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LEGAL SERVICES IN RURAL AREAS: THE ZIMBABWEAN EXPERIENCE

Wilson Tatenda Manase*

Introduction

The majority of the population in Africa, approximately 80 percent, reside in the rural areas. Zimbabwe is no exception. In Zimbabwe there are limited legal resources and problems of inaccessibility by the majority of the country's population to legal services. Government alone cannot provide adequate services, in whatever sphere, to their fellow citizens. The services they provide have to be augmented by Non-Governmental Organisations (NGOs). In the Human Rights arena it has been proved in the Third World that NGOs have done good work in this direction. These organisations, due to lack of resources and at times non-support from their governments, do most of their work through projects and working with people employed by other developmental organisations. The Legal Resources Foundation has played an important role in educating and advising the people about their rights, though most people in the rural areas do not know their rights at all.

The International Commission of Jurists has coordinated with many Non-Governmental Organisations in the Third World in organising programmes on how to provide legal services to the rural poor. In the preface of a handbook on training paralegals, a report of a seminar held in Taga-Tay City, Philippines, from 5th to 9th December, 1988, Niall MacDermot, the Secretary-General of the ICJ had this to say:

The International Commission of Jurists (ICJ) has been promoting a series of seminars in Asia, Africa and Latin America on the provision

* National Director, Legal Resources Foundation. While this report was written as of April 30, 1990, it provides useful information of current value.

of legal services in rural areas, where the great majority of the population live. The purpose is to discuss how the rural poor can be provided with the basic legal services which more affluent people enjoy. These seminars are a means to persuade practising lawyers, law teachers and law students to inform grassroots development organisations on the way in which law can be used as a resource to help the rural poor.

In Zimbabwe, the Legal Resource Foundation has been providing such services to the masses since it opened its doors in July 1985. What follows is an account of the way it has carried out its work.

The Zimbabwe Experience

The Legal Resources Foundation, a Charitable and Educational Trust, was established in 1984. This was after a conference at the University of Zimbabwe which had looked into legal aid and assistance in legal education for the poor. The Foundation was registered by Trust Deed in 1984, but it started operations on 1st July 1985. The Foundation has fourteen Trustees among whom are the Chief Justice of Zimbabwe, Hon. E Dumbutshena, the Dean of the Law Faculty at our local University, Professor Reg Austin, the Vice-Chancellor of the University of Zimbabwe, Professor Walter Kamba, a High Court judge, Mr. Justice Ahmed Ebrahim, Bishop Mutume, the Chairman of the Catholic Bishops' Conference, social workers, educationists and lawyers.

The Foundation has as its aims and objectives the following:

- to initiate and support projects which promote the development of legal resource in Zimbabwe;
- to establish and maintain a law library or libraries to which all individuals and organisations in Zimbabwe shall have access;
- to train paralegal personnel and to provide them with a supporting service;
- to promote public legal education;

- to contribute to legal research and legal publications;
- to assist in the training of law students, legal practitioners, persons holding judicial office, court staff and administrators;
- to support organisations which provide legal advice and assistance to the public;
- to initiate law reform; and
- to engage in or provide assistance for any related activities which, in the opinion of the Trustees, are likely to further the interests of law and justice in Zimbabwe.

We have managed, to our satisfaction, to progress in all the objectives listed above, but improvement is needed.

The Foundation carries out its work through Legal Projects Centres, which are its operative arms. So far we have two: the Harare and Bulawayo Centres. A third one might be opened in Gweru soon.

Legal Assistance and Aid in Zimbabwe

There is very little legal assistance available in Zimbabwe. The very few institutions which assist people with problems of a legal nature are as follows:

1. **The Citizens Advice Bureau (CAB)**

The CAB in Harare offers information and advice on all kinds of problems and has access to the legal fraternity on a telephonic basis.

2. **Catholic Commission for Justice and Peace (CCJP)**

The Commission investigates reports of human rights violations and, where possible, they do provide legal assistance in some instances.

3. **The Office of the Ombudsman**

The office assists members of the public who have complaints against Government departments. The Ombudsman is appointed

in terms of the Constitution to investigate such complaints and to report to Parliament annually.

4. The Consumer Council

5. The Department of Social Welfare

As the name denotes, the Department helps people on social and family matters. The bulk of their resources go towards financing Non-Governmental Organisations which are developmental and people oriented and in paying fees for orphans and the poor.

Other Organisations

1. Musasa Project

This is a project established to assist battered women.

2. Abandoned Babies Committee and the National Council for the Welfare of Children.

These basically look at the child and its welfare.

3. The Child Survival Campaign of Zimbabwe

This is an organisation started by the First Lady, Sally Mugabe, to start projects which benefit children and to give assistance to children in need. It has also been used as an organisation through which aid for Zimbabwean children is channelled.

4. The AIDS Counselling Trust

With the worldwide AIDS epidemic, Zimbabwe had to do something. Those infected are given counsel by trained personnel of the Trust. Publicity brochures have also been written and are distributed by the Trust in an effort to combat the killer disease.

5. Legal Assistance in Courts

Assistance in the courts is limited and confined to the following:

a) **In Forma Pauperis** in the High and Supreme Courts. This means that a person can claim or defend in the form of a poor person if he or she does not own property worth more than \$400.00 and cannot set aside this amount from his or her salary or wages, and if he or she has a good claim or a good defence in the High Court or wishes to appeal to the Supreme Court against the decision of the High Court, the Magistrates Court or the District Court in a Civil Case.

b) **Pro Deo Assistance** is the legal assistance available to accused persons who cannot afford to employ lawyers to prepare a defense.

These two systems, in which lawyers who take part are paid nominal fees for appearing, help very few people because the Government does not put adequate funds into this effort. Only in very serious cases like murder, divorce, serious fraud cases, treason, etc., is free legal assistance recommended. Consultants always go unassisted because the system cannot support the demand.

The Legal Assistance and Representation Act states that a judge or magistrate or the Criminal Registry can certify that an accused can have Pro Deo Assistance if this is in the interests of justice and the accused cannot afford a lawyer.

In practice, however, while Pro Deo Assistance should be available to all accused who cannot afford a lawyer, it is usually reserved for people who commit the offences mentioned above.

Technically, legal assistance is also available in civil cases in the Community Court and the Magistrate's Court. Applications for assistance are made to the respective Clerks of the Court and evidence is required to support the application. This assistance is covered under Order 4 and 5 of the Legal Assistance and Representation Act.

Because of the expense, the bureaucratic processes involved in implementing such assistance, and the limited amount of money, the Government is able to allocate to this, it is rarely used.

The Paralegal Scheme of the Foundation

The Paralegal Scheme is the most important of the Legal Resources Foundation's projects. When this scheme was started by the Foundation, there were no materials to which we could refer for information on where such services had been implemented and how. We had to start with a clean slate.

A blueprint was prepared and, from various comments and contributions of interested people, we were able to start a pilot scheme, thirty-four kilometres east of Harare, in a place called Seke. It was made up of fourteen paralegals whom we trained in selected topics of law based on chapters of a manual prepared by one of the Harare Centre's lawyers. The pilot scheme ran for sixteen months in Seke and was evaluated. It was the evaluation which made us change a number of things we had previously done, and to adopt practical methods which answer the problems of the community we serve.

The recommendations were discussed by our Trustees and a committee was set up to consider the way we were to expand the project into new areas. The recommendations of that committee were adopted by the Trustees and are being implemented.

The Projects

The Foundation, through its operative arms, the Projects Centres, implements two basic services. Direct services to the public and direct services to the profession and ultimately to the public. Under direct services to the public, two important projects are delivered. These are the important Paralegal Scheme and a Public Legal Education programme. Under direct services to the profession, we have three services which are delivered: training, library resources and publications.

Direct services to the public are geared towards improving knowledge of legal rights and remedies and providing better access to legal services. On the other hand, direct services to the profession are geared towards improving the quality and reach of existing legal services.

The Paralegal Scheme

As in many African countries, Zimbabwe's lawyers are to be found mainly in the towns, despite the fact that the vast majority of the population lives in the rural areas. The Government's contributions, as seen earlier, towards alleviating the inevitable problems brought about by this state of imbalance are very small and are aimed at looking at a particular individual's problem rather than at the equally important aspect of empowering society to shape and use the law to its advantage.¹ Zimbabwe is a country with an internal conflict of laws, with the state law replacing customary law, especially since independence in 1980.

The Zimbabwe government, in promulgating new legislation, has been very progressive. Noteworthy is the fact that this new legislation, on the face of it, accords the same opportunities to men as well as women; however, in practice women still emerge as a disadvantaged group. This can be attributed to people's ignorance of the law, to its technical nature, and to cultural inhibitions and paternalism.

Appreciating all the above, legal literacy programmes have been initiated to address the problem of ignorance of the law. The focus has not been on traditional legal aid concentrating on providing lawyers in individual cases, but on an attempt to provide the disadvantaged members of the population with all the other legal services which more affluent people enjoy. The emphasis has been on informing them about their rights, how they can assert and claim those rights, how to overcome obstruction and difficulties, and, where necessary, negotiating on their behalf with

1. Amy Tsanga, lawyer, Harare Legal Projects Centre in WILDAF "Origins and Issues."

the authorities. This has been done by training legal literacy workers and paralegals, the former operating in their communities using pamphlets and the later from Advice Centres established in both urban and rural areas. Pamphlets have been produced to facilitate the work of legal literacy workers.

The scheme is set up in stages as follows:

1. Advice Volunteers;
2. Paralegal Lawyers;
3. Advice Centres;
4. Test Case Committee/Public Interest Law Firm.

The scheme is being implemented in Mashonaland East and in Matabeleland North Provinces of Zimbabwe.

The implementation is in three phases. We are in the first phase. The second phase will see the project implemented in Mashonaland Central and Matabeleland South provinces. In the third phase we will consolidate and improve what will be going on in these provinces. It is envisaged that after each phase an evaluation of the scheme in each province will be carried out. This helps us to see whether we have achieved our objectives.

The Advice Volunteer Stage

Under stage one we utilize people we call Advice Volunteers. These are people employed by other organisations, non-governmental or governmental. They are involved in developmental projects in the rural areas in which we are implementing this scheme. In this case we have drawn people from the Ministry of Community and Co-operative Development, the Adult Literacy Organisation of Zimbabwe, Zimbabwe Women's Bureau and the Association of Women's Clubs. This has been handled through discussions with the employers of these people of the aims and objectives of our programme.

It took little to convince them that the training we were to give their employees was an additional skill which would enhance their skills in assisting the people at the grass roots. Indeed, this is the case and those who are involved have indicated that they have benefitted greatly as individuals.

The Advice Volunteers are community based educators whom we have trained to correctly assimilate and disseminate information contained in pamphlets we produced at the Foundation.

The topics we deal with and which are contained in our pamphlets are as follows:

- i) Accident damages
 - a) Motor vehicle accidents
 - b) Bus accidents
 - c) Accidents involving cyclists and pedestrians
- ii) Cash and credit sales
- iii) The Legal Age of Majority Act
- iv) The legal system of Zimbabwe
- v) Marriage and the law
- vi) Domestic violence
- vii) Women and rape, etc.

Once trained and having received their certificates, the Advice Volunteers will go into the areas in which they work and disseminate the information contained in the pamphlets to the grassroots groups with which they work, at the same time distributing pamphlets as a way of reinforcing what they have said.

So far in the two provinces in which we are implementing this project, we have fifty Advice Volunteers. The Title "Advice Volunteer" is known by us alone. It is not a title we tell the volunteers since we do not employ them.

In our pilot scheme in Seke, we made a grave error by using people who were unemployed. Due to lack of resources on our part we met with problems when they started clamouring for payment. As it was a pilot scheme this was short-lived, but despite these problems the original paralegals voted to continue in the programme.

Refresher courses are held for the Advice Volunteers on a quarterly basis. During these courses new topics are introduced and problems are encountered, discussed, and rectified.

The first stage, the Advice Volunteer stage, focuses on legal education, which we thought necessary and vital. In order for people to identify a wrong they must first know that it exists and the form that it takes. From this legal education programme we now see people who understand their problems and who can categorise them in the different areas of law. The only problem we see is that in some instances people are realising wrongs too late because some of the civil wrongs stand prescribed by law.

The Advice Centre Stage

In the rural areas in which we are implementing this scheme we have to set up advice centres. These centres are manned by trained paralegals. The feasibility study leading towards the opening of these centres has been completed. We completed this last month and the centres are to be fully operational before June 1990. In each province where we operate three advice centres will be opened.

The feasibility study we carried out was to establish:

- i) the nature of the legal and quasi-legal problems encountered in each area earmarked for the opening of the advice centre;
- ii) the existing infrastructure, i.e., roads, telephone, availability of offices, etc;
- iii) whether the people in the areas think this is a worthy project that could be regarded as part of development; and finally
- iv) the availability in the area of possible candidates for training as paralegals.

The people earmarked for training as paralegals are people who have at least an "O" level qualification or who are ex-court interpreters and/or officials who are now retired. These paralegals,

for logistical purposes, should reside in the areas where they will work. This we felt to be important for the following reasons:

- i) acceptability by the community they will work in;
- ii) understanding the problems prevalent and existing within the area and community;
- iii) reduced need for transportation, accommodation and other expenses that would be incurred by people working outside their areas of residence, etc.

The training that paralegals will get will be higher in content than that of Advice Volunteers. The training is based on a training manual we prepared for paralegals. Following recommendations of an evaluation report of the pilot scheme it was decided that our paralegals will be paid. Luckily we have recently secured funding for this. We believe that if we employ paralegals, the results we get from the scheme will be greater in value as a consequence of their increased commitment.

We have in operation Urban Advice Centres in the suburbs of Bulawayo and one in Harare. We have four in Bulawayo. All these are under the supervision of our Bulawayo and Harare Legal Projects Centres. The paralegals have been trained and are functional.

The training manual for paralegals contains various topics of law among which are the following:

- Custody of children
- Deceased estates, etc.
- Divorce
- Legal system of Zimbabwe
- Maintenance
- Marriage and the law
- The courts
- Referral agencies
- Unmarried mothers
- Human rights, etc.

We have also given paralegal training to government social welfare officers, who need this type of training because of the nature of their work. They come into contact with grassroots people who cannot afford legal services, and we felt this training could benefit the people. We monitor them and at the same time receive reports from them.

They are part and parcel of our Paralegal Scheme. Sixteen officers were trained and they work in the provinces where we are implementing this scheme.

Public Relations

In implementing this scheme a public relations exercise had to be undertaken to brief the political hierarchy in the provinces of our intentions, so that they in turn could rally people behind the project. This proved a success because the project was taken as part of development.

Had we failed to do this, there was no way we could have succeeded because in newly independent states the people are conscientized to an extent that they have to know any new face which comes into the area. Any project which does not have the blessing of the government will certainly fail. It must be made clear, however, that government does not, repeat, does not control our activities.

Our public relations exercise has certainly helped.

The Paralegal Project Lawyers of the Centres

The programme has to be closely monitored and the centres' paralegal project lawyers have arranged visits to Advice Volunteers and paralegals on an ongoing basis. Monitoring serves vital purposes, such as ensuring that what the personnel are doing is within the parameters and scope of the project and also assisting consultation in problem areas beyond the capacity of Advice Volunteers and paralegals. Monitoring also serves to ensure that materials needed by the people implementing the project reach

them in time. It is also the only way to fill the gaps between training days. As part of monitoring, the Advice Volunteers and the paralegals send us reports weekly or monthly on progress, cases dealt with, the areas of law concerned and problem areas encountered.

We now have experienced paralegal project lawyers with the right qualities to cope with the demands of this project. A paralegal project lawyer must be patient, understanding, versatile in the vernacular languages and down to earth. These qualities certainly ensure the success of such a project.

The Test Case Committee

A test case committee is a committee set up by each centre and made up of the director of each centre, the paralegal project lawyer and three to four lawyers in active practice who volunteer their services.

The main aim of the committee is to consider litigating cases which come up from the Paralegal Scheme and those referred to it from all quarters. These cases must be such that successful litigation will bring a benefit to the majority of the people. This is accomplished where the court lays down a precedent to be followed in similar cases in the future. The committee also considers all human rights cases brought before it and adopts them where appropriate for court action. No fees will be charged in such cases.

Planning Meetings

Every two weeks we hold planning meetings at the office where we involve even those who have nothing to do with the scheme on a day-to-day basis. We have found this very useful indeed.

Public Legal Education

The Foundation has various education processes or programmes which take place country-wide. They are the following:

1. Pamphlets — Using our pamphlets our lawyers address various groups on request on various topics of law contained in the pamphlets. These talks are not limited to areas where we currently are implementing the Paralegal Scheme but all over the country.

2. Schools Legal Education Programme — Every year during the University of Zimbabwe's long vacation, law students from that institution are trained to understand the contents of the pamphlets we produce. After the two-week training period they are sent to all schools in and around the major cities of Zimbabwe, namely Bulawayo, Harare, Gweru, Masvingo and Mutare to deliver various talks on legal topics. The aim is to spread legal knowledge to students who in turn would educate their parents, relatives and friends. The Ministry of Education has already agreed that our Paralegal Manual be reduced to a school text book or that based on the Paralegal Manual a textbook be produced from which a legal subject will be added to the "O", and "A" level curriculum.

The Schools Legal Education Programme has been very popular and has received the support of the Parent/Teacher Associations, headmasters, students and the Ministry of Primary and Secondary Education.

3. Cooperative Programme — With unemployment figures soaring high, Government decided to promote the cooperative sector to absorb the youths who are unemployed and to give them some jobs and skills through cooperation. The only snag cooperatives have encountered is that, due to their lack of formal education and experience in business, the cooperators have been taken advantage of by established business and other individuals.

On realizing this, the Ministry of Community and Cooperative Development requested the Foundation to hold lecture programmes for cooperatives in the following areas:

- i) Cooperative law;
- ii) The law of Insurance;
- iii) The law of Contract;
- iv) Labour law;
- v) Commercial law; and
- vi) Drafting of by-laws.

These chosen areas were seen as crucial for cooperatives to improve their business techniques. This programme has been going on for the past four years with indications that it is to be continued. Cooperatives have also improved on their techniques in dealing with individuals and established business since the lecture programme began.

Promotion of Women's Rights

In Zimbabwe, before independence in 1980, African women were perpetual minors in the eyes of the law. They could not enter into contracts, sue or be sued in their own capacity, own property, etc., without the consent of their parents, if not married, and their husbands if married. With the advent of independence, Government came up with a milestone piece of legislation, The Legal Age of Majority Act. It emancipated women in all issues where previously they lacked the benefit of law. Though traditional African men did not welcome this piece of legislation, as they thought it retrogressive, the courts have interpreted this legislation in favour of women.

The Foundation's role is to educate groups of women to understand what changes have taken place in their lives through the law. It is interesting to note that the last piece of legislation against women was repealed by Parliament in 1989, and that had to do with women owning property. Parliament saw fit to repeal a section of the Deeds Registries Act which prohibited women's

ownership of property without the consent of either their parents or husbands.

Use of Mass Media

The Foundation was also given air time on radio to publicise its legal educational programmes. These have been very popular.

People write in questions which are answered by lawyers in charge of these programmes. It is gratifying to note that the presenter of this programme at the Zimbabwe Broadcasting Corporation won a first prize journalistic award in 1990 for having introduced a fine, very educational programme through us.

Our Direct Services to the Profession programmes have been designed to improve the quality and reach of existing legal services. Under this heading three main services are provided, namely training, resources and publications.

Magistrates and Prosecutors Lecture Programme

Training is done on a train the trainer basis. The Foundation runs a training programme for magistrates and prosecutors with the view that experienced judicial officers and members of the public who occupy positions which have something to do with the law are able to impart useful knowledge that enables magistrates and prosecutors to perform their duties more efficiently. The magistrates' and prosecutors' lecture programme has been very useful in that, through the talks, the remand home for prisoners now has fewer inmates due to quick disposition of cases. Experienced magistrates now preside in the remand court to balance the interest of justice and human rights. Most of the talks presented at the forum are published in the Foundation's opinion maker, *The Legal Forum* magazine. This is done to facilitate distribution to outlying magisterial stations so that they can also benefit from this information.

Law Enforcement Agencies Lecture Programme

We also run a lecture programme for law enforcement agencies. Its objectives are essentially to assist in the education of law enforcement agents concerning the legal/constitutional rights of the individual, including correct procedures to be adopted by such offices. It is hoped that this will facilitate bridging the gap both between law enforcement agents and the public, and also between law enforcement agents and the legal profession, by stressing that the roles are complimentary, that is, to ensure that justice is not only done, but seen to be done, in an effort to improve the quality of service being rendered to the public, whom both serve.

The topics currently being dealt with in this regard are:

- Entry, search and seizure
- Arrest
- Confessions, statements and admissions
- Detention, and
- Bail

The agencies we have targeted for this training are the Zimbabwe Republic Police and the Central Intelligence Organisation. Such a programme is the only one of its kind, perhaps in the Commonwealth, but certainly in Africa, where a non-governmental human rights organisation has contributed towards the training of law enforcement agents. The programme operates on a countrywide basis. At the end of 1990, a total of eighteen workshops had been conducted by the Legal Resources Foundation with approximately 400 participants.

In its report, *Africa Watch* had this to say:

Another non-governmental organisation, the Legal Resources Foundation of Zimbabwe set up in 1985, has been doing important work in making legal services and knowledge of legal rights accessible to a broader public. This has been achieved through publications,

legal advice sessions and training programmes. In April, 1989, the Foundation began a training programme for police and other law enforcement officers in various human rights aspects of criminal procedure.

An important safeguard against human rights abuse is to train law enforcement officials in proper standards. There have already been important steps in this regard, for example, the instruction issued to the police in 1986 forbidding torture and the training course for law enforcement officers run by the Legal Resources Foundation. It is important that such educational initiatives be extended to all those involved in law enforcement and custody of prisoners.²

The most important aspect of this programme has been the education of the police about the law so that they work within given parameters and, in the course of so doing, observe human rights.

Library Service

The Foundation also has law libraries in all its projects' centres. These were established to provide a resource to all young practitioners who cannot afford their own libraries. If we are to provide a quality service and representation in our courts, we need a well-equipped profession. Realizing that the expenses of establishing a library are too high, the Foundation established these libraries for its own staff and for young lawyers just joining the market. So far in our three offices in Zimbabwe we have three libraries which are popular resources.

2. *Africa Watch, Zimbabwe: A Break from the Past?: Human Rights and Political Unity* 76, 88 (Oct. 1989).

The Publications Unit of the Foundation

In Zimbabwe where we do not have legal publishers, law books are very expensive. The Foundation decided to cultivate an interest in those members of the local profession who were gifted in writing, to write and, through the Foundation's Publications Unit, publish law books. The Ministry of Justice, Legal and Parliamentary Affairs also appointed the Foundation the official publishers of the Zimbabwe Law Reports. It has edited and published the Zimbabwe Law Reports since 1988.

Conclusion

This is the way the paralegal scheme operates in Zimbabwe. It must be pointed out that our legal education programmes are not confined to the two provinces we have chosen for the first phase of the paralegal scheme. They cover all sections of the country through our mass media programme, i.e., the use of radio, and at times television, and also through our schools' legal education programme. The Foundation also carries out educational programmes on women's rights, co-operative education, law enforcement agency lecture programmes and lecture programmes for magistrates and prosecutors. All these programmes go to fulfill our role as a human rights organisation. We also have a Publications Unit which has enhanced the work of the Foundation greatly. All the training materials we have are produced in-house to a great extent.

The legal resources approach differs in many ways from conventional notions of legal aid delivered by professionals. Legal aid programmes designed and operated entirely by professional lawyers are limited to the provision of a narrow range of largely court-centred services to individuals (rather than groups and collective need). The legal aid approach may provide access to law, but it seldom encourages people to seek access to justice through law. The legal resources approach encourages people to seek both, when necessary, by helping them to understand their

existing rights under law and by helping to devise their own strategies to bring about reform of unjust or inadequate laws.

The legal resources approach emphasizes concepts of legal self-reliance, deprofessionalisation, and interest-group advocacy. Legal self-reliance is to be achieved both through programmes seeking to educate specific impoverished communities about their rights and the laws and procedures relevant to their day-to-day activities, so as to enable them to decide for themselves when and how to take recourse to the law and when not to do. Deprofessionalisation is to be pursued through an attempt to break the legal profession's monopoly over legal knowledge and skills by developing, whenever appropriate, community-based paralegals.