

# STAKEHOLDERS' WORKSHOP ON RECOGNITION OF PARALEGALS IN ZIMBABWE

## REPORT

Harare, September 8, 9, 2004

### **Background**

This workshop is part of a project sponsored by the Netherlands Institute of Southern Africa (NiZA) which brings together legal assistance organisations in the region to discuss and solve problems of development of the work of paralegals. A questionnaire was circulated and the results reported on early in 2004, which surveyed the development of paralegal work in the region so far. A common concern of paralegal organisations in various countries proved to be the need to acquire some form of legal recognition for the work done by paralegals. While some official acknowledgement of paralegals is present in some countries, nowhere has development proceeded to the point where paralegal work, training and qualifications are standardised and legal recognition is accorded to paralegals as para-professionals.

Each country was then requested to hold a workshop of all stakeholders to discuss the way forward to acquire such recognition. This report describes the workshop held for this purpose in Zimbabwe.

### **Welcome and Introductions**

We began nearly an hour late due to late arrivals. Deborah Barron, National Administrator of Legal Resources Foundation welcomed the participants and explained the nature of the project being sponsored by NiZA and the work done so far regarding the questionnaire and the survey report. She invited all participants to commit themselves not only to discussions in the meeting, but to carry forward the process after the workshop was completed.

Participants were then asked to introduce themselves.

### **Participants**

On the first day we had twenty-one people present. These represented the Legal Resources Foundation (both lawyers and paralegals), Zimbabwe Women Lawyers Association (the Director and a paralegal), Musasa Project (paralegal/counsellor), Consumers Council (complaints officers), the Judicial College (Principal), the Chief Magistrates Office, the Law Development Commission and the Ministry of Justice, Policy Division. An independent consultant who had worked with paralegal development in the Trade Unions joined us briefly after lunch. On the second day we were joined for one session by the Secretary of the Law Society. The Director of WLSA and a paralegal working with one of the trade unions under ZCTU joined us for the whole of the second day.

While there were a few notable absences, especially private legal practitioners (they were only very briefly represented by Law Society), the Council for Legal Education, and the University of Zimbabwe, nevertheless we felt we had a reasonable cross-section of the interested parties, which enabled us to engage the issues in a meaningful manner.

Throughout the workshop participation was excellent and very constructive and the atmosphere was friendly and conducive to positive results.

A full list of participants is attached as Appendix 2

## **Venue**

The workshop was held in the Anne Room of the Bronte Hotel in 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 Robby Shabangwa of LRF Zambia, with some variations. The aim was to begin with a full description of the different organisations working with paralegals in Zimbabwe and identify the type of work they do and roughly the training they receive. We then tried to define who we would like to consider to be a paralegal, and to identify what we mean when we say that we want recognition. In the afternoon we undertook a SWOT analysis to reveal how we are placed in regard to a campaign for recognition.

The second day took us forward into planning our way ahead. We first looked at what changes we need to make to our work in order to begin lobbying for recognition, and then identified the target groups to lobby and what general messages would be designed for each. From there we began working on our plan of action to achieve recognition. At the end of the day we identified a steering committee to take the process further and outlined the responsibilities of that committee.

The programme is attached as Appendix I

## **Paralegals in Zimbabwe**

We asked paralegals from each of the organisations represented to describe their work as paralegals and their type of training. These included those from LRF, Musasa Project and ZWLA. Information on other paralegals was filled in by participants who had knowledge of them. These included paralegals working with WLSA, WAG, Zimbabwe Council of Churches. We spread our definition as wide as possible and included civil servants who do work which might be included as paralegal, such as clerks of court, labour officers etc; we also mentioned those who work full time in other jobs but have had some form of training in the law, mostly through workshops. A consultant who joined us briefly after lunch also filled us in on the work and training of paralegals within the ZCTU, who work primarily within the individual unions, focussing on labour issues.

A comprehensive view of virtually all paralegal types of work being undertaken in Zimbabwe emerged as follows:

*Musasa Project:* This organisation works with women in particular in relation to domestic violence and other types of sexual abuse. Two of their staff are paralegals trained by LRF. One is primarily a counsellor, who uses her knowledge to give basic legal information and

also assists with drafting legal papers, especially peace orders; the other one works mainly as a community educator. They have back-up from a professional legal practitioner in their offices, which are located in Harare and Bulawayo

*Legal Resources Foundation:* Over 40 individuals are employed as paralegals scattered around all provinces in the country. They undertake casework (taking statements, legal advice, correspondence, drafting papers under supervision) mediation/negotiation, community legal education, community mobilisation, and identify public interest and test cases. They receive back-up from legal practitioners. They have a systematic in-house training.

*Women and Law in Southern Africa:* They work with community-based volunteers who receive some workshop training done mainly by LRF lawyers, focussing on specific topics in the law. They undertake community education and give some advice and make referrals primarily to LRF offices. There are about 20 volunteers and they operate in Manicaland only.

*Zimbabwe Women Lawyers Association:* the organisation has 6 fully employed paralegals who receive systematic training from LRF; some also have received training at the Judicial College and University of Zimbabwe, but not as paralegals. They undertake casework under close supervision from lawyers, and also carry out empowerment education, which is followed up by monitoring court hearings to find out if the women are genuinely empowered. ZWLA has also trained community peer educators in specific rural areas and one urban area; these receive workshop training and are given allowances and are backed up by a mobile legal clinic. The peer educators number about 44.

*Zimbabwe Council of Churches:* They are training community peer educators similar to those of WLSA and ZWLA, through workshops conducted by lawyers. No one knew enough about this programme to fill in the details of numbers etc.

*Women's Action Group:* This organisation has fully employed field workers in communities who received some form of training from lawyers. No one present had up-to-date information on this programme.

*Other Human Rights NGOs:* There are other organisations who were not represented who have in the past or do currently employ paralegals. Some of these have been paralegals trained under LRF's systematic training programme. The organisations involved are ZimRights, Amnesty International, Transparency International, Zimbabwe Lawyers for Human Rights, Zimbabwe Human Rights Forum.

*Other NGOs:* There are other organisations which have an interest in paralegal training or employing paralegals. These include Consumer Council of Zimbabwe, Masiye Camp (Matabeleland), Justice for Children.

*Zimbabwe Congress of Trade Unions:* The ZCTU has organised training on labour law and arbitration for some of their members who then use their knowledge within their trade unions. They are not full-time paralegals. The University of Zimbabwe has assisted with training. These paralegals assist union members in labour disciplinary hearings

*Private Firms:* Private law firms and private executors employ legal assistants who could be considered paralegals; they include trained lawyers who are not yet qualified to practise in

Zimbabwe. Human resources officers in private firms who are trained in labour law could also be considered paralegals.

*Ministry of Justice:* The Legal Aid Directorate has plans to introduce paralegals to undertake casework, counselling and alternative dispute resolution. The Magistrates Courts are considering formalised training for clerks of court which could be extended to messengers of court and debt collectors; this might be classified as paralegal training.

*Ministry of Labour:* The labour officers who are trained in labour law and alternative dispute resolution could also be classified as paralegals.

*Professionals:* Some professionals such as pastors, nurses, teachers and workers in children's interest organisations have received some workshop training giving them basic legal knowledge on specific issues which they then make use of in the context of their professional work.

Having considered all of the different types of people and work which could be embraced by the concept paralegal, we classified them in three groups:

- full-time workers employed by NGO's, private companies and government;
- community workers who are not full-time employees;
- other professionals.

### **Who is a Paralegal?**

Having outlined all the possible candidates who might be considered for the label "paralegal", we then broke into groups to try to define which ones we would like to include within the definition. The groups were formed according to the participants, with paralegals forming one group, government officers another, and NGO representatives (primarily lawyers) forming the third. The groups were asked to define who is a paralegal according to the type of work done, the type of employer, the type of training/qualifications, and whether they are full time workers, part time, volunteers, or primarily doing another job.

The results of this discussion were very pleasing, as all the three groups appeared to have similar views about who should be defined as a paralegal. A paralegal can be defined as someone who has received a systematic basic legal training but is not a qualified lawyer. There should be no restriction on the type of employer, as long as the person is doing legal work. Some felt that the paralegal should be someone who works under the supervision of a lawyer.

All felt that there must be a cut-off point which excludes those who have an academic education below secondary level, those who are community volunteers who have only been "workshopped" and those who are simply adding a little legal knowledge to another type of work. This means that a paralegal is someone who has a basic secondary level education, and who has received some form of systematic and standardised training in the law. The employer could be any NGO, private organisation including law firms, or government department. The type of work is wide-ranging and can include casework, community education, alternative dispute resolution, mobilisation, representation in courts, administrative work.

## **What Recognition do we want?**

We felt that it was important to agree on what we mean by recognition of paralegals. This discussion was held in plenary, before lunch. The essence of recognition is the establishment of a regulatory legal framework, i.e. legislation. This should set standards, provide for registration, and provide for disciplinary procedures. The legal framework could also define the parameters of paralegal work, indicating what they can do and what they cannot do. With such regulations in place, there would then be a publicly accepted standard creating a para-profession. The possibility of allowing independent private practitioners at some future date is not excluded.

## **SWOT Analysis**

The entire afternoon was spent on this analysis, which was focussed on strengths and weaknesses, opportunities and threats in relation to achieving recognition. The analysis was carried out in plenary. In this report we have shown how we grouped the contributions under each category, but have also included the individual contributions under each grouping. The results were as follows:

### ***Strengths:***

*Training:* well established institutions offering training; the fact that we have a syllabus in place; training at some level already in existence; element of centralised training by LRF; adequate training

*Knowledge and Experience:* knowledge and experience; hands on experience of the work; strong knowledge base; a large number of systematically trained paralegals working with recognized institutions; the knowledge that we have

*Need for Service:* the need for legal services at grassroot level; alleviate problem of shortage of lawyers; the position we are in *viz a viz* the public and lawyers; need for services – lawyer shortage; user friendly system; work that the paralegals do; need

*Commitment and Expertise:* desire for recognition by stakeholders (need & enthusiasm); the need to make the legal field realise the work being given to the legal field & public by paras; technical expertise to put proper legislation in place; process has been initiated

### ***Weaknesses:***

*Integration:* very poor integration (nationally).

*Supervision:* no constant supervision of paralegal work in some cases.

*Training:* lack of standard training; lack of recognised qualification; inadequate training; no standardised training; no uniform training done; lack of a uniform syllabus; lack of knowledge (legal); shortage of recognised training providers; difference in qualifications.

*Low basic education:* level of education for those already in practice and experienced; low level of education.

*Parameters:* no clearly defined roles; scattered nature of work; not having paralegals' work standard.

***Opportunities:***

*Regional process:* recognition of paralegals in other jurisdictions or countries; regional recognition of paralegalism as a profession

*Allies/Supporting institutions:* other players willing to see paralegalism recognised; the Judicial College; institutions already in place

*Need for services:* the service and work already being done by paralegals and the gap being filled; demand; appreciation of para work; concept of regulation already exists; gap (need)

*Career Opportunities for Paralegals:* diverse career opportunities in all fields of the law and institutions; paras can end up charging fees for services given; self-advancement(paras can set up their own private practice firms)

*ZCTU Process so far*

*Funding Organisation (NiZA)*

*Timing (appropriate)*

***Threats:***

*Lack of Funding:* lack of resources for establishing a training system; funding

*Political Environment:* political environment; attitudes of politicians; NGO Bill; civil society/government relations

*Present Law:* Legal Practitioners' Act

*Separate Agendas:* people and organisations pursuing self-interest

*Attitude of Legal Profession:* resistance from the legal fraternity; most lawyers fear competition from paralegals; feeling by lawyers that we want to be lawyers through back door; diminishing business for lawyers; attitudes of some legal practitioners; overlap legal profession; paralegals vs lawyers conflict of interest in representation

*It will be noticed that there is considerable overlap from one category to another. For example, the fact that there is some training in place is considered a strength, but for others the fact that it is not fully systematised is a weakness. Similarly, the lack of funding is a threat, while the small amounts of support from NiZA is considered an opportunity. These do*

*not have to be seen as contradictory, but rather indicate where we have made a start but have not gone far enough.*

*Identifying the weaknesses was particularly useful when outlining the changes needed before lobbying for recognition can be successful.*

### **Changes Required before Lobbying for Recognition:**

It is understood that before we can begin lobbying for recognition in the form of legislation, there are important steps that we must undertake particularly to deal with our weaknesses. These were discussed in mixed groups containing representatives from each category of participants. We concluded that all needed changes can be subsumed under the following general headings:

- standardise and systematise training and qualifications;
- define parameters for paralegal work;
- create an umbrella body for paralegals which will regulate, register and protect the interests of paralegals;
- create a body to encompass employers of paralegals;

### **Target Groups for Lobbying:**

We first identified, in plenary, the groups that need to be targeted. These are private practitioners (the Law Society), government, quasi-government institutions and the general public. We divided into groups according to choice in order to discuss what message could be persuasive with each of these targets. Each group then reported to the meeting.

#### *Private Practitioners:*

The role of paralegals in the community needs to be explained well, pointing out that paralegals serve a section of the population that can never afford private lawyers' fees and hence they would not lose clientele. Normally a means test ensures that paralegals only serve the poor and marginalized. If paralegals gain a right of audience in courts it will be limited and only relate to matters that lawyers normally do not handle (e.g. maintenance, deceased estates, labour)

If indigent members of the public are able to bring claims, private lawyers may even gain clients who wish to defend such claims.

Paralegals work under the supervision and guidance of lawyers, hence the law will not be misinterpreted by them

With a regulation mechanism for paralegals, they will operate only within specified parameters and an appropriate level of professionalism will be maintained.

Paralegals fill a gap in the promotion of human rights

Law firms are already using persons who are the equivalent of paralegals and these could benefit from recognition; if a similar standardisation and recognition is provided for court officials it should result in a raising of standards in the courts.

*Government:*

The group identified several different government departments and bodies which need to be targeted, with possibly different messages for each:

Ministry of Justice can be engaged as a supporter in drafting enabling legislation. The main thrust will be to conscientise them on the gap and need for standardised expertise in both rural and urban areas.

Parliamentarians can be informed on how their constituents will benefit; they can be persuaded to allow their facilities (e.g.constituency information centres) to be used to inform the public

Ministry of Labour can be shown how a recognised paralegal qualification would benefit their labour court officials.

Traditional leaders can be shown how recognised paralegals would benefit a community and also be of assistance to them in their local courts.

Presiding officers of urban local courts will benefit from the assistance of paralegals.

*Quasi-government bodies:*

Law Development Commission could benefit by using properly trained and officially recognised paralegals to reach communities; paralegals in the community could also serve as a source of information for the Commission, and could undertake research for the Commission.

Judicial College and University of Zimbabwe could be credited as training institutions to train paralegals

Council for Legal Education should be a partner in campaigning for recognition

*The general public:*

They should be persuaded that in view of the shortage and cost of private legal practitioners the recognition of paralegals would make justice more accessible

Paralegals in the government departments and the courts would make these institutions more efficient.

Community education carried out by paralegals would enable them to be more knowledgeable about their rights, obligations and duties under the law



## Carrying the Process Forward

We divided into three groups, according to interest and choice, to begin to discuss the way forward. Each group focussed on how to approach the work needing to be done before lobbying for recognition can start. Groups worked on action plans on each of the following three areas: Defining the Parameters of Paralegal work, Systematising and Standardising Training Programmes, Creating a Paralegal Association. The creation of a network of employers was not intensively discussed as it was felt this could be a loose network and did not need such intensive planning as the others.

Each group produced an action plan. Then, in plenary, we combined the action plans into one plan which could guide us on the way forward. The combined plan is detailed below:

Priority/Activity	Who	By When	How/Resources
1. Stakeholders' Meeting <ul style="list-style-type: none"> <li>• include all stakeholders</li> <li>• explain the process</li> <li>• approve the work plan</li> <li>• identify focal persons</li> <li>• designate a steering committee</li> <li>• identify a lobbying strategy</li> </ul>	Interim steering committee	November	LRF secretariat Funds needed for meeting
2. Research/Audit/Needs Assessment <ul style="list-style-type: none"> <li>• thorough study of work done by paras, entry levels, ages</li> <li>• study of training done and the syllabuses followed</li> </ul>	Steering committee Consultant	Feb/Mar 2005	Funds for consultant & publication of report
3. Proposal <ul style="list-style-type: none"> <li>• on parameters of paralegal work</li> <li>• for general outline for national training programme</li> </ul>	Steering committee Consultant	April '05	Printing and distribution costs
4. Stakeholders' consensus meeting to approve/amend proposal	Steering committee	April/May 2005	Funds for meeting
5. Formation of Paralegal Association <ul style="list-style-type: none"> <li>• identify steering committee at stakeholders' meeting</li> <li>• draft constitution/code of conduct</li> <li>• membership drive</li> <li>• founding meeting</li> <li>• registration</li> </ul>	Steering committee	June/July 2005	Funds for meeting & communication
6. Design National Curriculum <ul style="list-style-type: none"> <li>• syllabus</li> <li>• assessment procedures</li> </ul>	Working group Council for Legal Education Participating org's Consultant?	Complete by end 2005	Funds for meetings and possibly a consultant to steer the process
7. Production of Support Materials	Participating org's		Funds for reproduction
8. Registration of Training Institutions <ul style="list-style-type: none"> <li>set trainers' qualifications</li> <li>set entry qualifications</li> </ul>	Steering committee / participating orgs		

All of the above are the necessary prerequisites to begin a serious lobbying campaign. This does not mean that lobbying cannot begin before all of this is completed; doubtless it should begin seriously once we have agreed on the parameters of paralegal work and an association is formed. This however, was not discussed. Hopefully at the first stakeholders' meeting this

will be raised and a working group assigned the task of devising a lobbying strategy. It will be up to the steering committee to ensure that this is not neglected.

### **Who will carry the process forward?**

#### *Interim Steering Committee*

An interim steering committee was identified to carry the process until the first expanded stakeholders meeting. This will include the following organisations:

- Legal Resources Foundation - three persons, including Deborah Barron and one paralegal
- Zimbabwe Women Lawyers Association
- Musasa Project
- WLSA
- Consumer Council
- Ministry of Justice
- Ministry of Labour

Since government officials cannot participate without authority from their superiors, the other members will initially meet and write letters to the ministries requesting the participation of members from the appropriate departments.

LRF will provide the secretariat in the initial stages at least and convene meetings of the steering committee.

The responsibilities of this steering committee will be as follows:

- Identify all stakeholders
- Send this report to all stakeholders
- Carry out P.R. with the stakeholders
- Identify necessary resources for the initial stakeholders' meeting
- Budget for the meeting
- Convene the meeting

According to the plan of action, this meeting should take place not later than November 2004. While this seems to be a long delay, it gives time for the committee to properly identify and communicate with all potential stakeholders and to source adequate funds.

#### *Working Groups:*

It is envisaged that working groups will be needed as the process goes forward, and individuals were identified as possible members of these working groups:

#### Training:

Karukai Ratsauka (LRF), Emilia Muchawa (ZWLA), Norman Mahori (Judicial College), Edna Mapuranga (ZWLA), Isabel Chimbuya (LRF), Slyvia Chirawu (WLSA), Helarious Ruyi (ZCTU), Mary Ndlovu (Independent/LRF)

#### Determining Parameters:

Nobuhle Majenda (LRF)

#### Paralegal Association:

Varaidzo Munyikwa (Musasa), Jonathan Chikukwa (LRF)

Lobbying Strategy:

Emilia Muchawa (ZWLA), Patricia Mtetwa (LRF), Tsitsi Mariwo (Law Development Commission)

**Conclusion:**

The meeting had a very positive feel to it. It was pleasing that all present agreed on the need to undertake a campaign for recognition and to do the work needed to achieve this. There was a willingness to contribute both during the meeting and afterward. The plan as it is worked out appears to be realistic but very demanding. It remains to be seen whether participants will be able to carry forward this commitment and optimism through the next year so that the process can be adequately handled.

# APPENDIX I

## Workshop on Paralegal Recognition

### PROGRAMME OUTLINE

September 8 – 9, 2004, Bronte Hotel, Harare

Objectives/Expectations of Sponsors:

The workshop should achieve the following:

- Provoke discussion among stakeholders on the role of paralegals in provision of legal services in Zimbabwe
- Identify the issues involved in achieving formal recognition of paralegals
- Identify working groups on the specific issues
- Prepare an initial plan of action for work on all issues

#### September 8

- 8:15 Welcome and Introduction
- 9:00 Regional Co-operation: The Process so Far  
Purpose of the Meeting  
General Comments/Responses to the Survey Report
- 10:00 Paralegals in Zimbabwe
- 10:45 *Tea Break*
- 11:00 Who is a Paralegal?  
- what criteria to use to create a definition
- 12:00 Desirable developments for Paralegal work in Zimbabwe  
ref: sec XVI and sec VIII of the survey report  
- views of paralegals  
- view of other stakeholders  
- issues for this meeting
- 1:00 *Lunch break*
- 2:15 SWOT analysis for support and recognition of paralegal work
- 3:15 *Tea break*
- 3:30 Changes required in order to obtain recognition

## September 9

- 8:30            Recap on previous day  
                  Priority areas for effecting change
- 9:30            Lobbying stakeholders
- target groups who need convincing
  - messages for each
  - who can assist in lobbying
- 10:30           *Tea break*
- 11:00           Identification of areas to be worked on  
                  Allocation of participants to areas of interest
- 12:00           Plans of Action
- 1:00            *Lunch break*
- 2:00            Plans of Action
- 3:00            *Tea break*
- 3:15            Final Plan of Action
- plans of groups approved in plenary
  - tasks assigned to working groups
- 4:30            Closure and logistics for working groups

## APPENDIX II

### Workshop on Paralegal Recognition

#### PARTICIPANTS' LIST

Name	Organisation	Address	Tel / fax/ email
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