

***Legal Resources Foundation (LRF)***  
***Report on Paralegal Recognition Workshop***  
***Held in Harare, 29 – 30 September 2005***

***Background***

This workshop is part of a project sponsored by the Netherlands Institute of Southern Africa (NiZA) which brings together legal assistance organizations in the region to discuss and solve problems of development of the work of paralegals.

This workshop was a follow up to the first Stakeholder's workshop held on 8<sup>th</sup> and 9<sup>th</sup> September 2004 which discussed the role paralegals could and should play in the legal system. A number of activities were identified that were going to assist the process of paralegal recognition. Unfortunately, most of the activities were not achieved for one reason or another but the main legal NGOs whose work has a focus on the legal are committed to ensuring that the process proceeds, hence this follow up workshop.

***Objectives***

This stakeholders' workshop was held to consolidate a shared vision and plan of action for the recognition and support for Paralegals in Zimbabwe. More specifically the objectives of the workshop were to:

- (a) Analyse the needs of the paralegal movement nationally and work out parameters for establishment of a paralegal association.
- (b) Discuss the implication on law graduands of recognition of paralegals.
- (c) Analyse legal challenges towards paralegal recognition and suggest solutions.
- (d) Identify allies and target groups; anticipated roles, responsibilities and commitment in achieving paralegal recognition.
- (e) Develop a plan of action to lobby for support of identified allies and target groups.

***Introductions and Welcome Remarks***

The facilitator, Karukai Ratsauka (LRF) welcomed all participants to the workshop, highlighted the aim and the objectives of the workshop as well as the programme (appendix i). After that, introductions were done, each participant being asked to introduce a person next to him or her, collect as much interesting information as possible

about that person and also to find out the expectations of that person with regard to the workshop.

Deborah Barron then (LRF) highlighted the process so far on paralegal recognition noting both regional and national level activities. She stated that there are a number of countries within the region which are also involved in the project on paralegal recognition, such as South Africa, Zimbabwe, Zambia, Malawi, Angola, Mozambique and members of the SALAN network. She pointed out that as Zimbabweans we should strive to come up with what Zimbabweans need. An emphasis was also made that this should not be seen as an LRF's activity but as a national project.

Gloria Chinamatira (LRF) welcomed the participants to the workshop. She thanked the participants for coming, as well as organizations and institutions which had allowed them to come. She highlighted her hope, for the workshop to come up with concrete solutions, meaningful process and a workable work plan on paralegal recognition.

### *Participants*

The introductions revealed that participants were drawn from Legal Resources Foundation (LRF), Musasa Project, Zimbabwe Congress of Trade Unions (ZCTU), Policy and Legal Research, Ministry of Justice, Legal and Parliamentary Affairs, Chief Magistrate Office, ZimRights, Law Society of Zimbabwe, Zimbabwe Women Lawyer's Association (ZWLA), Consumer Council of Zimbabwe (CCZ), Justice for Children Trust (JCT), Southern Life Executor Services, UZ Faculty of Law and Judicial College. In total 26 participants attended the workshop on the first day.

The programme for the workshop is attached as appendix i.

### *Venue*

The workshop was held at Cresta Oasis Hotel in the Avenues, Central Harare. Since most of the participants were Harare based, this was very convenient and the few participants from outside Harare were accommodated at the hotel.

### *Programme*

The programme was planned according to the guidelines sent by NiZA with some variations. The aim was to start off with an appreciation of the work of the paralegals in Zimbabwe and then get the opinions of those organizations/stakeholders who have the authority to influence the process of paralegal recognition by making them present papers. The Law Society of Zimbabwe, the University of Zimbabwe (Legal Aid Department), the Judicial College of Zimbabwe were invited to present papers. Though it was our intention to have the Council for Legal Education present a paper as well, we failed to secure them. The second day took us into planning the way forward.

### *Summary of Workshop Proceedings*

#### *Day One (29 September 2005)*

As already indicated, after the preliminaries, the workshop started with a session to take stock of the nature of the work of paralegals in Zimbabwe and challenges they face as a result of non recognition.

Regina Ndlovu (LRF, paralegal) gave a passionate account of the work of the paralegals within LRF noting that paralegals are the spine or the heart of the organization. Their role centres on three activities; outreach education, casework and mediation. Most of the other NGOs present, Musasa Project, JCT, ZWLA, ZimRights do the same kind of work, in some cases the work also include counseling. The paralegal from ZimRights informed that although she has been in office for 7 years, she has not yet received training.

Regina went on to highlight some challenges that the paralegals encounter in their day to day work. She noted that despite the knowledge obtained, paralegals are unable to assist their clients to their expectations since they are not empowered to do so. Those in LRF cannot take cases to their logical conclusion because either they have to submit the cases to the center lawyer or refer to other organizations. When their consultants realize that they can only assist up to a certain level, they often express their unhappiness with this arrangement.

Paralegals from ZCTU and Consumer Council were also given the opportunity to explain the work they do in their organizations to get a different version as their core business is on labour issues. The ZCTU paralegal, Mandla Sibanda noted that they also experience the challenges which the LRF paralegal had highlighted. He noted that they deal mainly with labour aspects of the law, assisting the poor to interpret statutes and in litigation. They assist their clients as trade union officials not as paralegals. They have shortcomings on issues of registration and enforcement of civil judgments. ZCTU has only one legal advisor who covers all the six regions.

The consumer council paralegal or rather complaints officer noted that he had been with his organization for 2 years but has not yet received formal paralegal training. They refer their clients to other organizations for interpretation of statutes.

### ***Issues arising***

Participants appreciated the roles which paralegals perform but the right to audience was questioned.

The issue of “defining recognition” probed a number of questions and a lot of debate was done around that area. The paras responded as follows:

- They needed paralegalism to be recognized as a profession
- Standardized training with entry qualifications
- Legislation to support the existence of the paralegal profession
- Formation of a body that regulates and controls paralegal work
- Appearance in court up to a certain level i.e. a limited practicing certificate.

### ***The need for paralegal movement and establishment of paralegal association***

The presenter for this session was Emilia Muchawa (ZWLA), with Musasa Project as chair. She started by giving a brief history of how the paralegal movement started within LRF. The need for paralegals to speak with one voice was noted, hence the need to establish a paralegal association.

Participants were then divide into three (3) groups. Each group was tasked to come up with the best

- a) definition of an association
- b) steps to establish an association

#### ***What is an Association?***

From the group presentations it was noted that an association is a grouping of people with a common interest/ goal. The need for a constitution was pointed out.

Steps to establish an association were suggested as follows:

- i) membership recruitment
- ii) forming a steering committee made up of paralegals
- iii) sectoral associations can be formed which will then feed into a National Association
- iv) meeting of members – which will select a body to co-ordinate activities
- v) coming up with a constitution to guide the operations of association and its approval

#### ***Issues Arising***

- The need to get things right the first time was emphasized. It was necessity to clearly define target group because defined loosely there are many groups doing paralegal work including chiefs.
- It should be clear that the association is for the purpose of lobbying and advocacy on paralegal recognition and discussion of other issues of common interest but is not a regulatory body.

#### ***Paralegal Recognition – implications on lawyers***

Dr. V. Guni (Legal Aid Department) was the resource person for this session, chaired by ZCTU. In his presentation, Dr Guni offered telescope key arguments on the implications of formally establishing a para profession over and above the legal one. He noted that recognition entails a formalized set of structures and regulatory mechanisms. If this was not properly done, then confusion might arise if paralegalism assumes too near a character to that of legal professionals.

He argued that even with clearly defined parameters, in practice there is always potential for mix up and clouding of the legal market (if not controlled) and cited the scenario of paras in the labour law area who are accepted as perfect replacements for lawyers. He

also conceded that in the field paras claim a number of advantages e.g. cost effectiveness, lack of lawyer's over sophistication and a practical oriented approach to legal issues.

### ***Issues arising***

- A question was asked how and why paralegals who deal with labour issues are allowed the right to audience in labour courts. In response, it was noted that lawyers are not interested in representing clients on labour disputes since clients may be out of employment and not be able to pay. It was also alluded that traditionally labour courts were presided over by "ordinary" people who were not lawyers and lawyers did not want to stand before a layman.
- During the discussions it was highlighted that paras do not want to invade on other people's territory but only to be recognized as a profession.
- Paras expressed worry about the element of being considered dispensable, and said that is why they are fighting for recognition

### ***Paralegal recognition: legal challenges***

This was a joint presentation by Arnold Tsunga, the Secretary for Law Society and Virginia Sithole, the deputy. The session was chaired by Ministry of Justice.

Arnold Tsunga started by noting the need for paralegal recognition on the basis of access to justice, affordability, simplicity and the reality that there is a critical shortage of lawyers in the country.

Virginia Sithole then highlighted the roles of the Law Society and stated that their main objective is to protect the public by setting standards of regulations for lawyers through legislation. She noted that legal matters call for a high degree of expertise and the practitioners are thus expected to have a deep knowledge of the laws and customs that are applicable within a given community and have ability to correctly apply any given set of facts to the law prevailing at that time in point. She mentioned that lawyers are perceived as a professional class that distinguishes itself through a high code of ethics and moral standards.

She then gave a critical analysis of the Legal Practitioner's Act noting the inhibitive provisions on who is entitled to practice law as well as the requirements for one to qualify.

She then highlight that paras do not have a systematic training and their law is limited to the core business of the institution training them, therefore academically they are challenged, and the Law Society views this as a huge stumbling block to the issue of recognition as their articulation and service will fall far below expectation.

She said without a basic recognized and well defined training programme, it is difficult to perceive clearly what paras know and to evaluate their ability to impart good legal advice. She emphasized that the Law Society will not compromise itself by recognizing paralegals for as long as they do not have proper, systematic well - controlled and monitored training programme.

It was also mentioned that there is no umbrella body to police the paras just as the Law Society of Zimbabwe polices lawyers. That means there is no one to enforce their ethics and code of conduct or monitor their operations for sake of uniformity in their practice.

### ***Issues arising***

- Participants accepted that paralegals should have basic standard training and that that should be the starting point rather than the issue of practicing certificate.
- The need for a concept paper to be used as a baseline for lobbying was accepted as at times there was evident confusion among participants on who is a paralegal and exactly what recognition entails.
- With regard to the issue of right to audience it was suggested that the starting point could be trying to lobby for representation in the local courts where lawyers do not have right to audience since they are presided over by chiefs.
- It was highlighted that paras should fill in gaps and assist people who do not afford lawyers' fees in court in cases such as maintenance and custody which lawyers are not interested in and which they believe are not challenging.

### ***Day Two (30 September)***

#### ***Recap of previous day's deliberations***

The day started by a recap on major issues which were discussed the previous day. This was done by Fanuel Hazvinavamwe, a paralegal with LRF.

#### ***Paralegal training – standards: judicial college***

Norman Mahori (Judicial College) was the resource person for the session. He started by giving a flashback of the issues which were raised during the previous year's workshop. He mentioned with concern that none of the activities were done.

He stated that some organizations (e.g. LRF and ZCTU) which employ paralegals on a full time basis have developed some systematic training programmes for paralegals meaning that stakeholders have realized that there is need for paralegal training.

He mentioned that the Ministry of Justice, Legal and Parliamentary Affairs is working on a programme to professionalize its "paralegal sector". The programme is intended to set a certificate level standard for clerks of court and court interpreters.

The presenter highlighted that the proposed standards thereafter can be used as a yardstick for the proposed standard for paralegal certification since these two groups currently appear to operate at the same level.

He mentioned the entry qualifications for professional training in Zimbabwe and stated that paralegals to gain any formal recognition should satisfy this requirement, that is, 5 O levels including Maths and English.

He observed that LRF currently has a training programme whose certificate is moderated and endorsed by the Council for Legal Education with examinations being moderated by the Judicial College. ZCTU has a training programme for paralegals that appear in Labour Courts and the Ministry of Justice is working on certification of Clerks of Court as already mentioned. A look at the course content from these organizations shows that there are courses, which can be identified as central or vital to all groups.

He proposed that the courses for a para certificate be divided into two categories, compulsory and optional. The suggested compulsory courses are Introduction to Law, Constitutional law, Interpretation of Statutes, Delict, Law of Contract, Family Law, Law of Evidence and Labour Law. The suggested optional courses are Inheritance Law, Gender Law, Alternative Dispute Resolution, Criminal Law, Civil Procedure, Community Intergration and International Covenants.

He mentioned that some control measure need to be put in place once a standard has been set and approved so as to ensure maintenance of quality and control in profession. The Council for Legal Education can be engaged in setting up a board to regulate and control the practice of paralegals. This board can register for practice the paralegals that would have attained the certificate qualification. The board can also regulate which institution can offer the certificate.

As a starting point he mentioned that the Judicial College, LRF and ZCTU or any other organization with the capacity, can be mandated to run the approved courses. Participants were happy when Dr Guni (UZ) indicated that his department may be interested in offering such a certificate / diploma but needed to take up the issue first before a commitment can be made.

### ***Issues arising***

- The presenter suggested, and it was accepted that the workshop identify a person who will be the overall driver of the process.
- It was also suggested that Gender Law be classified under the compulsory courses and not be an option but it was agreed that what had been presented were mere suggestions that needed further input to cater for diverse needs of organizations.

### ***Plan of action***

Gloria Chinamatira (LRF) facilitated this last but most important session of the workshop on way forward. It was agreed that the plan of action for the time being should focus on the issues of achieving standardized training, formation of an association of paralegals and lobbying on paralegal recognition.

Two groups were formed, one comprised of paralegals and the other one of employers (stakeholders). The paralegals group discussed the formation of an association and the other group deliberated on training standards and lobbying of key stakeholders.

### ***Paralegal Association***

The paralegals formed their association in the interim, chose a chairperson and committee and set deadlines for draft constitution. The following are the details of what came out of their discussion.

#### **1. *What interests does the Association Stand for?***

- Recognition of paralegal profession
- Development of paralegal association as a profession by training the paralegals
- Setting standards for the profession
- Having standardized training
- Regulation interest
- Maintenance of professional standards

#### **2. *Membership***

Any person who has received formal or informal training within a legal institution and who does work of a legal nature but has not qualified as a legal practitioner.

#### **3. *Objectives***

- to lobby for the recognition of paralegal profession in Zimbabwe
- to set standards for the profession
- to facilitate the standardization of paralegal training
- to come up with a regulatory mechanism
- to maintain the professional standards of paralegals in Zimbabwe.

#### **4. *Interim Committee***

Chairperson	:	Marko Mavhurume (Southern Life) (driver)
Vice Chairperson	:	Nobuhle Majenda (LRF)
Secretary	:	Mandhla Sibanda (ZCTU)
Vice Secretary	:	Varaidzo Manyika (Msasa)
Treasure	:	Margareth Mushipe (ZWALA)

#### ***Committee Members***

Lorreta Mushangwe	:	Justice for Children
Pelagia Razemba	:	ZimRights
Isabel Chimbuya	:	LRF



Regina Ndlovu : LRF  
Noel Mudikundiona : LRF  
Jonathan Chikukwa : LRF

5. ***Terms of Reference***

- comparative survey or studies of experience from the region and the international community regarding paralegal associations.
- Needs assessment for paralegals in various sectors
- Selling ideas of association (membership drive)
- Draft constitution
- Adoption of constitution.

6. ***Name of the Association***

Zimbabwe Paralegal Association

7. ***Patron***

It was agreed the interim committee will approach

Judge John Manyarara to be patron.

Other people suggested are Dr Amy Tsanga and Mary Ndlovu.

8. ***Housing Organization***

Legal Resources Foundation.

***Training Standards***

The group of employers (stakeholders) decided to draft the concept paper by mid December 2005, set up a committee to look at curriculum development. Karukai Ratsauka (LRF) was chosen as overall driver for the process to be assisted by Emilia Muchawa (ZWLA).

***Curriculum***

We have to look at the suggested curriculum content as presented by Norman Mahori and add on it

- case work
- community legal education
- community mobilization.
- negotiation/mediation
- legal ethics e.g. confidentiality.

Will need to find out from different organizations their curriculum needs.

***Entry Requirements***

What knowledge should one have in order to qualify?

Paralegals said their concern is that they want to be employable across all organizations and so entry qualifications and the curriculum should be designed with that in mind. The suggestion of 5 O levels including Maths and English was acceptable. The issue of

mature entry was raised but it was not resolved as that will be up to the institution responsible for the training to decide.

***What should the course be called? Diploma or Certificate?***

The qualification will depend on the depth of the courses.

***Committee to develop the curriculum***

Members	Mr Mahore	-	Judicial College
	Mrs. Ratsauka	-	LRF
	Mrs. Muchawa	-	ZWALA (Driver)
	Ms. Mariwo	-	ZCTU
	Miss R. Ndlovu	-	LRF
	Dr. Guni	-	UZ (will be replaced with somebody)

***Targeted Stakeholders for lobbying***

Once the concept paper has been produced it should be used as the basis for lobbying the following stakeholders:

Law Society

Ministry of Justice

Council for Legal Education

Judicial college

Law Development Commission \*Is expected to produce an issue paper to the ministry

Parliamentary portfolio committee on legal issues

Legal Aid Clinic (UZ)

***Lobbying Strategy***

- submit concept paper to them
- schedule face to face meeting – hospitality necessary -need to get funds
- need to be creative in the lobbying process

***At What Stage Are We Going to Lobby the Minister of Justice?***

- first lobby with concept paper to all relevant stakeholders. Then lobby through the Law Development Commission which will develop it into an issue paper.

***Who Prepare the Concept Paper?***

The concept paper should be written on a consultancy basis and the curriculum committee with Marko Mavhurume representing the paralegals were to meet on Thursday 13th October at LRF, 5<sup>th</sup> Floor, Blue Bridge, Eastgate in the Board room at 16.00 hours.

### ***Regulatory Body***

- As a quasi – profession – there is need self- regulation.

### ***Institution to Offer Training***

- UZ was identified as the most suitable institution to offer the diploma/certificate.

### ***Closing Remarks***

The workshop was closed by Dr. Guni who on behalf of the organizers thanked all the participants for their contributions. While taking note that the task chosen is not an easy one, and he encouraged participants not to give up until they had achieved the desired goal goal.

### ***Outcomes***

- Enhanced appreciation of challenges to paralegal recognition in Zimbabwe.
- Enhanced commitment to paralegal recognition.
- Formation of paralegal association in the interim.
- Establishment of a committee to produce a concept paper and curriculum.
- Strategy for lobbying of the most influential stakeholders with regard to paralegal recognition.

### ***Conclusion***

This was a very fruitful workshop attended by a variety of stakeholders relevant to paralegal recognition. Participants evaluated the workshop as either successful or very successful with the venue evaluated as excellent. Participation and interest was very high, provoked by pertinent issues and arguments raised in the papers that were presented.

Obviously a lot of work lays ahead before the goal of paralegal recognition is achieved but there was a commitment to advancing identified activities. The first activities to take place by the end of the year will be production of the concept paper (draft) and a meeting of the paralegals to formalize formation of their association.

## **Appendix i**

### **Aim**

To consolidate a shared vision and plan of action for the recognition and support for Paralegals in Zimbabwe

### **Objectives**

- (a) Analyse the needs of the paralegal movement nationally and work out parameters for establishment of a paralegal association.
- (b) Discuss the implication on law graduands of recognition of paralegals
- (c) Analyse legal challenges towards paralegal recognition and suggest solutions.
- (d) Identify allies and target groups; anticipated roles, responsibilities and commitment in achieving paralegal recognition.
- (e) Develop a plan of action to lobby for support of identified allies and target groups.

### **Day 1: 29th September 2005**

08:30 – 09:00	Registration, Introductions and Welcoming remarks Karukai Ratsauka, LRF, Workshop Coordinator
09:00 – 09:30	Paralegal Recognition – Process so far – Regional and National Levels – Deborah Barron, LRF
09:00 – 09:30	My work as Paralegal – Regina Ndlovu – LRF Paralegal
10:00 – 10:30	Tea
10:30 – 11:15	The need for Paralegal movement and its role – Emilia Muchawa, ZWLA Chairperson – Musasa Project
11:15 – 12:00	Discussion on parameters for establishment of a Paralegal Association.
12:00 – 1:00	Paralegal recognition: Implication on law graduands

Dr Guni – Legal Aid Department Chairperson – ZCTU

1:00 – 2:00	Lunch
2:00 – 3:00	Paralegal recognition: Legal Challenges, Law Society Chairperson – Ministry of Justice / Law Development Commission
3:00 – 3:30	Tea
3:30 – 4:30	Discussion on Legal Challenges to paralegal recognition

**DAY 2 – 30th September 2005**

08:30 – 09:00	Recap of previous day’s deliberations – Patricia Mtetwa, LRF
09:00 – 10:00	Paralegal Training: Standards – Judicial College Chairperson – Chief Magistrate Office / Consumer Council
10:00 – 10:30	Tea
10:30 – 11:00	Discussion on training standards
11:00 – 12:00	Plan of Action – Review of commitments – Target groups and allies for lobbying - Gloria Chinamatira, LRF
12:00 – 1:00	Plan of Action – Activity Matrix – Working groups Gloria Chinamatira, LRF
1:00 – 2:00	Lunch
2:00 – 3:00	Feedback on Activity Matrix
3:00 – 3:30	Tea
3:30 – 4:00	Workshop Evaluation and Closure