

NATIONAL MEETING ON RECOGNITION OF PARALEGALS

7th to 9th October 2004

REPORT (Draft)

I - From 7th to 9th October, the national meeting on legal recognition of paralegals, was held in Maputo. In it took part:

1. The following paralegals of the Centres of Paralegals (Centro de Paralegais = CP), representing the regions North, Centre and South of the country:

- a) João Afonso Semba (C.P. of Nacala – Nampula);
- b) Nazarete Reginaldo (C.P. of Beira - Sofala);
- c) Alberto Cumbe (C.P. of Inhambane - Inhambane);
- d) Amós Victor (C.P. of Gaza - Xai-Xai);
- e) Jorge Simão Como (C.P. of Maputo-Cidade);
- f) Jaime José Mabota (C.P. Maputo-Cidade);
- g) Tina Felisberto Catao (C.P. Maputo-Cidade);
- h) Yeura Edith H. Mussá (C.P. Maputo-Cidade); e
- i) Naftal Salomão Muchanga (C.P. of Boane - District of Boane).

2. Representing the Directorate of the Human Rights League (LDH), Dra. Maria Alice Mabota.

3. Legal Assistance Cabinet of the LDH

- a) Dr. Paulo Daniel Comoane;
- b) Dr. Paulo Jorge Nhancale;
- c) Dr. Hélder Amaral Matlaba;
- d) Dr. Amílcar Andela

4. Legal and Prisons Reform Monitoring Cabinet of the LDH, Dr. Luís Bitone Nahe.

5. Guests:

- a) Dr. Chenco Sendi of the Instituto Superior Politécnico e Universitário (ISPU);
- b) Dra. Elisa Vieira of the Law Faculty of the Edurado Mondlane University (UEM);
- c) Dr. Mário Seune of the Instituto de Patrocínio e Assistência Jurídica (IPAJ).

6. Chairman: Dr. Luís Filipe Sacramento, Vice-president of the Supreme Court (Tribunal Supremo), Professor at the Law Faculty and Director of the Paralegal Courses of the LDH.

II - The aim of the meeting was to promote the concept of the paralegal in relation to the Justice Administration bodies and to create a favourable environment for legal recognition.

To achieve this aim, an analysis was made of the difficulties and shortcomings the paralegal faces in carrying out his work, due to a lack of legal recognition and due to the general unfamiliarity with paralegals. At the same time an effort was made to identify areas where he can serve the disadvantaged people of the communities who have little or no access to justice or means to defend their rights

Lastly, attempts were made to set up priorities in order to achieve the recognition of the paralegal and to enhance the quality of his work.

III - Analysis of the SWOT to support and recognize the work of the paralegal

a) Advantages of the Work of the Paralegal

It was observed that the Paralegal functions as a significant contributor in accessing justice, not only in regions where there are no legal assistance institutions at the disposal of the citizens. But the paralegal is also an important guarantor that assistance will be provided to those in need.

The activity of the paralegal has served as a bridge between the citizen in need and the institutions of Justice Administration. His activities have contributed in a decisive way to eliminating illegal activities and injustices, and by mediating beyond the legal ambit in conflict situations, he has also contributed to facilitating friendly relationships among the society members. By doing so he has become a guarantor for conflict solutions that erupt within the community.

The Justice Administration, particularly the courts often request his participation in solving a dispute, particularly in Family areas. Therefore, it recognizes the important role of the paralegal in solving conflicts.

b) Weaknesses and Difficulties

A lack of recognition and unfamiliarity with its activities, particularly by the police, the Public Prosecutor and some courts. Concerning mediation it was noticed that in many cases employers do not recognize the authority of the paralegal as a mediator in solving a labour conflict because legally the paralegal does not exist.

Examples of the difficulties encountered by the paralegal in his work:

- a) difficulties the paralegal faces due to obstacles mounted by the police when he investigates the legal situation of detainees;
- b) obstacles raised by legal clerks when the paralegal defends the rights of a citizen in court;
- c) following up of certain cases that go to court;
- d) difficulties created by the neighbourhood secretaries when the paralegal intervenes to defend the rights of a citizen;
- e) tax collection by IPAJ in Beira so that the paralegal can be accredited as a legal agent chief executive in a process requiring its intervention in order to promote a specific case; and
- f) constraints in relating to some institutions and entities.

c. Constraints in the work of a paralegal

A lack of law- and technical knowledge in order to give advice and to follow up the cases he is asked to intervene in.

A certain aversion from some lawyers and legal technicians to the work of the paralegal, who is seen as a competitor.

Because there is no clear definition of the work of a paralegal, confusion often ensues, due to, on one hand the lack of criteria to set boundaries till what level he can operate and, on the other hand, the fear of some entities that their job may be taken away by the paralegal.

Lack of definition of tasks and determining till what level the paralegal is allowed to operate, has brought with it the danger of distortion of the role and the function of the paralegal;

IV – Priorities for the recognition of the paralegal

- a) Analysis on the necessity of existence or not of a paralegal and of his work in the country, this bearing in mind the idea of rethinking our legal administration system according to the countries necessities;
- b) Necessity of formal recognition of the paralegal and his work;
- c) Necessity to conceptualize and standardize the paralegal;
- d) Definition of a profile of the paralegal and the establishment of selection criteria;
- e) Definition of the operating levels/fields of the paralegal (as a human rights activist, advisers, mediators, legal assistance);
- f) To reflect on ways to position and fit the paralegal within the current legal framework in the work of legal assistance;
- g) Necessity to spread information about the figure in itself and the work of a paralegal;
- h) Establishing standardized mechanisms to set up centres where legal advice can be given by the paralegal, if necessary;
- i) Sensitization of State institutions as to the necessity of the paralegal and his operating levels/fields;
- j) Identify and determine institutions/organizations where the paralegal and his work will be fitted in. These institutions are obliged to support him and are responsible for his work.

V - Priorities to reinforce its work

- a) Defining education levels of the paralegal relevant to its work (foundation training and continuous education);
- b) Standardization of the education plans;
- c) Identify and specify the entities responsible for education;
- d) Establishing mechanisms of education quality control;
- e) Establishing elements that provide possibilities and make it easy to identify the paralegal at work in the institutions or entities

VI - Identification of entities that are related to the work of the paralegal

- a) At the state level, the IPAJ is the entity responsible for guaranteeing legal and judiciary assistance to the economically disadvantaged citizens;
- b) At the higher education level institutions such as, Law Faculty of the UEM and the Law Faculty of the I.S.P.U.;
- c) At the Civil Society level Liga Moçambicana dos Direitos Humanos (Mozambican Human Rights League), Muleide, Assossiação Moçambicana das Mulheres de Carreira Jurídica, Organização da Mulher Moçambicana, Fundação para o Desenvolvimento da Comunidade, Organização dos Trabalhadores de Moçambique, Kulya, HelpAge International, ORAM, among others;

VII - Necessity of an internal reorganization of the entities that have to do with the work of the paralegal

Whatever one may envisage the work and the operating levels of the paralegal to be, it will be necessary that those entities related to the paralegal restructure themselves internally in order to establish an internal control mechanism and support the work of the paralegal.

VIII - Entities and people that may support the recognition of the paralegal

- a) At the state level, IPAJ;
- b) At higher education level institutions such as: Law Faculty of the UEM and the Law Faculty of I.S.P.U.;
- c) At the Civil Society level: Liga dos Direitos Humanos, Muleide, AMMCJ, OMM, FDC, OTM, Kulaya, HelpAge International, ORAM, among others;
- d) Personalities: academics, lawyers, magistrates and politicians.

IX - Action plan

- a) Good argumentation to show the necessity of the existence of paralegal
- b) Stage an information campaign about the paralegal and his work, including the realization of an extended seminar;
- c) Sensitizing the state institutions of the necessity of the paralegal and his work;
- d) Legal formalization of the paralegal and his work, which will enclose:
 - conceptualization and standardization of the paralegal;
 - profile definition of the paralegal and the establishment of a selection criteria;
 - definition of operating fields\levels of the paralegal (as a human rights activist, adviser, mediator, legal assistance);
 - ways to fit the paralegal within the system.
- e) Setting up, where necessary, standardized mechanisms to establish legal advice centres where the paralegal can work.
- f) Identify and define institutions/organizations where the paralegal should be fitted in, that take responsibility for supporting the paralegal and controlling its work;
- g) Establishing education models and defining the entities responsible for the education.

X - Who will take action

Direcção da Liga dos Direitos Humanos (Head of the Human Rights League), assisted by the Gabinetes Jurídicos e de Monitoria e Reforma Prisional e Legal (Legal Cabinets for Monitoring and Legal and Penal Reform) of this institution.

XI - Comments