1 per cent of people reported as an issue. Family/stress or violence was the next biggest issue with 7.1 per cent of people reporting this as a problem. Finally, 1.7 per cent of people did not report a specific problem.



Domestic violence was one of the least indicated problems among those attending the earthquake survivor mobile legal clinics. Only 12.7 per cent of those surveyed reported this as an issue for which they sought help. However, this may be due to the high number of males who participated in both the clinics and the survey.

Survivors were asked what kind of help they had received from the mobile clinics. Respondents could

check more than one service. There were 46.6 per cent who received legal help; 43.7 per cent reported professional counsel; 25 per cent reported receiving written information and a further 25 per cent reported 'other' as help received. Finally, 5.4 per cent reported not being helped.



In the section regarding how helpful the services were, a large proportion of those surveyed indicated that they were very helpful and with very few indicating they were only a little helpful. Very few had negative thoughts towards the clinics. This indicates the mobile clinics were a success in helping clients.

Conclusion

This study examined the effectiveness of mobile legal clinics in reaching out to various populations in crisis. Pairing law school clinic volunteers with volunteer attorneys is a cost-effective way to staff these clinics and encourage future volunteerism. The Nepal mobile clinics are replicable in other jurisdictions with populations in crisis, whatever the challenges may be to reach them.

Declaration of conflicting interests

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author(s) received no financial support for the research, authorship, and/or publication of this article.

Britane Hubbard is a Bachelor of Science candidate in Criminal Justice, Concentration in Legal Studies, Missouri Western State University, USA.

Mallory Saladen has a Bachelor of Science in Criminal Justice, Concentration in Legal Studies from Missouri Western State University, USA.

David W Tushaus is a Professor in the Department of Criminal Justice, Legal Studies and Social Work at Missouri Western State University in the United States.

Nirmal K Upreti is the Executive Director at Forum for Nation Building (FNB), Nepal.