

Making Human Rights Real for All

Baseline Survey Information of Paralegal
Work and Training in Southern Africa

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Overview of the Legal Assistance Cluster

In 2003, at the invitation of NiZA, key organisations working with paralegals came together and formed the Legal Assistance Cluster, with the objective of advancing the recognition of paralegals in Southern Africa. The following organisations are members:

Liga Dos Direitos Humanos (LDH), Mozambique; **Legal Resources Foundation**, Zambia; **Maos Livres**, Angola; **National Community-Based Paralegal Association (NCBPA)** and **Lawyers for Human Rights**, South Africa; **Legal Resources Foundation**, Zimbabwe; **Centre for Advice, Research and Education on Human Rights (CARER)**, Malawi; and **Southern African Legal Assistance Network (SALAN)**, organisations from Zambia, Zimbabwe, Tanzania, South Africa, Mozambique, Namibia, Zanzibar and Malawi.

Some of the main activities of the cluster in 2004 and 2005 have been:

- **National meetings and regional meetings**

National meetings with main stakeholders were held in each of the six countries where members are based. Here the situation and needs of paralegals were analysed and a joint advocacy strategy for the recognition of paralegal work was developed in each country. All members of the cluster also meet annually to share progress and plan joint activities.

- **Paralegal training methodology manual**

Over the past twenty years, paralegal training and work has developed its own methodology. This experience and lessons learned will be compiled into a training manual for the trainers of paralegals to be published in 2006. The manual aims to serve as a tool that will increase the performance of both paralegals and the lawyers who train them.

- **Electronic database for paralegal practitioners**

A considerable body of documents and useful materials have been developed at a country level, but this information is not commonly shared between countries. During 2005, the cluster will compile an electronic library, or database, which will be distributed on CD ROM through paralegal organisations in the region.

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Preface

Paralegals are working across Southern Africa, bringing legal advice and assistance to the poor, and empowering communities to act for their rights. During the past twenty years, over 5,000 paralegals have been trained and work or volunteer in advice centres, legal aid clinics and specialised service organisations dealing, for example, with workers' or women's rights. They reach out to poor communities, where they are often the only access people have to information about their rights, and how to claim them. The work of paralegals has transformed 'legalistic' concepts of access to justice, and provides a real opportunity to establish appropriate, cost effective and very relevant legal services, which will extend basic rights to the poor.

This survey report, compiled by Mary Ndlovu, is the first major activity of the Legal Assistance Cluster and aims to provide details of how paralegals are working, how they are trained and supported, and the assistance they require. The following countries have been surveyed:

- Angola
- Malawi
- Mozambique
- Namibia
- South Africa
- Tanzania
- Zambia
- Zimbabwe

This is the first research of its kind, which provides us with valuable baseline information. It traces the extent of paralegal development in the different countries, and identifies some of the key challenges facing the sector today. Trends and patterns can be identified later through further research.

From the survey, it appears that while the work of paralegals appears universally appreciated, the sector, or the activities themselves, are not receiving the necessary recognition from national governments and legal communities. Some of the gaps in legal provision are startling. For example, in Malawi, all lawyers are urban-based and there is less than one lawyer per 40,000 citizens. In Zambia, the Legal Aid Board is not only based in the capital, but is completely insufficiently staffed with only five lawyers. Over 500 paralegals have been trained in Zambia to work among the poor to fill this gap.

Paralegal networks are developing across Southern Africa to pool experience and resources and address the main challenges – gaining recognition for paralegals and improving the sustainability of their services. NiZA would like to commend the Legal Assistance Cluster and all involved with this survey, for presenting this valuable information, which will deepen the understanding of the role of paralegals and their needs.

Amsterdam, May 2005

Marjan Stoffers

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Table of contents

Preface.....	3
1 Introduction.....	5
2 Survey Instrument.....	6
3 General Findings.....	7
3.1 Population.....	7
3.2 Legal Assistance by Qualified Lawyers.....	8
Number of Qualified Lawyers.....	8
Legal Aid for Disadvantaged Litigants.....	9
3.3 Legal Assistance by Paralegals.....	10
Number of Paralegals.....	10
Employers of Paralegals.....	11
Type of Work done by Paralegals.....	12
Aspects of Case Work handled.....	13
Categories of Cases handled.....	14
3.4 Legal Status of Paralegals.....	15
Government.....	15
Legal Profession.....	16
NGOs.....	17
3.5 Education of Paralegals.....	17
Level of Education.....	17
Paralegal Training.....	19
Certificates and Diplomas.....	20
3.6 Details of Paralegal Training.....	20
Trainers.....	20
Organisation of Training.....	21
Training Methodology.....	21
Problems and Needs.....	22
Supervision.....	23
3.7 Prioritized Areas for Developments.....	23
3.8 Existing Networks.....	25
3.9 NGO Legislation.....	25
4 Conclusions.....	27
Appendix I: Questionnaire.....	30
Appendix II: Reflection on the Questionnaire.....	42
Appendix III: Country Analyses.....	45
Angola.....	45
Malawi.....	47
Mozambique.....	50
Namibia.....	53
South Africa.....	54
Tanzania.....	56
Zambia.....	58
Zimbabwe.....	60

1 Introduction

This survey of paralegal development in Southern Africa was commissioned by the Netherlands Institute for Southern Africa (NIZA). Its purpose is to gain an overview of the nature and extent of paralegal work being done in Southern Africa, so that plans can be made for future co-operation, which will enhance the growth of a para-professional service of benefit to the people of the region.

It has been carried out by means of a questionnaire, which was sent to one organisation involved in paralegal work in each country of the region. Each organisation was requested to provide information relating to their whole country, not simply their own organisation.

The questionnaire was sent to one organisation in each of eight countries (South Africa, Namibia, Zimbabwe, Zambia, Malawi, Angola, Mozambique and Tanzania). Responses were received in writing from those countries, which are English-speaking. Due to difficulties in language and in comparative legal systems, Angola and Mozambique submitted their contributions through interviews.

2 Survey Instrument

The consultant was commissioned to design a questionnaire and then present a report on its findings. The questionnaire used is appended to this report as Appendix I. It is a fifteen-page document, through which as much information as possible was gained about the numbers of paralegals working in the country, the type of work they are doing, their academic and para-professional qualifications and training they undergo. It also sought to obtain a picture of the place of paralegals in the legal system and the future developments in paralegal work that are seen as desirable. Questions were formulated in such a way that we could also examine any gender issues in paralegal work.

Because of the large number of issues to be considered, the diversity of experiences in the different countries, and the need to include information on gender balance, it was difficult to design precise questions that could give exact and comprehensive information. Furthermore, many of the questions cannot be answered precisely without extensive in-country research, because the information has simply not been collected by anyone. Examples here would be the absolute numbers of paralegals in employment, the proportions in rural areas, the qualifications of paralegals and the gender balance of all of these. This is particularly true of a country as complex as South Africa where there are many organisations involved. Hence, much of the data received consists of estimates by the individual who completed the questionnaire.

A further discussion on some of the difficulties encountered in using the questionnaire is contained in Appendix II.

3 General Findings

It appears that within the region there are two broad categories of paralegals in the field. The first are those who are trained and employed as paralegals, either in various government offices, private law firms, trade unions or in legal service NGOs. The second are community-based paralegals who are not generally paid or are paid little but play an important role in giving advice to members of their communities. They are, in general, not as well trained as their counterparts, and are sometimes described as human rights activists. A possible third category would be those who are employed in other jobs but have received some paralegal training and give legal advice in the context of their other work. All, however, share a commitment to bringing justice to the disadvantaged or marginalized members of the community who would otherwise have no knowledge of the law and their rights, or access to the justice system.

It was not possible in this questionnaire to explore the different work arrangements, levels of remuneration, and relationships with employing and/or training organisations prevailing in the different programmes. There is obviously a wide variety of experience, and these issues would bear further investigation.

There are significant numbers of paralegals in all the categories identified above who are receiving some form of formal paralegal training. There is a very wide divergence in the levels of paralegal development between countries and a wide variety of work responsibilities and education and training levels. In South Africa, this variety exists also within a single country. All of the respondents indicated that there is substantial room for the extension of training in various areas, for a definition of a formalised role within the legal system, and for networking and interaction among paralegals within the region.

With such a wide variety of experience, it should be possible for organisations involved in paralegal work within the region to share and learn a great deal from each other. This report may serve to promote that process.

The sections below show the data collected and, where appropriate, provide a brief analysis.

3.1 Population

South Africa has the largest population in the region, with a total of 44.8 million. Tanzania has a population of 35 million, Mozambique 18 million, Angola 14 million, Zimbabwe has only 12 million, Malawi 11 million, Zambia 10.28 million and Namibia 1.8 million. In all the countries, the female population is slightly larger than the male, except for Mozambique, where the female population is significantly larger than the male.

The questionnaire specified that “urban” should denote settlements of 30,000 and above, so it includes small towns, and contrasts with genuinely agricultural or traditional rural village settlements. Urbanisation is by far the highest in South Africa, at 56%, followed by Zimbabwe, Zambia, Angola and Mozambique all about 35% , and Namibia at 33%.

Namibia and Tanzania are the only countries of the eight, which reverse the common trend of a larger male population in the urban areas. For the others, there are slightly more men in urban areas, but in Namibia and Tanzania there are slightly more women.

3.2 Legal Assistance by Qualified Lawyers

Number of Qualified Lawyers

	Population	Number of Lawyers	Ratio
South Africa	44.8 million	28 000	1: 1 600
Zambia	10.28 million	1 000	1: 10 000
Zimbabwe	12 million	894	1: 13 000
Malawi	11 million	330	1: 40 000
Mozambique	18 million	700	1: 26 000
Angola	14 million	Not available	Not available
Tanzania	35 million	752	1: 46 000
Namibia	1.8 million	336	1: 5 350

The numbers of lawyers follow an expected pattern, with South Africa at 28,000 being far ahead. The figures, however, may not be entirely comparable, since the numbers given for Zimbabwe only include those in private law firms, while in all the other cases the figures refer to the total number of qualified lawyers.

As expected, the gender balance for qualified lawyers tips heavily in favour of men:

	Qualified Lawyers	
	Male	Female
South Africa	71%	29%
Zambia	70%	30%
Zimbabwe	Not available	Not available
Malawi	85%	15%
Mozambique	90%	10%
Angola	Not available	Not available
Tanzania	85%	15%
Namibia	60%	40%

Comment:

Clearly, there is a huge gap in the provision of legal services particularly in those countries other than South Africa, but even in South Africa it is fair to assume that legal services are very lop-sided in favour of the more privileged population groups. This leaves practically no service at all available to the majority of the people throughout the region. It is in this context that paralegal services take on a very significant role.

Legal Aid for Disadvantaged Litigants

The responses show great differences from one country to the next. In Namibia, assistance is available for criminal and civil defence and for civil claims in lower and higher courts on the basis of a means test, set at an income of N\$2,000 (around \$300).

In Zambia, no assistance is generally available except for criminal defence on a capital charge.

Some assistance is available in South Africa in the lower courts for both criminal and civil defence, but in the higher courts, it is available “in name only”.

In Zimbabwe, the reverse is true – assistance is available in the High Court for criminal defence in capital offences and for civil claims and defences, but in name only in the lower courts.

Assistance is available in all categories in Malawi – criminal defence and civil claims and defences in both higher and lower courts.

In Tanzania, assistance with criminal defence in the higher courts is available, but not in the lower courts. No assistance with civil cases is provided unless a person is declared a ‘pauper’. Assistance with civil cases is only provided to those without the ability to pay for a lawyer.

There is officially legal assistance for all in Mozambique, as it is guaranteed in the constitution; however, in practice there is no assistance available, since even when a judge appoints a lawyer they don’t assist. Legal assistants have been trained to provide defence in criminal cases, but government does not pay them and they tend to end up cheating people rather than assisting.

In Angola, the situation is equally bad, since it is the obligation of the state to provide a lawyer for defence, but in most cases trained lawyers are not available. Approaching a civil court without a lawyer is not permitted.

From experience we know that even where a service is said to be available, many people cannot access it due to distance from the courts, ignorance of its availability, or even distrust or fear of officialdom. Thus in Mozambique, Angola and South Africa, where provision of legal aid is a legal obligation of the government, none is succeeding in providing it.

Comment:

The facts above have enormous implications for paralegal work: there is an enormous demand for legal services for the indigent which government is failing to provide. However, this presents a focus for policy debate rather than clear conclusions. Where legal assistance is clearly not available, there are two possible approaches. Should NGO’s try to provide assistance through paralegals supplemented by lawyers, or should government legal aid departments be urged to employ paralegals in order to boost capacity which would be cheaper than if they only employed lawyers?

3.3 Legal Assistance by Paralegals

Number of Paralegals

The question in the survey concerning the number of paralegals, was phrased to include only those who are employed as paralegals. That is, their full job is doing paralegal work. It became clear when analysing the responses that there are also many others who do paralegal work but are not employed. Others are employed but are paid very low wages.

In South Africa, the total number of paralegals is estimated at 3,700. Of these, 60% or 2,200 are community-based paralegals, mainly receiving a low level of remuneration, some none at all. We were not given a full breakdown according to male and female.

There are approximately 300 community-based volunteers across Namibia, and only 25 employed as paralegals. In Zimbabwe, there are 106 employed as paralegals, and no estimate was given as to the numbers of volunteer “peer educators”, but they do exist, albeit in relatively small numbers.

In Zambia, only 50 are employed as paralegals, of whom 30% are women. Most of these are working in urban areas, especially Lusaka. Another 150 do paralegal work as volunteers, mainly in smaller towns and rural areas. Only 20% of those working in urban areas are women.

Malawi indicates an estimated 50 paralegals employed, 30% of whom are female, and all of whom work in urban areas. Zambia is the only country indicating a large number (300) of paralegals no longer working as paralegals. These are people who received a short training and were deployed on a voluntary basis.

In Mozambique there are 40 paralegals employed by Ligua, of whom half are female. Maos Livres in Angola employs 22 and AJUDECA employs 4, the majority of whom are men. It appears that many organisations in Angola have people they call paralegals who have no legal training and might better be referred to as human rights activists.

Tanzania could not give us an estimate of the total numbers of paralegals, but it appears that there are many, since there are several paralegal associations and networks already established.

Comment:

What the survey reveals is the very small number of paralegals overall in terms of the size of the populations we are working with. This means that the room for expansion is immense; it also suggests caution so that a very well conceptualised programme is established before expansion on a large scale occurs. Where demand is high and provision low, the likelihood exists of many organisations setting up programmes without proper preparation.

Employers of Paralegals

This question was designed to show us the sectors in which paralegals are working. It does give us a good general profile of where they are. The table below gives the breakdown for the different countries.

	South Africa	Zambia	Zimbabwe	Malawi	Mozam-Bique	Angola	Tanzania	Namibia
Private law firms	7%	10 %	2%					
Government prosecution	5%			14%				
Government legal aid	5%			16%		10%		
Other gov't departments	3%	10%					1%	
Legal service NGO's	10%	55%	46%	70%	100%	90%	90%	100%
Other NGOs	2%	20%					9%	
CBOs	3%	5%						
Trade Unions	5 %		52%					
Other	60%							

Most of the paralegals are working in legal service NGOs, with the exception of South Africa and Zimbabwe. In Zimbabwe almost all the rest are with Trade Unions. In South Africa there is a wider distribution of paralegals through different sectors, the majority being classified under "Other". These are paralegals working under the auspices of the National Community-based Paralegal Association in advice centres. These would be similar to some of the advice centres operated in other countries by legal service NGOs. It would be necessary to go into much more detail than was possible in this questionnaire to determine the specific characteristics of the different programmes.

Only Zimbabwe, Zambia and South Africa show that there are paralegals employed by private law firms, and only South Africa, Malawi and Angola show paralegals working in government prosecution or legal aid. Zambia has some working in the Ministry of Justice and Law Development Commission. In Tanzania some paralegals work in Local Government, and in Angola two paralegals who were employed by a legal service organisation are now employed by government.

It appears that it is only in Zambia and Tanzania that significant numbers work in non-legal NGOs. In Zambia they are working in women's organisations and church organisations while in Tanzania they work mainly in health organisations.

Comment:

The extent to which most paralegals are working in civil society organisations, shows how paralegal development is being driven by civil society, and it shows the role that communities themselves are playing in addressing their needs.

Type of Work done by Paralegals

We asked what types of work paralegals do, so that we could have a picture of the breadth of work covered, and the preponderance of each type of work. A table is included here showing the responses given to this question.

The figures entered in the matrix indicate the percentage of all paralegals in a country undertaking each type of work. It is clear that many paralegals are engaged in more than one type of work.

	South Africa	Zambia	Zimbabwe	Malawi	Mozambique	Angola	Tanzania	Namibia
Community Education	40-70	40-70	40-70	71+	71+	10-40	40-70	40-70
Conflict resolution	40-70	10-40		71+	71+	71+	40-70	10-40
Case work	71+	40-70	71+	40-70	40-70	71+	40-70	71+
Criminal prosecution	1-10 ²			1-10		40-70		
Community mobilisation	40-70	40-70	1-10	71+	71+	71+	40-70	40-70
Advocacy	40-70	40-70	10-40	71+		71+	1-10	10-40
Monitoring human rights	1-10	40-70	10-40	71+	71+	71+	71+	10-40
Commissioner of oaths	1-10 ³		1-10	1-10				
Other	1-10 ⁴		10-40 ⁵		71+	71+	10-40 ⁶	40-70 ⁴

² Follow-up work only

³ Ministers of religion who happen to be paralegals do this

⁴ Appearing in some tribunals, labour courts

⁵ Labour court appearances

⁶ Counselling

Community education and casework are the activities which predominate across the region, with advocacy and community mobilisation also of high importance everywhere except Zimbabwe.

Conflict resolution is significant in two countries, and it is also interesting that in five of the countries at least some court appearances are included, being a substantial part of the work in Namibia, Angola and Mozambique. Perhaps more surprising is that work in monitoring human rights abuses is not as important as other work, except in Malawi. Perhaps this hinges on a narrow definition of the category.

In the next question we went into further detail on the aspects of case work dealt with. However, we did not ask for further information on the nature of the community education or community mobilisation. It might be fruitful in future to investigate these aspects more fully.

Aspects of Case Work handled

Again we reproduce the table indicating what aspects of case work are being undertaken by paralegals, by those who do case work.

	South Africa	Zambia	Zimbabwe	Malawi	Mozambique	Angola	Tanzania	Namibia
Interviewing/ statements	71+	71+	40-70	71+	71+	71+	10-40	40-70
Researching precedents/texts	1-10	40-70	40-70	1-10	71+	40-70		40-70
Giving advise	40-70	71+	71+	71+	71+	71+	40-70	40-70
Referrals	10-40	71+	71+	71+	71+	71+	71+	10-40
Drafting correspondence	40-70	40-70	71+	71+	71+	71+	71+	40-70
Drafting court papers ⁷	1-10	1-10	1-10		71+	71+	1-10	1-10

⁷ In South Africa, the papers drafted are letters of demand; in Zambia, summons and statements of claim only under the supervision of lawyers; in Zimbabwe maintenance and peace orders and papers for labour courts; in Tanzania pleas and written statements of defence. In Mozambique and Angola paralegals have a greater role, assisting victims of crimes to draft complaints and accused to draft defences.



There is a clear difference here between the English-speaking and the Portuguese-speaking countries. In Angola and Mozambique, the paralegals appear to be far more heavily involved in assisting with work in lower courts, both in drafting papers and in making court appearances, particularly in criminal cases. It is interesting that in Mozambique they assist both victims of crimes and those accused. This already gives them an important place in the legal system, which begs for formalisation.

In English-speaking countries, the highest proportions are engaged in giving advice, interviewing and taking statements, followed by drafting correspondence and negotiation or mediation. Many make referrals and many research precedents. This last large number is surprising and raises a query as to whether all respondents have given the same meaning to “researching precedents”. A few do draft court papers, but specific types of papers only. Those few who do make court appearances do so in specific courts, mainly labour courts but also for the equality courts and tribal courts in South Africa.

No country indicated that there were any gender differences in the type of work done.

Comment:

The picture we gain of paralegal case work is what one would expect. Mainly paralegals do the preparatory work of taking statements, giving information, making referrals, drafting correspondence. A large percentage try to reach out-of-court settlements through negotiation or mediation. In Angola and Mozambique, they participate more directly in the court process.

Categories of Cases handled

	South Africa	Zambia	Zimbabwe	Malawi	Mozambique	Angola	Tanzania	Namibia
Marriage/divorce	Many	Many	Many	Many	Many	Many	Many	Many
Maintenance	Many	Many	Many	Many	Many	Many	Many	Many
Inheritance	Few	Many	Many	Many	Many	Many	Many	Many
Custody, guardianship	Many	Many	Many	Many	Many	Many	Many	Many
Birth/death reg.	Many	Few	Many	None	Many	Many	None	Few
Pensions	Many	Many	Few	Few	Many	None	None	Many

⁸ Court appearances in small claims courts, tribunals and tribal courts.

⁹ Appearance in labour courts only by specially trained paralegals in the trade unions.

¹⁰ Appearance in lower courts only in regard to petty crimes.

¹¹ In Angola, if there is no lawyer, a paralegal can speak for a lawyer in a criminal defence.

Damages	Few	Many	Many	Few	Few	Many	Few	Few
Human rights abuse	Many	Many	Few	Many	Many	Many	Few	Many
Debt	Many	Many	Few	None	Few	Many	Few	Few
Housing	Many	Many	Many	Few	Many	Many	Many	Many
Criminal defence	Few	Few	None	Few	Many	Many	None	None
Domestic violence	Many	Many	Many	Many	Many	Many	Few	Many
Labour	Many	Many	Many	Many	Many	Many	Few	Many

We asked the respondents to indicate the types of cases most frequently handled by those doing casework. It seemed sensible here to introduce global quantitative descriptions rather than try to ask for percentages when statistics are very hard to come by. Hence respondents were simply asked to indicate “many”, “few” or “none”. Clearly the majority handle many cases in most of the categories selected.

It would require more study to find out the reasons for variation. In some cases, there may be no issue in a particular country whereas in others it may be because of policy decisions not to handle certain types of cases (e.g. criminal defence).

Comment:

The kinds of cases that paralegals deal with appears to be highly context specific, depending on the legal and administrative framework in each country, and the roles of other organisations, and indeed, the extent to which paralegals are allowed to deal with certain cases. For example, many pension cases are dealt with by paralegals in South Africa, Zambia, Mozambique and Namibia – although, interestingly, not in Tanzania and Angola, and few in Malawi and Zimbabwe. This is likely due to the specific arrangements for pensions in each country. But one point that emerges in all countries is that family law issues are very important.

3.4 Legal Status of Paralegals

A prime concern of most paralegal organisations is official recognition, or rather, lack of recognition, of their place in the justice system of their country. This question asked first for the degree of recognition by the government and by the legal profession, and then the attitude of each of these. And finally we asked for the attitudes of NGOs

Government

The legal recognition of paralegals appears to have gone furthest in South Africa. It is the only one of the countries where general legislation has been drafted, and might have long been finalised if there had been agreement amongst the paralegal organisations themselves.

The Legal Practice Bill, which will recognise and regulate paralegals, has gone through several drafts, but none has yet been accepted by government and presented to Parliament. Other legislation already allows for the appearance of paralegals before equality courts, small claims courts and tribunals. The paralegals have to be registered

through non-profit advice offices, so it is not all paralegals who are able to appear in this way.

Paralegals are recognized by the Labour Institute in Namibia, and can appear in labour courts, while in Zimbabwe, paralegals working with Trade Unions also have the right to appear in labour courts. In Zambia, there is no recognition by government as yet, but ideas are being floated and discussed. In Tanzania, paralegals can appear in tribunals, and there is a slow move by government towards institutionalising paralegals into the legal system.

In Zimbabwe there is a working relationship between the Legal Resources Foundation and the Judicial College (where magistrates and prosecutors are trained) which monitors the Paralegal Certificate examinations. The Council for Legal Education, a statutory body, endorses the certificate. The Ministry of Justice also accepts paralegals for attachment in the magistrates' courts as part of their preparation for their examinations.

Malawi has no legislation but a high degree of *ad hoc* recognition. The Ministry of Justice gives paralegals formal training for court work and employs them. There are also some joint projects between government and civil society organisations – for example the Paralegal Advisory Service which assists inmates of prisons and criminal suspects by providing legal education.

Mozambique and Angola have a rather different legal system, which means that paralegals are likely to operate in a different fashion. In Angola there is no formal recognition of paralegals, but since anyone can defend on behalf of another in court, paralegals can also do so. The Ministry of Justice, particularly the Prosecution Department, supports the use of paralegals. In a recent meeting, Angolan organisations working with paralegals determined that they should try to fit paralegals into an already existing concept in the legal system, that of *solicitador*. In Mozambique a few paralegals have been recognised to appear in court after completing a special course; a judge may call the paralegal to assist a person in court if they have confidence in the paralegal, but there is no specific legislation.

Comment:

Thus we can conclude that gradually paralegals are being accepted by governments and they are finding ways of becoming a part of the system. While it is taking time to move towards formal recognition, all countries report that governments do recognize that paralegals can fulfil an important role, and appreciate their work. Namibia reports that government at the highest level has expressed appreciation publicly, while other governments may be appreciative without making such open statements.

Legal Profession

The attitude of the legal profession is less positive, and divided opinions are reported. Zambia states that there is open hostility, with paralegals being perceived as professional intruders.

South African legal practitioners are divided, with some, particularly in small or rural practices, feeling threatened, while others accept paralegals if they are in the non-profit sector and working under the supervision of a lawyer. Yet some of the South African law firms employ commercially trained paralegals.

In Zimbabwe, the legal profession is ambivalent; they do assist paralegal offices with lunch time clinics in some places, but do not want the work of paralegals to be extended. They do not recognise those working as labour representatives.

Legal practitioners in Malawi were successful in preventing paralegals in government from undertaking legal aid defence court work for which they had been trained, thus indicating their concern that paralegals would threaten their professional monopoly, whereas in Namibia no formal position has been taken by the profession.

Some Tanzanian law firms do make use of paralegals for simple communication with clients, but in Angola and Mozambique the legal profession does not afford any recognition at all, with Mozambican lawyers being described as “hostile”, and Angolan lawyers believing that paralegals will become competitors for clients.

NGOs

NGOs in all the countries appear to be uniformly positive towards paralegals, relying on them and often working with them. In Angola, for example, there are community activists who know human rights, but not Angolan law, who often refer individuals to paralegals for advice. Some concern has been expressed about the competence of some paralegals; the NGOs who are serviced by them would like to see higher levels of education and training introduced. Some of the NGOs employing paralegals would like a guaranteed rigorous training before paralegals gain a place in the legal system, to ensure that they do render an adequate service.

Comment:

The conclusions of this section point to the need to engage the legal profession; in particular to educate them about the important role that paralegals can play complementary to, rather than in competition with lawyers, and to enlist their support in working for formal recognition. Malawi’s experience in trying to involve paralegals in government legal aid – where they were trained by government for employment in defence, but prevented from being deployed – should be noted. Future developments will be far more successful and smooth if the profession is on board. And at the same time, quality training and performance must be provided.

3.5 Education of Paralegals

Level of Education

It was necessary to gain some idea of the academic levels of people recruited into paralegal work. While those with lower levels of basic education may seem closer to

the communities and able to work well with them, a certain minimum level may also be necessary for a paralegal to be effectively trained in legal concepts.

The question asked for an indication of the level of education attained before being trained as a paralegal. The responses show a wide divergence in the level of academic background, even within countries, with attainment levels ranging from primary schooling to three years of tertiary education. Some of the responses given were confusing and seemed at points to be contradictory. This is probably because data on these figures were not available and the respondents were making estimates. In addition, the educational categories are not the same in all countries, and some respondents appeared to have included courses done during paralegal training or further staff development.

Paralegals in the region range from those with a degree or some university education to those with only primary level education. From the detail of responses, we can draw some general conclusions:

- a) The majority of paralegals in all countries have completed secondary education, that is, at least 12 years of school.
- b) There are a substantial number who are reported as having “incomplete high school” (40-70% in Namibia, 10-40% in Zambia and Zimbabwe, and 1-10% in South Africa, some in Angola, but none in Malawi or Tanzania or Mozambique)
- c) In Mozambique over 70% have completed a pre-university course and many even have work experience as teachers or nurses; about 20% have some other form of tertiary training, but these are mostly men (note this is in relation to a total of only 40 paralegals in the country)
- d) In three countries there are paralegals who did not proceed beyond primary school (usually 8 grades) (South Africa 1-10 %, Namibia 10-40%, and a minority in Angola)
- e) In all countries (except Malawi which did not indicate), there is a similar gender difference, with larger proportions of men having the highest levels of academic education and larger proportions of women having the lowest academic qualifications.

Comment:

It appears that the formal level of schooling or education is not the most important criteria for the selection of paralegals. Considering the position of paralegals in their communities, it is also likely that the motivation, commitment and attitude of a perspective trainee are also taken into account.

Paralegal Training

This section asked for information on the types of training paralegals are receiving. It is not easy to get a very clear picture, because each country appears to have a variety of types of training, some confined to a particular organisation, and others associated with various formal training institutions.

Formal training

In South Africa, Malawi and Namibia a significant proportion of paralegals have received formal training at a university or technikon (polytechnic). In South Africa and Malawi 1-10% of paralegals have been involved at this level, with training lasting between one and three years. In this category in South Africa, there are more males than females, the discrepancy in favour of males being higher for the three-year training programmes. In Namibia as well, a substantial percentage of paralegals receive a one-year course (10-40% female and 40-70% male), while 10-40% of males have a three year course at university or technikon (again note that this refers to a small total number of paralegals). Zambia and Zimbabwe have no such formal tertiary level training offered. In Mozambique 40% of the paralegals have had 45 day training by university lecturers in addition to their training by their NGO.

NGO training

In all of the countries except South Africa, the majority of training is offered by NGOs (More than 70% in Zambia, Namibia, Angola and Mozambique; 40-70% in Zimbabwe, Malawi and Tanzania; and 10-40% in South Africa). The length of this training varies greatly, from two weeks in Zambia to six months in Angola, and a two year period in Zimbabwe, alternating between distance learning, residential, and work. Workshops are also offered, in South Africa making up 10-40% of the training, and elsewhere representing up to 10% of the total training.

On-the-job training

Informal on-the-job training is present in most countries. South Africa, Zambia and Namibia and Malawi all indicate 1-10%, while Zimbabwe indicates 40-70%. However, there are no paralegals who receive this type of training alone; it is normally in addition to one of the other forms of training. In Zimbabwe, where it represents a high percentage, it is additional training, provided where paralegals are being supervised by lawyers.

Comment:

The picture shown from this section is complex and points to difficulties ahead if standardisation is desired, even within countries. It also shows a tendency by organisations to strengthen training for smaller numbers of paralegals, rather than offer rudimentary training to large numbers.

Certificates and Diplomas

Certificate from the own organisation

The vast majority of paralegals in all the countries have some kind of paper qualification, the commonest being a certificate issued by their own organisation (over 70% in Zambia and Zimbabwe and 40-70% in South Africa, Malawi and Tanzania). In Mozambique all the paralegals have a certificate issued by the NGO *Liga dos Direitos Humanos*, and in Angola all have certificates issued by their NGO. It appears that all of these are certificates of achievement, requiring the passing of an exam. In Zambia, those who do not pass are given a certificate of attendance.

Certificate from a university or technikon

1-10% of paralegals in South Africa hold a certificate from a university or technikon, but the gender balance is again heavily in favour of men (65:35). In Namibia similarly 1-10% of women have a tertiary level certificate as against 10-40% of male paralegals. We must remember, again, however, that these percentages in Namibia refer to a small total of paralegals. From the data supplied in the questionnaire responses it is not possible to distinguish between certificates that represent full-time study over a period of time and those given for short courses.

Certificate from the government

Government is involved in certification in four of the eight countries. In Zimbabwe 40-70% of paralegals possess government-endorsed certificates, in Malawi 10-40%; up to 10% in South African; and in Namibia 1-10% of women and 40-70% of men. In Zambia there is no qualification awarded or endorsed by government. In view of a comment by one respondent, we believe that some of the “government” endorsement may refer to the courses at universities and technikons, rather than separate courses offered or supported by governments. In Angola, plans are underway for paralegals to be trained at the government institution, which also trains judges.

In South Africa we find that some paralegals hold certificates and diplomas from private colleges. Since these courses tend to focus on areas of law of relevance to private practice, such as conveyancing, we assume that these are held for the most part by paralegals working in private law firms.

Comment:

A wide range of institutions are now providing qualifications for paralegals, including NGOs, universities, government and even private colleges. Qualifications range from certificates of attendance, to university level diplomas.

3.6 Details of Paralegal Training

Trainers

It is useful to have information on the type of people currently involved in paralegal training, how training is now organised, and the training methodologies in use.

Trainers can be lawyers or qualified instructors or lawyers who are also qualified instructors.

South Africa, Zimbabwe and Namibia use both qualified lawyers and other qualified trainers. It is not said that the lawyers in these countries are also qualified instructors. Tanzania on the other hand, indicates that most of their trainers are lawyers who have been trained as instructors.

Zambia only makes use of qualified lawyers, except where people from government departments and agencies give talks about the work of their institutions or departments, such as the police victim support unit. Zambia says that their lecturers at the university are always qualified lawyers. Although they indicate that these lecturers are also qualified instructors, it appears that they have not received any training as instructors.

Other countries have indicated only some of their trainers are qualified both in law and in training. Malawi has not indicated that they use any qualified lawyers who also have training as instructors, but they also use many consultants in other fields such as gender, HIV/AIDS. In Angola all trainers are lawyers, while in Mozambique the trainers are university lecturers who teach international law and criminal law.

Comment:

This may be an area, which could be looked at for further development, as it would clearly be desirable to have a high proportion of trainers on the legal content and skills qualified in instructional techniques as well as in law. University law lecturers usually don't have qualifications in training, and may or may not have the type of orientation desirable for training paralegals.

Organisation of Training

The commonest way of organising paralegal training is through residential courses of more than one week. Zambia, Namibia and Angola always make use of this approach, while in South Africa, Zimbabwe, Tanzania, and Malawi, most of the training is done in this way. Only South Africa and Zimbabwe make use of distance education. All indicate that they also make use of workshops with a duration of less than one week.

Comment:

Thus a variety of approaches to training is used. In South Africa this probably reflects the wide variety of organisations offering training. In other cases, such as Zimbabwe, it represents a variety of approaches within one organisation. There appears to be room for consideration of distance learning as an approach where residential courses would be expensive, or even a combination of distance and residential training.

Training Methodology

The responses show that various instructional methods are in use. South Africa, Zambia, Malawi and Namibia rely heavily on formal lectures which in Zambia doubtless reflects the fact that university lecturers are the main instructors, while in

South Africa, Malawi and Namibia at least some of the paralegals are being trained in tertiary level programmes.

Considerable use is also made of group work, case studies, role-plays, field visits and especially practical work (with the exception of Malawi). No one uses mock trials, which is not surprising considering that most paralegal work is outside the courtroom, but it might have been expected in Angola and Mozambique, where paralegals undertake more court work. The wide variety indicates a vibrant and stimulating type of training. Only South Africa, Namibia and Mozambique show that trainees participate in research or projects.

Problems and Needs

For developing further or more effective training programmes it is important to know the needs as perceived by organisations involved with paralegal work and paralegal training. South Africa, which has such a breadth of training programmes on offer, says they are basically satisfied with the training they have. Their concern is rather that all training should be convertible into some recognized qualification to ensure a greater degree of uniformity of standards than is presently possible. They are the only country to have established a National Paralegal Institute, but it specifically trains those paralegals affiliated to the National Community Based Paralegals Association.

Tanzania would like to have a standardised training for the country, with a uniform syllabus, and establish a national training institute, which issues recognised certificates.

Namibia is not really satisfied with their training and would like to see more on-the-job training. This may be close to the position of Zimbabwe which raises the problem of lawyers who are expected to supervise on-the-job training but have not been trained in either supervision or in the special needs of paralegal work. Namibia, Zambia, Zimbabwe, and Mozambique would like to see training of a longer duration, while Namibia mentions that longer trainings would allow for more extensive treatment of content, as well as more practical work.

Malawi complains that there are no uniform standards, leading anyone who has one week's training to call themselves paralegals. They feel they need a recognised qualification at diploma level, with the training continuing for a substantial time and being offered by professionals.

Legal Resources Foundation Zambia would like to see improvements in the quality of paralegals being recruited for training and in the quality of training conducted by other organisations. Angola expressed the need for train-the-trainer programmes, as lawyers themselves are not trained educators.

Comment:

There is a demand for standardised and more professional training for paralegals to ensure proper qualification. This, in many ways, is a pre-requisite for the recognition of paralegals and their role in legal service provision. Several paralegal training organisations are linking with universities, and legal representatives of their governments to agree on the curriculum for the qualification of paralegals nationally.

Supervision

If on-the-job training is to be considered, it is important to know how often there is contact between paralegals and lawyers who might be in a position to offer a type of on-going professional development. Thus we asked for some information on the extent of supervision by lawyers. The question was “How often are paralegals supervised by or assisted by lawyers in their work?” Responses were as follows:

	South Africa	Zambia	Zimbabwe	Malawi	Mozambique	Angola	Tanzania	Namibia
On a daily basis	Some	Most	Some	None	Some	Most	Some	
About once a week	Some	Some	Some	Some				Some
About once a month	Some	Some	Some	Most	Some	Some	Most	Some
Less than once a month	Most		Some	Most	Most			
Never			Some					

This table of responses indicates that there is a fairly high degree of contact in some countries. Generally, those supervised on a daily basis are those located in urban areas. Where the supervision is indicated as “about once a month” or less, these will be rural-based paralegals, which, except in South Africa, are nevertheless in touch with their supervising lawyer by telephone in order to consult. In Zimbabwe those who are “never” supervised by lawyers are those working with trade unions.

Malawi appears to have the lowest level of supervision overall, even though it should be noted that there are few paralegals and they are mainly in urban areas.

Comment:

The above table shows that there is no standard approach to the supervision of paralegals. In some cases (such as with legal service organisations based in urban areas), paralegals are closely supervised. In other situations, paralegals are trained and work independently and have the benefit of very little or no supervision.

3.7 Prioritized Areas for Developments

Respondents of the survey were asked to prioritize the following areas for further development, by indicating “no”, “maybe” or “definitely”:

- higher levels of legal training,
- higher levels of other skills training,

- greater professional recognition,
- right to court appearances,
- development of the legal framework for paralegals,
- more participation in law development,
- more human rights work,
- more regional interaction,
- more participation in research.

South Africa and Zambia answered “definitely” for everything (in spite of the fact that South Africa said they were basically satisfied with their training). Zimbabwe answered “definitely” for everything except for right to court appearances and more human rights work, where they answered “maybe”.

Malawi indicated “definitely” for everything except right to court appearance and legal framework for paralegal work, where they marked “maybe”. Namibia’s response was more moderate, indicating “maybe” for everything except greater professional recognition for which they answered “definitely”, and more human rights work, which they did not answer.

Angola was positive to all areas of development, indicating that higher levels of skills training are needed for both paralegals and the lawyers who work with them; they would like to extend court appearances to civil and labour courts. A legal framework for paralegal work already exists. They would also like to see more co-ordination between different NGOs in Angola and within the region.

Mozambique is not sure about regional interaction and participation in research and answered a clear “no” to participation in law development, but would definitely like to see development in all other areas, including extension of court appearances.

Tanzania answered “definitely” in all categories except participation in law development and participation in research, where they answered “maybe”. They qualified their “definitely” for court appearances with a concern that those paralegals who are to appear in court must be adequately trained.

It is clear from the degree of enthusiasm as well as their more detailed responses that the first priority for both Zimbabwe and Namibia is to work on official recognition of paralegals. Malawi noted in an earlier section that they also wanted recognition for a paralegal qualification, but they are dubious about the benefits of a legal framework for paralegals, since they feel it might be used as a way of restricting paralegal work to the point of suffocation.

Zambia appears to be more concerned with improving quality and establishing a uniform standard of qualifications for paralegals, as a measure that will eventually support the campaign for recognition of paralegals.

Perhaps South Africans feel that official recognition is already more or less in hand. In response to this question they elaborated by emphasising the need for more networking, exchange of information and expertise and regional lobbying and advocacy. They also

mentioned something which no other country did: “the need for improving planning, monitoring and implementation to enable better assessment of impact”.

Comment:

The responses in this section do show that there is much scope for development and co-operation within the region. It might be interesting to examine the relationship between establishing standards and obtaining recognition. Which should come first, or doesn't it matter? In South Africa recognition seems to have encountered problems in part because of lack of agreed standards.

3.8 Existing Networks

South Africa has already four networks of paralegals. In the context of this questionnaire, it was not possible to go further to determine the nature of each grouping and how they work together. But there is obviously a high degree of basic organisation bringing together different groups working in the field, and this might well attract further investigation regarding how they interact and what the networks achieve. Tanzania has named three paralegal associations, all geographically based, but an added “etc” indicates that there are more.

In Zambia there is the Paralegal Training Alliance Network, and in Namibia the Namibian Paralegal Association. Malawi has the Paralegal Advisory service bringing together paralegals from four NGOs, who do work in different prisons. Only Zimbabwe does not have any association, possibly because virtually all the training is done by one organisation and the vast majority of paralegals are employed by that organisation – the Legal Resources Foundation. Those paralegals who work within the trade unions are completely separate and have little interaction with the others up to now.

In Mozambique, there is no association, and the paralegals described in this report are all associated with one NGO. Angola has no association yet, but a recommendation that one be formed came out of a national meeting held in October 2004.

3.9 NGO Legislation

It appears that up to now there is no legislation within the region specifically relating to legal service or paralegal organisations. South Africa, Malawi and Zimbabwe have generalised laws governing non-profit or charitable organisations. In South Africa this is the Non-Profit Act, and in Zimbabwe the NGO Act. The Societies Act governs NGOs in Zambia. There is a draft policy on Namibian government/civic organisation partnerships. Mozambique's law of associations governs all civil associations, and requires registration. In Angola a similar law regulates all associations. There are several laws regulating Tanzanian associations, including an NGO Act. There is also a circular from the Chief Justice on NGOs providing legal aid.

Comment:

Legislation could be a key area for investigation, lobbying and trying to make progress together. The fact that South Africa has spent so long trying to finalise legislation to regulate paralegals as well qualified legal practitioners suggests that there is a long road ahead. And Malawi's warning about the negative aspects of legislation should be heeded. However, regional sharing of experience and especially strategies for engaging the legal profession and the governments could be of assistance to everyone.

4 Conclusions

This report makes a start in defining the role being played by paralegals in eight countries of Southern Africa. It points to the future as the paralegals, and the organisations that work with them, attempt to formalise their positions and carve their niche in providing better access to justice for the disadvantaged people in their societies.

While not providing a comprehensive or exhaustive study of the work being done, it does show us the types of work that paralegals do, their levels and forms of training, their position in the legal community and their perceived needs for future development. We can conclude that there is a great deal of similarity in the work done, particularly in the areas of the law which paralegals handle.

There is a huge gap in the provision of legal services, particularly in those countries other than South Africa, but even in South Africa, it is clear that legal services are very lop-sided in favour of the more privileged population groups. This leaves practically no service at all available to the majority of the people throughout the region. It is in this context that paralegal services take on a very significant role.

There is an enormous demand for legal services by the indigent, which governments in the region are failing to provide. Where legal assistance is clearly not available, this survey highlights two approaches: through independent civil society-based paralegals supplemented by lawyers, and through government legal aid departments employing paralegals in order to boost their ability to provide services to the poor.

The extent to which most paralegals are working in civil society organisations shows how paralegal development is being driven by civil society, and it shows the role that communities themselves are playing in addressing their needs.

The survey reveals that still there are a very small number of paralegals in terms of the overall size of the populations and demand. This means that the room for expansion is immense; it also suggests caution that a very well conceptualised programme should be established before expansion on a large scale occurs.

An impressive level of involvement of both women and men was found among paralegals working in the field. Paralegal training and support organisations have often promoted fair representation of both women and men in the training courses and in many cases women can be seen to be playing leading roles both at local advice offices and in training organisations.

The picture we gain of paralegal casework is what one would expect. Paralegals mainly do the preparatory work of taking statements, giving information, making referrals, drafting correspondence. A large proportion tries to reach out-of-court settlements through negotiation or mediation. In Angola and Mozambique, paralegals participate more directly in the court process.

The kinds of cases that paralegals take up, and the extent to which they interact with the courts and formal legal system is highly context specific, depending on the legal and administrative framework in each country, and the roles of other organisations, and indeed, the extent to which paralegals are allowed to deal with certain cases. There is a clear difference here between the English-speaking and the Portuguese-speaking countries of Southern Africa. In Angola and Mozambique, the paralegals appear to be far more involved in assisting with work in lower courts, both in drafting papers and in making court appearances, particularly in criminal cases. It is interesting that in Mozambique they assist both victims of crimes, and those accused. This gives them already an important place in the legal system, which begs for formalisation.

Many organisations employing paralegals have introduced training programmes, which are at various stages of development. All need consolidation and systematisation of training to address their demand for recognition of their role in the legal system. A wide range of institutions is now providing qualifications for paralegals, including NGOs, universities, government and even private colleges. Qualifications range from certificates of attendance, to university level diplomas.

It appears that in all of the countries surveyed there is a demand for standardised and more professional training for paralegals to ensure proper qualification. This, in many ways, is a pre-requisite for the recognition of paralegals and their role in legal service provision. Several paralegal training organisations are linking with universities, and legal representatives of their governments, to agree on the curriculum for the qualification of paralegals nationally.

Furthermore, a need was identified in training the trainers of paralegals in instructional techniques and training methodology, as well as in law. It would clearly be desirable as a high proportion of university law lecturers usually don't have qualifications in training, and may or may not have the type of orientation desirable for the training of paralegals.

As far as the supervision of paralegals is concerned, the survey shows that there is no standard approach to the supervision of paralegals. In some cases – such as with legal service organisations based in urban areas – paralegals are closely supervised. In other situations, paralegals are trained and work independently and have the benefit of very little or no supervision.

The study concludes that gradually paralegals are being accepted by governments and finding ways of becoming a part of the system. While it is taking time to move towards formal recognition, all countries report that governments do recognise that paralegals can fulfil an important role, and appreciate their work.

There is a need to engage the legal profession more profoundly; in particular to educate them about the important role that paralegals can play complementary to, rather than in competition with lawyers, and to enlist their support in working for formal recognition of paralegals.

Finally, the survey shows that there is much scope for development and co-operation between paralegal organisations in the region. It might be interesting to examine the relationship between standard-setting and obtaining recognition. In South Africa, recognition seems to have encountered problems in part because of lack of agreed standards.

In spite of the considerable differences in the legal systems of the various countries, it is interesting to note that the development of paralegalism has reached a parallel stage and encounters similar problems in all the countries. This leads us to the conclusion that although each country has its own peculiar problems, there is a great deal of room for co-operation and learning from each other. Priorities for the moment focus on the areas of increased professionalism through upgrading of training, standard-setting through the introduction of common syllabuses within countries, and the struggle for official recognition through legislation.

It is hoped that this survey will assist with the further development of paralegalism within the region, and promote regional co-operation, leading not to any regional conformity, but to the more rapid achievement of national goals.

Appendix I: Questionnaire

Please answer all questions as fully as possible. Where you are asked for a gender breakdown, do your best to provide as accurate an answer as you can; we realise that in some cases the necessary information may not be available.

I Country _____

(a) estimated total population 2003 _____

% female _____

% male _____

(b) estimated % of population in urban areas (living in centres with population over 30,000) _____

% female _____

% male _____

(c) estimated total number of qualified lawyers in all types of work _____

% female _____

% male _____

(d) estimated ratio of lawyers to population e.g. 1: 5,000, 1: 50,000 etc. _____

II Official Legal Assistance

What government assistance is offered and is accessible to those unable to pay for private lawyers?

	Available in name only	Readily available	No provision
Criminal defence in higher courts			
Criminal defence in lower courts			
Civil claim in higher courts			
Civil claim in lower courts			
Civil defence in higher courts			

Civil defence in lower courts

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Add any relevant details of any of the above

III Paralegals

- (a) estimated no of paralegals employed _____
 of these, % female _____
- (b) number working in urban areas (as above) _____
 of these, % female _____
- (c) estimated number of former paralegals
 no longer working as paralegals _____
 of these, % female _____

IV Employers of Paralegals

Please estimate the % of the total number of paralegals employed by each type of employer

- (a) Private law firms _____
- (b) Government prosecution service _____
- (c) Government legal aid _____
- (d) Other gov't departments _____
 (specify which departments)
- (e) Legal service/human rights NGOs _____
- (f) Other NGOs _____
 (specify what type of NGO)
- (g) CBOs _____
- (h) Trade Unions _____

(i) Other (specify) _____

NB: The percentages you have given for this question should total 100%

Please indicate any type of employers where there is a preponderance of either male or female paralegals.

V Type of Work done by Paralegals

Please indicate the percentage of all paralegals who undertake each type of work by placing a tick on the appropriate column; where no paralegals in your country undertake this type of work, do not check any column

	(%)	1-10;	10-40;	40-70;	71+
(a) Community education					
(b) Conflict resolution (communities					
(c) Case work					
(d) Criminal prosecutions					
(e) Community mobilizing					
(f) Advocacy/lobbying					
(g) Monitoring human rights abuses					
(h) Commissioner of oaths					
(i) Other (specify)					
(i) Other (specify)					

Please indicate if there are any significant patterns or differences in the types of work done by male and female paralegals.

VI Which aspects of case work are paralegals doing?

Please indicate the percentage of those paralegals doing case work who are engaged in each aspect.

(%)	1-10	10-40	40-70	71+
(a) interviewing/taking statements				
(b) researching precedents/texts				
(c) giving advice				
(d) making referrals				
(e) drafting correspondence				
(f) drafting court papers (specify types)				
(g) court appearances (specify types of cases and types of court)				
(h) handling negotiations/mediations				

Are there any significant differences between the aspects of case work handled by male and female paralegals?

VII Categories of cases

For those paralegals doing casework, indicate what types of cases they are handling.

	none	Few	Many
(a) marriage, divorce			
(b) maintenance/child support			
(c) inheritance/succession			

- (d) child custody, guardianship, access
- (e) birth/death registration
- (f) pensions
- (g) delict/civil damages
- (h) human rights abuses
- (i) debt collection
- (j) housing disputes
- (k) criminal defence
- (l) domestic/sexual violence
- (m) labour disputes

VIII Legal status

Is there any recognition of paralegals

(a) By government *ad hoc* or through legislation? Describe. Include any right of court appearances

(b) By the Law Society/legal profession? Describe

How would you describe the attitude toward paralegals of

(a) the government

(b) the legal profession

(c) NGOs

IX Academic background of paralegals.

Indicate the percentage of all paralegals who achieved each of the following levels of schooling before becoming a paralegal.

	(%)	1-10	10-40	40-70	71+
(a) degree/ some university education					
i. female					
ii. male					
(b) other tertiary education					
i. female					
ii. male					
(c) A level					
i. female					
ii. male					
(d) O level/matric					
i. female					
ii. male					
(e) incomplete high school					
i. female					
ii. male					
(f) primary school					
i. female					
ii. male					

X Paralegal training

Indicate the type of training received by those working as paralegals, showing a percentage for each type of training.

	(%)	1-10	10-40	40-70	71+
(a) formal training at a university/technikon					
1 yr					
i. female					
ii. male					
2 yr					
i. female					
ii. male					
3 yr					
i female					
ii male					
(b) formal training offered by government					
i female					
ii male					
(c) formal training offered by an NGO					
i female					
ii male					
(d) informal on-the-job training					
i female					
ii male					
(e) ad hoc participation in workshops only					
i female					
ii male					
(e) no training					
i female					
ii male					

Note: formal training means a systematic syllabus followed by all trainees, a fixed time frame, assessments and tests/exams

XI Type of paralegal qualification held by working paralegals (%)

	(%)	1-10	10-40	40-70	71+
(a) certificate awarded by university/technikon					
i. female					
ii. male					
(b) certificate awarded/endorsed by government					
i. female					
ii. male					
(c) certificate awarded by own organization					
i. female					
ii. male					
(d) diploma					
i. female					
ii. male					
(e) no paper qualification					
i. female					
ii. male					
(f) other (specify)					
i. female					
ii. male					

XII Trainers

Who are the trainers?

	None	Some	Most	Always
(a) Qualified lawyers without qualifications in training				
i. female				
ii. male				
(b) Qualified trainers without qualifications in law				
i. female				
ii. male				

(c) Qualified lawyers with training as instructors

i. female

ii. male

Other

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Other (specify)

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Further comments, Suggestions

XIII Organisation of Training

What formats of training are used?

None Some Most Always

Residential courses (more than 1 week)

Distance education

Workshops (1 day – 1 week)

XIV Training Methodology

What methods are used by trainers?

None Some Most Always

Formal lectures

Individual exercises/assignments

Group work

Case study

Role play

Mock trials

Field visits

Practical work

Research/projects

Other

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XV Problems of training/Training needs

Are you satisfied with the type of training that is being offered to paralegals in your country?

a) What training needs are not being met?

b) Please indicate what changes you would like to see, whether in quantity, type of training, length of training, or quality of training.

XVI Supervision

How often are paralegals supervised by or assisted by lawyers in their work?

	No		
	Paralegals	Some	Most
On a daily basis			
About once a week			
About once a month			
Less than once a month			
Never			

XVII Desirable developments

Indicate what developments you and your paralegals would wish to see

	No	Maybe	Definitely
(a) higher levels of legal training offered			
(b) higher levels of other skills training offered(specify)			
(c) greater professional recognition			
(d) right of appearance in court			
(e) legal framework for paralegal work			
(f) more participation in law development			
(g) more human rights work			
(h) more interaction between paralegals within the region (indicate purpose)			
(i) more participation in research			

Other

Please elaborate on any developments which you would like to see

XVIII Existing networks

Name any paralegal organisations or networks in your country

XIX NGO Legislation

What laws regulate NGOs or PVOs in your country. Are there any which relate specifically to legal assistance NGOs?

Appendix II: Reflection on the Questionnaire

Difficulties Encountered in Conducting the Survey

Up to now, no systematic survey of paralegal development in Southern Africa has, to our knowledge, been undertaken. Short of visiting each country and undertaking in-depth research, the simplest approach to obtaining information seemed to be to carry out a questionnaire. We hope this has given us a reasonably accurate outline of what is going on in the region, but it did have its difficulties and has certainly not produced a full picture.

In order to provide a better understanding of some of the problems encountered, which might impinge on the validity of the results, and as a guide to any further research, we indicate areas where we found difficulty in formulating the questions, in implementing the questionnaire, and in interpreting the responses.

Respondents:

The questionnaire was sent to one organisation in each country, which was asked to respond with information covering all paralegal activity in the country, not just their own. There was a major weakness in this approach: in some cases, the organisation did not have sufficient information on other organisations, or in cases where definition of paralegal work was in question, did not recognise some of the work for inclusion. Thus responses were often guess-work. To some extent, this is a result of the absence of collected data and the on-going process of conceptualisation, and it is perhaps inevitable at this early stage of investigations.

Definition of Paralegal:

No definition of paralegal was given in the questionnaire, deliberately, for it was important to find out what different concepts exist in each country. This, however, may have led to some confusion, with the definitions being used by the respondents not being clarified anywhere. If we had asked for a definition of paralegal, it might again have caused further problems. Thus we rather allowed a definition to emerge from the work done. The reader may judge whether or not this succeeds.

Language:

The questionnaire was designed in English, and it was assumed initially that all respondents would be in a position to answer in English. This was not the case, and even when it was translated into Portuguese, Mozambique and Angola did not respond and finally their input was collected through oral interview. It emerged during the interviews that concepts are not always readily translatable, especially when they have already been condensed into the format of a questionnaire.

Legal system:

Differing legal systems can lead to misunderstandings and we need thorough discussion to ensure that we are communicating about the same thing. For example, the concept “*solicitador*”, used in Angola, still needs clarification to see if there is any acceptable translation into English. Similar problems can occur in the education system, where in Angola secondary schooling ends at grade 8, and middle school then begins.

Concepts without agreed definitions:

Work done by paralegals falls into several categories, not all of which may be interpreted the same way by everyone using the terms. Community education may have different meanings to different people, as may community mobilising, advocacy and monitoring of human rights abuses. This applies in other sections of the questionnaire as well, for example, the concept of “supervision” may differ, as may even “workshop”. It was not possible to explore the variations in usage of these terms within the confines of a questionnaire.

Formulation of the questionnaire:

It was not always easy to handle several variables at once within a single question. For example, where we wanted to find out what type of work paralegals do, we had a list of categories. We wanted to know what percentage of all the paralegals in each country undertook each category of work. We simply used arbitrary bands of percentages which would indicate whether the particular activity was undertaken by a large proportion of the paralegals or a small proportion, thus giving us a rough idea of the relative importance of different types of work in each country. However, we could not simultaneously record how much time a paralegal in each country would spend on different aspects of the work, or whether this varies from paralegal to paralegal. Where a respondent shows that 40-70% of paralegals undertake community education, for example, we do not know if those paralegals also carry out casework, and in what proportions their work time is distributed.

We used the broadband percentage categories in several of the questions. We are aware that statistics are rarely available and this was to give a generalised picture. Elsewhere we used a less specific quantitative approach, where we felt percentages would be even more difficult to estimate. While most of these indicators are too broad to be considered scientific, they do give us a rough picture of the situation.

Gender variables:

We found it difficult to include the gender variables within the questionnaire. In some cases we simply asked for an open comment at the end of a section to indicate whether there were any perceived gender discrepancies. Where we tried to include this variable within the controlled responses, it made the question very confusing and led to results that were difficult to interpret. This occurs particularly in Section X on Paralegal Training.

Open-ended responses:

Frequently the open-ended responses requested at the end of a section gave the most useful information. The comments have been incorporated into the text of the report where we felt they were significant.

Conclusion:

In spite of the problems, we feel that the questionnaire did elicit a great deal of useful information, which gives a basis for moving ahead with co-operation between organisations in the countries of the region to help each other make progress towards their goals.

Appendix III: Country Analyses

Angola

Angola is one of the richest African countries in terms of its natural resources, but years of colonial exploitation followed by the liberation struggle and civil war have left the majority of its population impoverished. It is located on the West Coast of southern Africa, north of Namibia, and shares a border with Botswana, Zambia, and the Democratic Republic of Congo. The population of 14 million is small for the large land area. Its greatest resource is oil, found offshore, but it also has diamonds and iron in the interior, as well as land and climate suitable for ranching, and for growing coffee, maize, and cotton.

The Portuguese first colonised the coastal area of Angola in the sixteenth century, but made little progress inland until the late nineteenth century. Portuguese colonial polices were extremely harsh, based on forced labour for the plantations and farms operated by Portuguese settlers. Portugal was itself a fascist dictatorship until the 1970's, with an underdeveloped economy. The purpose of colonisation was to use profits from the territories to support the very weak Portuguese economy. Most of the settlers were themselves impoverished and poorly educated Portuguese peasants. Services provided for Africans were almost non-existent, but a significant mixed race population developed in the cities, where they were able to access education more easily.

Resistance to Portuguese rule developed under extremely difficult conditions. Merging several groups in 1956 created the MPLA organisation, but it had to operate clandestinely. Terror was used to destroy these first underground networks in 1960's, and this led to the decision to wage a "protracted popular and revolutionary war". Two rival Angolan liberation movements, FNLA and UNITA, also operated against the Portuguese government.

It was only in 1974, when the Portuguese fascist dictatorship was overthrown by an army coup in Lisbon, that there was hope that Angola would soon be independent and embark on development for the benefit of the Angolan people. A transitional government of the three political movements was established in January 1975, but fighting broke out among them. In November 1975, the MPLA, operating on its own, declared the People's Republic, but this did not result in peace and development. The majority of the settlers fled to Portugal or Brazil, leaving a trail of destruction behind and a serious lack of technical, professional and managerial skills in the country. The South Africans and Zaireans invaded from the south and northeast, in support of their protégés, UNITA and FNLA. Although they were driven out, with help from Cuba, UNITA remained a threat and pursued a long-lasting civil war. Angola became a pawn in the cold war. While FNLA soon disintegrated, UNITA continued to fight with financial, diplomatic and technical support from both South Africa and the U.S.A. The MPLA backed by the Soviet Union and Cuba, never lost control of the central government, but was seriously weakened by the need to concentrate all its energies on the continuing war.

When the Cold War ended and apartheid was defeated at the beginning of the 90's, UNITA was persuaded to end their resistance and participate in elections. However, although some members of UNITA accepted their positions in the new parliament, the UNITA leader, Jonas Savimbi, himself refused to accept the result, and returned with a large number of his followers to the bush war. Angola was devastated, as he financed a continued struggle by selling illegal diamonds. The resistance only ended in 2002 with Savimbi's death.

As civil war ebbed and flowed in Angola for nearly 30 years, immeasurable destruction was visited on property and people. All systems broke down and millions fled to neighbouring countries and to the major cities. Agriculture was virtually abandoned; transport and communication systems were in tatters. The discovery and development of massive reserves of petroleum off the coast and in the Cabinda enclave ensured that there was money to carry on the war for a whole generation. It also raised the stakes, because whoever controlled government could tap into enormous wealth. By the end of the war an unbelievably corrupt elite had gained a grip not only on the MPLA but also over the whole country. They enjoy an ostentatiously privileged lifestyle supported by the national wealth, in spite of their continuing claim to espouse a socialist ideology.

However, now there is peace, and the focus is turning towards developing services and attracting investment to rebuild agriculture, mining, transport and communication links and a variety of services.

During the war, most services collapsed, including the legal system, which in fact had never served the majority of the people. It is an uphill struggle to put in place an Angolan legal system that has its roots in Portuguese law, but serves Angolans. Considering that courts are non-existent in many places, even in towns, the task ahead is daunting. One of the most important needs is for legally trained personnel, in order to make justice delivery possible. At the same time, human rights activists are aware of the need to inculcate in people a consciousness that with peace there is a chance for people to claim what is justly theirs. The role of paralegals in this developing system is likely to become very important, but is still in the process of being defined.

Malawi

Malawi is located in what has been historically known as Central Africa, although it is indeed part of Southern Africa. It was declared a British Protectorate in May 1891. Unlike in other countries where colonial masters came to settle, the primary aim of the British occupiers in Malawi was to protect the interests of the Scottish Missionaries and traders who were under constant threats of encroachment from the Portuguese in the neighbouring Mozambique. They also wanted to stamp out the flourishing slave trade under Arabs who were using Lake Malawi as a conduit for slave trade through the Indian Ocean.

Malawi was named Nyasaland, a name that was derived from the lake that forms the eastern border with Mozambique. Later the lake was renamed Lake Malawi and the country itself also changed to Malawi. It is interesting that up to now Mozambicans and Tanzanians still refer to the same lake as Lake Nyasa. The name Malawi is usually associated with one of the dominant tribes called Maravi who occupied most of the present central region. There are also references to flames of fire which is another literal translation for the name Malawi (*Malawi a Moto* - Flames of fire)

Malawi shares its northern border with Tanzania while Mozambique and Zambia share its eastern and western borders respectively. The land size is about 118 500 sq. km with a population density of about 93 people per sq. km. Of its 11 Million people, 52 % are women and 48 % men. The southern region is the most densely populated.

Malawi gained its independence from Britain on 6th July 1964, initially under the British Monarchy, with the Queen as Head of State. In 1966 that Malawi proclaimed itself a Republic.

Independence followed years of struggle that had started in the early 20th century when John Chilembwe led an unsuccessful uprising against British rule in 1915. That year saw the beginning of nationalist activity which led to Malawian resistance to colonial rule. The return home to Malawi of Dr Hastings Kamuzu Banda in 1958 was the turning point for the struggle. It culminated in the declaration of a State of Emergency in 1959 when most political activists were arrested and put in detention. Most of them were released by 1962. Political parties were banned but new ones came into play, with almost the same players but different party names and structures.

Eventually the British gave in to the nationalist pressures. Internal self-government was granted in 1963 when Dr Banda became the Prime Minister. On 6th July 1964, he became the first Malawian President.

Things did not go smoothly for long. Serious divisions rocked the first Malawian cabinet for reasons that have not been clearly explained up to now. There are indications that the cabinet was divided over the speed of Malawianisation of the civil service¹². It is said the President favoured a gradual process while some of the ministers wanted immediate overhaul of the whole structure. There have also been references to

¹² A process of replacing British (white) officers with Malawians in the civil service

divisions over foreign policy in terms of whether Malawi should have aligned itself with Communist China or the Republic of China (Taiwan). The result of these divisions was that a good number of cabinet ministers resigned from their posts and most went into exile. Most of these would live a life of constant fear of being tracked and killed by operatives of Kamuzu Banda. Some survived but many more were killed in exile.

During the 1964 General Elections the Malawi Congress Party won all seats and it was generally understood that Malawians wanted a single party state. This gave an opportunity to the party leaders at that time, who quickly enacted a law in 1966 making Malawi a one party state under the Malawi Congress Party. Six years later, Dr Hastings Kamuzu Banda was declared the Life President.

These developments, and the Cabinet Crisis of 1964 when more than half the cabinet ministers resigned from their positions, saw the beginning of authoritarian rule that would oppress Malawians for the next thirty years up to 1994. The Bill of Rights was scrapped from the Constitution on the pretext that it was meant to protect the property rights of the colonial masters. In practice, the development opened the way for the government to deal with all its critics without regard to their rights. When Dr Banda saw that the courts were not eager to pass judgments in his favour he introduced traditional courts and gave them powers equivalent to the High Court and Supreme Court. Almost all politically motivated crimes were subsequently tried in these courts and in all instances the accused were found guilty, much to the satisfaction of the President and the ruling party.

In 1994 democratic elections swept the ruling party out of power, and a new constitution – seen as one of the most liberal in the world – was adopted in 1995.

Malawi is an agro-based economy with tobacco as the main cash crop. Maize is the main food crop although the climate favours the growth of many other food crops such as cassava, rice and sweet potatoes. Agriculture accounts for 40 % of all employment and 80 % of all exports. Apart from tobacco, the other exports include tea, sugar, cotton and coffee. Malawi has no viable mineral deposits although some coal reserves have been located in a number of areas. Some mining takes place in Rumphi district in the north. There are bauxite deposits in Mulanje but no mining has started yet. There are also prospects of oil deposits in Lake Malawi.

Poverty levels are high in both the urban and rural areas. This has largely been attributed to low agricultural production, low farm income, low education levels, poor health, rapid population growth and weak institutional structures¹³. It has been estimated that 60 % of smallholder farmers live below the poverty line.

Malawi's present constitution combines features from the British Parliamentary system and the US Presidential system, with some separation of powers. The President is directly elected by the electorate and serves a maximum of two consecutive terms of five years each. The National Assembly operates almost like the British House of Commons. A second chamber, the Senate, was initially established in the Constitution but it was abolished even before it became operational.

¹³ UNDP Human Development Report, 1993

There is a hybrid legal system in Malawi. Whereas criminal law is completely based on the English common law, Malawi has also allowed customary law to run almost parallel to general law. With the adoption of the new democratic constitution in 1995, customary law is facing quite a number of challenges due to its rigidity and failure to accommodate expectations of people with diverse cultural backgrounds. Malawi has more than 15 major tribes who practice different cultural beliefs and hence make it difficult to have a homogeneous customary law.

Since 1994 Malawi has generally enjoyed an improvement in the respect for human rights. The Bill of Rights has been re-incorporated in the Constitution and Malawians are more aware of their rights. This is largely due to the initiatives of the civil society organisations.

Paralegals have been working in Malawi since 1996. They have mostly been operating in the NGOs and are not formally recognised as having a place of their own within the legal structure. For this reason they are not yet recognised by the Law Society of Malawi or the Legal Education and Legal Practitioners Act. Nevertheless their services have proved to be quite valuable to the masses that cannot afford to pay for a legal practitioner.

Although it was an initiative that started with few NGOs, it is a growing profession that cannot be ignored. Paralegals are trained by both NGOs as well as the Government through the Ministry of Justice. The introduction of a Diploma Course in Legal Studies at the University of Malawi will also see an increase in the number of people that can easily fit in the growing paralegal profession.

Mozambique

Mozambique stretches along the south-east coast of Africa from the border with Tanzania in the north, to Swaziland and South Africa in the south. In the west it borders Malawi, Zambia, Zimbabwe and Mpumalanga province of South Africa. Two major rivers, the Zambezi and the Limpopo, cut across its lowland to empty into the Indian Ocean. It is primarily an agricultural country, with an underdeveloped industrial sector, but fast-growing tourism. The people represent a variety of African ethnic groups, as well as the descendants of Portuguese settlers and Arab coastal traders.

In the centuries before the Portuguese conquest, Arab and Persian traders established settlements along the entire coast of east Africa, as part of a network of trade across the Indian ocean and further east. From these settlements emerged the Swahili culture, which extended as far south as what is today southern Mozambique. This commercial enterprise was destroyed by the Portuguese at the end of the 15th century, but as the Arabs regained control further north, the Portuguese concentrated on the territory to the south. In the 18th century, Mozambique became an official colony of Portugal, under the name Portuguese East Africa. For a century and a half, the main activity in the colony was the slave trade, while slaves were raided and bought further inland, then brought to the coast for shipment mainly to the sugar-producing islands of Reunion and Mauritius and to Brazil.

Portugal's hold on Mozambique was recognised by other European countries at the Berlin Conference of 1885 and the boundaries with other colonies were settled a little later. An uprising in the south by the Gaza empire was ruthlessly put down, and although the Portuguese were very thin on the ground, they retained control. They began to exploit the territory by leasing out large tracts to trading companies who made use of forced labour to produce mainly cotton and sugar. The life of Mozambicans was extremely harsh, as they were required to work to pay tax, but earned practically nothing beyond that. Many were sent to work in the mines in South Africa. Virtually nothing was provided by way of health or education services. What was developed was for the Portuguese settlers and for those few Africans who could show that they were "assimilated" into Portuguese culture. The economy developed strong links with South Africa, for which Lourenco Marques (now Maputo) provided an important outlet to the sea.

Resistance to Portuguese rule began in the north, but immediately met with cruel repression. In 1960 more than 500 people participating in a peaceful demonstration were massacred at Mueda. Far from suppressing resistance, this fuelled it, but redirected it toward armed struggle. In 1962, FRELIMO was formed as a front organisation under the leadership of Eduardo Mondlane and based itself in the newly independent Tanzania. Preparations for a liberation war were made and fighting began in 1964. There was rapid success in liberating the northern provinces, but the Portuguese received support from NATO, from South Africa, and from Ian Smith's Rhodesia. In 1969 Mondlane was assassinated in Tanzania, and was replaced as leader by Samora Machel. Progress towards liberation in the central parts of the country was difficult and the fighting was bitter; the war never really reached the south. It was interrupted by a coup in Portugal, which overthrew the fascist dictatorship in April

1974. The new Portuguese government decided to withdraw from the colonies and granted independence in June 1975.

FRELIMO created a one-party state, and formed the new government with Samora Machel as president. An attempt by Portuguese settlers to stage a coup failed, and most fled the country, but not before they destroyed much of the productive capacity which they had owned and managed. Thus at independence the economy was in tatters and the skilled personnel had left.

FRELIMO embarked on a programme to rebuild the economy on a socialist model, nationalising land, housing, private services, industries, even banks. In 1977 the more radical wing of the party gained the ascendancy and declared adherence to a Marxist-Leninist ideology. Churches were banned, along with traditional healers and customary practices such as bride-price and polygamy. Such changes were deeply resented by much of the population, the vast majority of whom were illiterate and had no understanding of socialism. At the same time, the government had begun assisting the Zimbabwean liberation movement ZANU and the South African ANC, thus earning the hostility of two powerful neighbours.

While struggling to bring fundamental changes to the society, FRELIMO soon had to face an armed opposition known as RENAMO, created and backed by Rhodesian intelligence. It played on the people's resentments over socialist policies and the failure to bring effective development. Its mode of resistance consisted primarily of cruel atrocities perpetrated against civilians. Mozambicans soon also became victims of attacks and sabotage by South Africa. It was an impossible situation, which brought much devastation and suffering to the rural population through the 1980's. By 1983, the government faced the inevitable and began moving away from their socialist policies and ties with the communist bloc. Accommodation was reached with the South Africans and they approached the IMF and World Bank for assistance. After the death of Samora Machel, apparently as a result of South African sabotage, the new President, Joaquim Chissano led the party toward more pragmatic policies and in 1989 officially abandoned socialism.

By late 1990 Mozambique adopted a multi-party constitution and finally in 1992, with apartheid on its deathbed in South Africa, they were able to come to a peace settlement with RENAMO. Elections were held in 1994, and although FRELIMO won, RENAMO gained more than one third of the vote. The years since then have seen a gradual attempt to reconcile the opposing sides and rebuild an economy. Socialist principles have been completely set aside, private enterprise is now flourishing and foreign investment being encouraged. South African investors have spurred a striking development in tourism and in the construction industry. Two further elections have retained FRELIMO's grip on power amid rising accusations of corruption spreading through the society.

During the socialist experiment of the late 70's and early 80's people's courts were established in an attempt to bring the administration of justice to the level of the people. But with the return to a capitalist development path, Portuguese civil law is re-established alongside some aspects of customary law. A major problem, however, in

ensuring that justice is made available through a functioning legal system, is the lack of trained personnel. The idea of providing paralegals that will be able to assist people with legal advice is gaining acceptance, so that even without professional lawyers, Mozambicans can enjoy their legal rights.

Namibia

Namibia, formerly known as South-West Africa, is a Republic bordered by Angola and Zambia in the north, Botswana to the east, South Africa to the east and south, and the Atlantic Ocean on the west. It is a large country, with a small population of only 1.8 million. It is a very dry country, with the Namib Desert extending along the entire Atlantic coast and up to 160 km inland; a plateau in the centre, and the Kalahari Desert in the eastern part, a highland area containing vast sandy tracts.

Namibia's economy revolves around tourism, mining and fisheries. Its mineral resources include diamonds, uranium, copper, zinc and lead. Although it has rich resources, the majority of the people have not benefited sufficiently from them, and live in relative poverty.

Namibia's indigenous peoples, a mixture of a wide variety of ethnic groups - settled farmers, pastoralists and even stone age hunter-gatherers - were first colonised in the late 19th century by Germany. When the Germans were defeated in the First World War, South-West Africa, as it was then known, was handed to South Africa as a mandate of the League of Nations. South Africa failed to honour the mandate of the League, later the United Nations, to lead the people towards self-government. It rather consolidated racial separation and incorporated the territory as part of South Africa. The people were deprived of the benefit of their own resources and forced to become wage labourers. As in South Africa, peaceful nationalist political resistance met only with repression. In the face of the banning of political activities, and the jailing of many leaders, the predominant nationalist movement, SWAPO, launched an armed struggle. They operated from bases in Angola through the 1970's and 80's. Eventually they gained the support of the United Nations, and as the South African hold was weakened, a constitution was negotiated which brought independence and majority rule in 1990.

Namibia follows a legal system based on Roman-Dutch common law with English influences; its constitution provides that international law be incorporated where it is applicable, and it includes a strong Bill of Rights. But legal services were historically accessible primarily to the European and urban populations, and this situation still prevails.

The core of the liberation struggle was to afford rights to the black majority as well as to every Namibian. But the peoples' ability to claim the rights protected in the constitution depends on the availability of legal expertise, sadly lacking in Namibia, especially for the working classes and the rural population.

The idea of paralegals was developed soon after Independence, in order to make the constitutional guarantee of rights a reality. Paralegals operating first in the labour context and later also in rural communities are trying to bring the benefits of the justice system to people at every level of Namibian society.

South Africa

The southern part of Africa hosts peoples of a variety of ethnic and cultural groups, including the majority black Africans, the descendants of white settlers, and descendants of Asians imported as slaves and labourers during the 17th to the 19th centuries. Intermarriage between the groups has produced in addition a diverse range of people of mixed origin. There is a well-developed mixed economy based on mining, agriculture and tourism.

The Dutch first colonized the Cape area in the 17th century. When they were conquered by the British, who proceeded to create other settlements along the coast to the east, the Dutch (known as boers) moved inland where they formed new colonies of their own. The discovery of diamonds and gold in these lands in the late 19th century provoked the British to follow them inland; the Boer War followed between the British and the Boer Republics. A British victory was followed by the formation in 1910 of the Union of South Africa, a self-governing Dominion within the British Empire. The boers survived within the Union, and eventually their Nationalist party won power through an election in 1948.

Racial separation had always been a part of South African life since the beginning of colonization, but a series of laws during the period of the Union formalized the relationships, deprived blacks of most of their land, and turned them into exploited wage labourers. Black workers were exclusively involved in menial work and skilled positions were reserved for whites. Blacks were deprived of the right to vote and had no means of effective political influence.

The Nationalist Party which took office in 1948 was led by DF Malan who coined the concept of 'apartheid' – that is, the separation of races. The apartheid policies further curtailed the rights of black South Africans and influenced every economic and social sector, both private and public. In 1958, Verwoerd introduced limited self-administration for blacks. Semi-autonomous homelands were created, and then four of them accepted a phoney "independence" under traditional leaders: the Transkei, Ciskei, Bophuthatswana, and Venda. Africans living in the "independent" homelands needed passports to enter South Africa, thus they became aliens in their own country. By this measure the government shed responsibility for the economic and social problems that were experienced in the homelands, where most black people lived. The apartheid policy was effective in achieving its goal of preferential treatment. While the black population was more than four times greater than that of the whites, Whites were allocated nearly 90 per cent of the land, and had 75 per cent of the national income.

Black political activity became organized and consolidated under the leadership of ANC in the early part of the century. But after 1948 they became particularly active in resisting apartheid legislation. Mass action consisting of protests and boycotts gripped the country through the 1950's. When these brought only repression from the government, new strategies of sabotage and eventually armed struggle were embraced by the nationalists. The turning point came at Sharpeville, in 1960, when police fired on a peaceful group protesting the pass laws. A state of emergency was declared and black leaders were pursued and brought to trial. Many were incarcerated on Robben

Island, while others fled into exile to continue the struggle from abroad. The opposition also continued their work within South Africa underground, supporting the armed struggle and mass action. In 1976 when pupils protested against the Afrikaans language as a compulsory subject, they were brutally shot by the police. South Africa developed into a police state but the resistance continued.

By the late 1980's, international diplomacy and economic sanctions, together with the effects of mass action and non-co-operation within the country and guerrilla attacks, convinced the government that racial policies were no longer viable. From prison, Nelson Mandela of the ANC initiated contacts with President Botha. In 1989 F W de Klerk took office as the new President of South Africa and declared himself in favour of a democratic South Africa. He admitted the failure of apartheid policies. The ANC and other liberation movements were unbanned in 1990, and the political prisoners were released.

The ANC and the government (NP) agreed to refrain from violence and work for a peaceful transition to democracy. All-party talks followed, to work out a transitional mechanism and a new non-racial constitution. The entire population was invited to participate in the constitution-making process through making their views known. In April 1994, democratic elections were held, the ANC gained an overwhelming majority. Nelson Mandela was inaugurated in May 1994 as the first black African President.

South Africa's transition to democracy has been hailed as a miracle and the democratic constitution is seen as one of the most progressive in the world. The constitution represents the general agreement reached by South African people. South Africa is a multiparty state. The constitution creates a new order in which all South Africans will be entitled to a common South African citizenship and reunites all the homelands into a single state.

Nevertheless, many aspirations of democracy have not been met. South Africa still ranks as one of the most unequal countries in the world in terms of income distribution. Levels of poverty are extreme and poverty is still largely determined by race, class, gender and geographical location. These trends seem at odds with the social and economic rights enshrined in the constitution, which include rights to education, housing, healthcare, food, water, social security. It will take South African governments many years and much commitment to redress the social and economic imbalances of the past.

The struggle to overcome apartheid was a struggle to claim human rights for all the people of the nation. During the struggle, paralegals emerged in many communities to assist people to claim whatever rights they could, against heavy odds. Since 1994, paralegals have continued their work in helping communities and individuals, but have also tried to define for themselves a permanent role in the legal system, as they seek to help people to access the law as a means to achieving justice fit in the growing paralegal profession.

Tanzania

Tanzania was formed from the union of two former British colonies: Tanganyika and Zanzibar. Tanganyika gained independence in 1961, Zanzibar in 1963, and the two joined in 1964 to form the present United Republic of Tanzania.

Tanzania is the largest country in East Africa, bordered on the south by Mozambique, Malawi, and Zambia; on the west by Democratic Republic of Congo, Burundi, and Rwanda; on the north by Uganda and Kenya; and on the east by the Indian Ocean. Tanzania boasts of some of the most spectacular and mythical scenery. This ranges from the beautiful Indian Ocean coast and its offshore islands of Mafia, Pemba and Zanzibar to the snow-covered Mount Kilimanjaro, the vast plains of Serengeti, the extinct volcanic crater of Ngorongoro and the huge inland lakes. These provide the basis for a lucrative tourism industry as people come from around the world to enjoy the warm sea, white sand beaches and coral reefs, to climb the mountain, and view the game in the Serengeti and Ngorongoro parks.

The history of human habitation in Tanzania goes back almost two million years, and the fossils found at Olduvai Gorge by Louis and Mary Leakey now stand among the most important artifacts of the origins of our species. Artifacts of later Paleolithic cultures have also been found in Tanzania. There is evidence that communities along the Tanzanian coast were engaging in overseas trade by the beginning of the first millennium AD. By 900 AD those communities had attracted immigrants from India as well as from southwest Asia, and direct trade extended as far as China. The traders who settled mixed with the African population along the coast, producing a language and culture known as Swahili. When the Portuguese arrived at the end of the 15th century, they found a major trade centre at Kilwa Kisiwani, which they promptly subjugated and then sacked. The Portuguese were expelled from the region in 1698, after Kilwa enlisted the help of Omani Arabs. The Omani dynasty of the Bu Said replaced the region's Yarubi leaders in 1741, and they proceeded to further develop trade. It was during this time that Zanzibar gained its legendary status as a centre for the ivory and slave trade, becoming in 1841 the capital city of the Sultan of Oman. Slaves were obtained inland by Arab and Swahili traders and used to transport ivory to the coast. They were then sold at the famous Zanzibar slave market, mainly for plantation labour in the islands of the Indian Ocean. In Tanzania's interior, at about the same time, the cattle-grazing Maasai migrated south from Kenya into central Tanzania.

Soon afterwards, the great age of European exploration of the African continent began, and with it came colonial domination. Tanzania fell under German control in 1886, but was handed over to Britain as a mandated territory under the League of Nations after World War I. The British did very little to develop the territory, but the mandate continued under the United Nations after World War II. This placed an international legal obligation on Britain to govern the territory for the benefit of the people, and to lead it toward independence. When African nationalist resistance to the British grew in the 1950's, and gained widespread popular support under TANU, led by Julius Nyerere, rapid progress towards independence followed. Elections were held, won by TANU, the British prepared to withdraw, and the country became independent.

Nyerere led Tanzania toward the formation of a “one-party democracy” which he hoped would lead to more even development and less internal conflict. He developed the concept of “ujamaa” and self-reliance, a form of African socialism which would rely on the work of the people and eliminate a parasitic elite. Private properties were expropriated and taken over by the state. This led to an alliance with the communist states and divorced Tanzania from western aid. The result was not development, but a descent into greater poverty. The policies were ultimately abandoned as an impractical dream after Nyerere stepped down as president in 1985. Since then Tanzania has attempted to develop through a more conventional capitalist model, and has received considerable support from western donors. Foreign investors have involved themselves in mining, agriculture and tourism.

Tanzania has been fortunate in avoiding any major political strife since independence, in spite of her poverty and agonizing search for an appropriate development model. While the country has been, since 1995, officially a multi-party state, the descendant of TANU, *Chama Cha Mapinduzi*, has retained control throughout. Trouble has occurred mainly in Zanzibar, which has its own government structures and a strong opposition party. Two contentious elections on the islands have resulted in violence.

The Tanzanian legal system is based on English common law but also shows influences of both Islamic law and customary law. It is clear that the vast majority of Tanzanians do not know the content of the law or their rights which it protects, and are unable to assert those rights in the courts. In the late 1990's the concept of paralegal was initiated by human rights NGOS. The paralegal's duty is to assist the general population to understand the law and defend their rights. They are now operating in many parts of the country, and since government has become aware of their value there is a move to give them an institutional role, especially in the lower courts.

Zambia

Zambia is a landlocked country with a total area covering 752,614 km² bordering eight countries in the southern African region: Angola, Democratic Republic of Congo (DRC), Malawi, Mozambique, Zimbabwe, Botswana, Namibia and Tanzania. Zambia's population is estimated to be around 11 million.

Zambia was a British protectorate until 1964 when she gained independence. The country was granted self-rule on 24th October 1964, and its first president was Dr Kenneth David Kaunda. Zambia had a multiparty system with two political parties; the ruling United National Independence Party (UNIP) and the African National Congress (ANC) represented in parliament.

Zambia has 73 tribes with seven major languages; Bemba, Tonga, Nyanja, Lozi, Lunda, Kaonde and Luvale, and English being the official language. Lusaka is the capital city, and other major towns include Ndola, Kitwe and Livingstone – the tourist capital. There are nine provinces (Lusaka, Copperbelt, Southern, Western, Eastern, Northern, Luapula, Central and Northwestern) with 63 districts. Each district has locally elected government officials that administer and control the funds allocated to it.

Zambia's economy is largely dependent on a single source of foreign revenue – copper and cobalt mining; while agriculture accounts for 16% of the wealth. Zambia's total outstanding external debt is USD 5,884 million. The recent reduction in debt is partly attributed to debt relief provided through an IMF scheme known as HIPC. Zambia is among the poorest countries in the world placed 153 out of 173 countries. The liberalized economy has ushered in harsh policies. Poverty is so prevalent that even middle classes have difficulties in surviving on their salaries.

Literacy rates are at 78.1% for the population as a whole. For women, the rate is 71.5% and malnutrition is spreading among the population, especially children.

A detrimental factor to the development of Zambia is the high prevalence of HIV/AIDS which is currently at 16% of the population in age group 15-49 years.

Zambia's first experience with multiparty democracy lasted for a period of nine years, from 1964 to 1972. From 13th December 1972 until 1990, Zambia was a one-party state, with UNIP the only legal party, but after eighteen years it returned to plural politics.

By the late 1980's and early 1990's, economic hardships had seriously undermined the legitimacy of one party rule. The economic situation in Zambia was deteriorating, bringing low standards of living, lack of basic foodstuffs, rising unemployment rates, poor social infrastructure and the rapid depreciation of the local currency.

In May 1990 food riots in Lusaka and the Copperbelt area seriously undermined the political stability. In June a soldier broadcast on Radio Zambia that the government of President Kaunda had been overthrown. Riots at the University of Zambia, and pressure for change within UNIP itself prompted President Kaunda to set a referendum date to decide whether to return to multiparty democracy or to maintain the one party state.

At about the same time, the Movement for Multiparty Democracy (MMD) was formed to mobilize public opinion to support the return to plural politics. In July 1990, with clear public opinion support in favour of restoration of multiparty democracy, President Kaunda cancelled the referendum and instead announced constitutional changes for the third republic by changing Article 4 of the Zambian Constitution.

In 1991, free elections were held which brought the Movement for Multiparty Democracy (MMD) to power. The MMD led by Dr Chiluba was elected to promote democracy and human rights in the country.

However, the human rights situation got worse during the Chiluba era. He managed to change the constitution prior to the 1996 presidential elections, to bar the former president, Kaunda from participating. In 2001 MPs from his own party blocked Chiluba's attempt to change the constitution to allow for a presidential third term. Instead he hand-picked Levy Mwanawasa as his successor, and Mwanawasa became President after a disputed election which saw the MMD retain power, albeit with a slim majority in parliament.

Zambia has a dual legal system consisting of the general law (statutory and common law) on the one hand and customary law on the other. Customary law is unwritten, mostly regulates matters of personal law and is subordinate to the general law. Thus any rule of customary law which is in conflict with the general law or contrary to natural justice and morality is invalid. The justice sector may be classified into various categories; investigative agencies, prosecutors, adjudicative, legal assistance, custody, human rights institutions and training. Justice delivery is provided by the Judiciary, composed of Supreme Court, High Court, Industrial Relations Court, Magistrates Court and Local Courts.

In order that everyone can benefit by being able to access justice, the constitution provides that legal aid to the poor is an obligation of the government. However, there are fewer than 1000 lawyers registered under the Law Association of Zambia in the entire country, making the provision of legal services supported by government impossible. A number of NGOs through collective efforts are trying to fill the gap and since the late 1990's have begun to provide legal aid services to the poor through the use of paralegals.

Zimbabwe

A landlocked country in the middle of south central Africa, Zimbabwe has a population of about 12 million, made up primarily of various black ethnic groups. While it has all the advantages of a pleasant climate, abundant mineral resources, fertile land and striking wildlife and scenery, the struggle for independence, power and land running through Zimbabwe's history have denied the majority their natural entitlements.

First conquered in the 1890's, and administered by the British South Africa Company, Southern Rhodesia, as it was then known, became a self-governing British colony in 1923, but with a franchise which excluded most blacks from participation. Over the years, white settlers developed a strong economy based on commercial agriculture, mining and manufacturing. However, blacks were excluded from the benefits, were dispossessed of much of their land, and were turned into exploited wage earners. Trade unionists led resistance to racially based legislation, and then from the 1950's nationalist groups pressed for majority rule. Instead, Southern Rhodesia was forced into a federation with the two protectorates of Northern Rhodesia (Zambia) and Nyasaland (Malawi). Ten years later, this collapsed, as Britain was compelled to grant independence to the two protectorates. But in Southern Rhodesia, the white settler government blocked this. In 1965 Ian Smith, the Prime Minister at the time, rejected British conditions for independence and made a Unilateral Declaration of Independence. This was not recognised by London, ties with the colony were cut and United Nations sanctions were imposed. The colony was renamed Rhodesia. Faced with intransigence towards their peaceful protests, African nationalist organisations, ZAPU and ZANU, took up arms against the Smith regime and began a war of liberation, operating from neighbouring independent countries.

The war continued in the 1970's, with periodic unsuccessful attempts at a constitutional settlement. In 1979 an "internal settlement" which was boycotted by ZAPU and ZANU, co-operating as the Patriotic Front, failed to get international recognition.

Eventually a constitutional conference was convened at Lancaster House, London, in late 1979. It was attended by the Patriotic Front leaders Joshua Nkomo and Robert Mugabe, as well as the participants in the stillborn "internal settlement". An agreement on a new constitution, transitional arrangements and ceasefire was reached. Lord Soames, a British appointed Governor, was appointed and given full authority for the transitional period.

British supervised elections, with a universal franchise, were held in early 1980 and the new state of Zimbabwe became legally independent. ZANU had insisted on contesting the elections separately from ZAPU, and won a large majority, but formed a coalition government with ZAPU. Reverend Canaan Banana was appointed the ceremonial Head of State/ President with Robert Mugabe as Prime Minister of the coalition government.

While the early years of independence saw great progress in the development of health and education services, tensions between the former guerrilla movements gave ZANU an excuse to attempt to eradicate its partner ZAPU, whose support lay mainly in Matabeleland. In the 1980's Mugabe's Fifth Brigade brought terror to the villages in Matabeleland and Midlands provinces and massacred many thousands of civilians, on the allegation that ZAPU was supporting a "dissident" rebellion. They also targeted individuals in the ZAPU political structures with imprisonment, kidnapping, torture and death. The ZAPU leadership, who throughout denied any links with the "dissidents", finally gave up the attempt to maintain a separate political party, and joined with ZANU in a "Unity Agreement" at the end of 1987. In 1990, the state of emergency, which had shielded the atrocities, was discontinued.

The Unity Agreement was accompanied by a major constitutional amendment, which introduced the Executive Presidency. Robert Mugabe became the first Executive President of Zimbabwe and replaced the ceremonial President Canaan Banana.

Although Zimbabwe is a multi-party democracy on paper, holding regular elections, ZANU has always preferred a one party state. Whenever opposition has developed, it has been treated with gross intolerance and sometimes violently stifled, making it practically impossible for democratic practices to mature. Only since 2000, when the severe disaffection over economic decline prompted the rise of the Movement for Democratic Change, has the opposition been able to gain a foothold nationally, but under the most difficult circumstances, in the face of continuous harassment and violent attack.

The land ownership issue, which had been one of the issues of the liberation struggle, was not resolved immediately after independence. In 1992 legislation allowing the compulsory acquisition of land by the Government was promulgated. However lack of funds and a clear policy, compounded by corruption slowed the resettlement programme down. In 2000 the land issue was used by the ruling party as an election campaign tool. The Government blamed the failure of the land resettlement programme on the British and sponsored ex-freedom fighters to forcibly acquire land without compensation. Whilst this action, accompanied by extreme violence and intimidation, guaranteed ZANU PF the election, the counter effect was to destroy commercial agriculture and alienate Zimbabwe from the developed world capable of investment. The violence, abuse of human rights, withdrawal of investment, and total failure of the "new farmers" who ended up on the land to produce food or agricultural exports, have together plunged the Zimbabwean economy into a downward spiral which continues to the present.

Zimbabwe's legal system is a dual one, embracing customary law primarily in the area of family law, and general law based on Roman Dutch common law and English influences, especially in the area of procedural and commercial law. The court system is widely established, with a hierarchy from primary courts to the Supreme Court, which also operates as a constitutional court. Customary law courts have been integrated with the magistrate's courts, and customary law can be recognised at any level. Small claims courts are intended to make the law accessible to self-actors in minor civil cases that do not require oral evidence. Recently the government, in an

attempt to woo the loyalty of traditional leaders, has given them far greater judicial powers, leading to considerable confusion, as they are not trained in the law.

In spite of a binding Declaration of Rights in the constitution, Zimbabweans have found their rights increasingly denied them by oppressive legislation, and the government's subversion of an independent judiciary has made it difficult to claim these rights in courts. The rule of law now hardly exists.

Paralegals were first introduced in Zimbabwe in the late 1980's, as legal NGOs felt it important to inform the people of their rights under new post-independence laws, especially those recognising improved legal status for women. Since then paralegals have become both educators and advice givers in centres located throughout the country, and linked with qualified lawyers. Since the official provision of legal aid has never developed, paralegals play an important role in helping the people who cannot afford lawyers to understand and access the legal system.