



The Profile and Positioning of the Community Advice Office Sector in South Africa

Research Report for the National Alliance for the Development of Community Advice Offices (NADCAO)

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About CCJD

The Centre for Community Justice and Development promotes access to justice and socio-economic rights through its support of 15 community advice offices staffed by 20 paralegals, located in the interior of KwaZulu-Natal. With almost 20 years' experience in the CAO sector, CCJD has a deep understanding of issues faced by communities in South Africa and the critical role of the CAOs, and the paralegals who staff them, in providing relief to the poor, and affecting change at policy level. Its research programme is committed to sharing and disseminating the rich knowledge held within the sector and promoting recognition of the sector as it plays an essential role in making legal, social and economic justice accessible to the poor in South Africa.

Thanks

Thank you to NADCAO for commissioning this important study; to Nomboniso Nangu Maqubela for seeing the importance of such research, and CCJD Director Winnie Martins for recommending CCJD to undertake it.

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The findings and recommendations of the research are meant to serve the vital work done by the community-based paralegals in South Africa; truly extraordinary people who position the Community Advice Office sector as an important tier in the justice system, an essential service, and a critical sector in South Africa's developing democracy.

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EXECUTIVE SUMMARY

The National Alliance for the Development of Community Advice Offices, representing the CAO sector in South Africa, commissioned a pilot project to examine the profile and positioning of the community advice office sector. This study is significant as it provides empirical support for the value and impact of the CAOs at this critical time in the sector's development. CAOs, situated within communities and accessible geographically, financially and culturally, amongst other aspects, provide legal and human rights information to the marginalised, disadvantaged and/or poor communities. They animate local economic development, improve social justice and provide advice on a diverse range of social issues that concern people's survival, community well-being and ultimately South Africa's democracy. In this light, NADCAO asked questions to substantiate the broad picture. What is the demand and supply of legal advice and other related services provided within community advice offices, the effect and efficiency of the sector in providing these services, and the broad range of cases recorded by the advice offices? What kind of specific advice is given and results achieved, including experiences of community members who receive the service? It was conceived that the research findings would contribute to confirming and better understanding the value and impact of the CAOs work and the sector's capability to effect social change through access to justice for marginalised communities.

This was a qualitative research project. Over the two months of June and August 2014, research information was gathered from in-depth site visits to each of 8 Advice Offices in four provinces in South Africa. These are: Gauteng, KwaZulu-Natal, Limpopo and Mpumalanga. In **Gauteng**, these CAOs were Ntsu Advice Office, and the Centre for Human Rights and Information (CEHURI). In **KZN**, these were Plessislaer Advice and Support Office and Bulwer Advice and Support Office, both affiliated with CCJD (Centre for Community Justice and Development). In **Limpopo**, these were Musina Advice Office and Opret Advice Office, and in **Mpumalanga**, these were Bohlabela Advice Office and Nkomazi Advice Office. These Advice Offices were purposefully selected to represent a wide range of CAOs in different contexts and conditions.

At each on-site visited, the researchers conducted in-depth interviews with key individuals working with, or in cooperation with, the CAO. These included paralegals, management committee members (or board), and stakeholders from sectors the CAOs work with regularly, such as SAPS, the courts, Departments of Health, Justice, youth organisations, and others. Focus groups and individual interviews were held with community members who have been involved in public education events of the CAO and clients being served by the CAO. A total of 63 interviews and 7 focus groups were held. During the visits, other aspects of the Advice Offices' work were observed - such as public meetings held by CAOs in the communities or with other stakeholders, and visiting shelters for asylum seekers, the latter set up the CAO in Musina. Materials such as pamphlets, videos and photos were given to the researchers at some offices. The case management systems of the CAOs were looked at, and information was later collected about resources recovered by the Advice Offices.

The findings produced have confirmed the value and impact of the participating CAOs in the communities in which they work. Under severe constraints, there is a wealth of expertise – both legal and practical - skills, experience, commitment, and resourcefulness applied by the paralegals, enabling them to help people with a wide range of complex problems. Foremost are their methods of restorative justice, such as mediation and negotiation, victim empowerment and reparation, which effectively resolve disputes while at the same time restoring relationships and bypassing the courts. Their other commonly used methods such as referral and educational events connect communities with knowledge, information and others who can help them to access justice. The CAOs' tenacity in tracking down money owed to community members results in them recovering resources for their

clients. Paired with the care and respect they demonstrate toward their clients, the creativity and innovation they apply in dealing with each unique problem, and the trust and esteem they hold in the community, the CAOs carry a great deal of authority to effect social change.

The research has also identified a number of issues and has formulated related recommendations which are addressed in terms of strengths and challenges observed within the CAOs. Overwhelmingly, the strengths of the CAOs are firmly located within the paralegals who do the work, devoting themselves to helping the communities in whatever way possible, and, in light of the scarce resources in the sector, often engaging their own money, time and home-life to do so. In terms of challenges and needs, it must be acknowledged that a major portion of those witnessed are a result of lack of funding - dynamics affecting the sector as a whole and of which all are aware - thus to a significant extent beyond the control of the individual advice offices. Exploring sustainable strategies of income generation, private support and state support are key here. It must be underlined that the survival of the sector hinges on sustained and proper payment of the paralegals. This must be addressed urgently.

Other issues that need to be attended include the provision of training and other support for community-based paralegals combined with developing standard accredited basic paralegal training programmes, in order to address the different levels of legal and technical competency across the CAOs. Additional areas of training needs include efficient systems for recording cases, training in computers, and eventually the establishment of computer-based case management systems. Administration and financial management training are needed. Formation of clusters in regions is an idea to be explored, for the purpose, at least, of pooling resources and expertise toward fundraising, capacity-building and training. Further, individual CAOs and the sector as a whole need to consider how to effectively and widely publicise the work they do, and share the knowledge they acquire, both locally and internationally. How to ensure personal support of the paralegals and counselling resources should be considered by the sector as the paralegals often deal with traumatic cases. Lastly, an ethics board within the CAO sector would support its call for recognition.

Introduction

Community Advice Offices in South Africa have a rich and long history tracing back to the dark days of apartheid, followed by the years of transition and then, up to the present, consolidation of South Africa's democracy.¹

The National Alliance for the Development of Community Advice Offices, representing the sector, commissioned this 4-month pilot project to examine the profile and positioning of the community advice office sector in South Africa at this time.

In the words of NADCAO, "community advice offices (CAOs) are strategically positioned in communities to provide basic legal and human rights information to the marginalised, disadvantaged and/or poor communities. They are a hub for local economic development, improvement in social justice and support efforts to redress past imbalances at community level.

CAOs today continue to offer advice on social issues including but not limited to, housing, social assistance, citizenship (identity documents, birth and death certificates etc.), debt, family and other disputes, maintenance, employment, domestic violence, retirement, labour and physical health. Despite the crucial work of CAOs, there is no empirical evidence to support the value and impact of their work." Hence this study was commissioned.

This Report presents a profile, findings, discussion and recommendations arising from the research. It was an empirical qualitative study where site visits were made to Community Advice Offices (CAOs) in four provinces of South Africa. These are: Gauteng, KwaZulu-Natal, Limpopo and Mpumalanga. In **Gauteng**, these CAOs were Ntsu Advice Office, and the Centre for Human Rights and Information (CEHURI). In **KZN**, these were Plessislaer Advice and Support Office and Bulwer Advice and Support Office. In **Limpopo**, these were Musina Advice Office and Opret Advice Office, and in **Mpumalanga**, these were Bohlabela Advice Office and Nkomazi Advice Office.

The report will introduce the purpose and objectives of the study followed by the methods used. A brief profile of each participating Advice Office is presented followed by key findings arising from participants' responses to topics covered by the questions in the study. These responses are presented in the direct voices of, and with examples from, participants from each the different Advice Offices. Information about the Advice Offices from the community-based paralegals is represented by the name of the speaker unless it is confidential or could harm the organisation or speaker. Contributions by clients and other participants are referred to anonymously to retain confidentiality with participants' identity coded.

These findings are interpreted and some preliminary conclusions made. Finally, as a pilot study, this research has obvious constraints in that its capacity is to survey the sector, and thereby provide an overview of relevant key issues. Such a wealth of information emerged from the advice offices that must be followed up with further research, and published papers arising from information gathered from the present research. The paper will identify some areas to investigate in greater depth.

¹ J. Dugard and K. Drage, "'To Whom Do the People Take their Issues?' The Contribution of Community-Based Paralegals to Access to Justice in South Africa". *Justice and Development Working Paper Series 21/2013*. Legal Vice Presidency. The World Bank. www.seriesa.org/images/JD_WPS_21_To_Whom_Do_The_People.pdf Accessed 20 August 2013.

Purpose and Objectives of the Study

The purpose of the study commissioned by NADCAO is to identify, bring together and analyse the available data on the state and profile of the community advice office sector in South Africa, in relation to its ability to provide legal advice, information and services to marginalised communities. It further aims, through empirical evidence, to confirm and better understand the value and impact of their work and the sector's capability to effect social change through access to justice for marginalised communities.

The broad objectives are to examine:

- ❖ The demand and supply of legal advice and other related services provided within community advice offices;
- ❖ The effectiveness and efficiency of the services provided by community advice offices;
- ❖ Specific advice given and results achieved, including experiences of community members who receive the service;
- ❖ The broad range of cases recorded by the advice offices;
- ❖ To draw on existing material to gather secondary evidence of the value of the work of the CAO sector within the broader access to justice arena;
- ❖ Trends in funding for the community advice office sector.

Given that this is a pilot project, and the objectives are wide ranging, the findings herein open the door to more in-depth study and reflection.

Method of the Study

This was a qualitative research project looking into key features of the CAO sector. Over the two months of June and August 2014, research information was gathered from site visits to each of 8 Advice Offices in four provinces in South Africa. The participating Advice Offices in Gauteng, Limpopo and Mpumalanga were selected by NADCAO and those in KZN were selected by CCJD (Table 1). These were chosen as a sampling of the diversity of CAOs in South Africa. Coordinators and directors of the participating Advice Offices were contacted first, with dates set up and confirmed. Logistics were then organised.

Table 1. Participating Advice Offices

Advice Offices Visited	Area	How Chosen?	Date
Gauteng: Ntsu Community Advice Office	Township	Pre-selected by Winnie Martins of CCJD	9+10 June 2014
Centre for Human Rights and Information (CEHURI)	Rural	As advised by Seth Mnguni	11+12 June 2014
KwaZulu-Natal: Plessislaer Advice and Support Office	Peri-urban	Chosen by CCJD	9+10 June 2014
Bulwer Advice and Support Office	Rural	Chosen by CCJD	11+12 June 2014
Limpopo: Musina Advice Office	Peri-urban	Pre-selected as part of ProBono process	7+8 August 2014
Opret Advice Office	Urban	As advised by Albert Makwela	11+12 August 2014
Mpumalanga: Bohlabela Resource and Advice Office	Rural	As advised by Nthofela Makhele	14+15 August 2014
Nkomazi Advice Office	Rural	As advised by Nthofela Makhele	18+19 August 2014

Each on-site visit required 2 days (excluding extensive travel), enabling the team of 2 researchers to conduct in-depth interviews with key individuals working with, or in cooperation with, the CAO. These included paralegals, management committee members (or board), and stakeholders from sectors the CAOs work with regularly, such as SAPS, the courts, Departments of Health, Justice, Labour, UNHCR, youth organisations, and others. Focus groups and individual interviews were held with community members who have been involved in public education events of the CAO and clients being served by the CAO. Both the interviews and focus groups were guided by open-ended questions put to them by the researchers, allowing for further probing into what the participant said or felt, and for the interviewees to be able to think and share beyond a strictly guided questionnaire. Interviews and focus group discussions were documented and recorded.

Prior to the interviews and focus groups, the researchers explained the purpose of the study to the participants, the voluntary nature of their participation, and that they were free to excuse themselves from the study at any point. They gave their written consent to participate.

During the visit, other aspects of the Advice Offices' work were observed - such as public meetings held in the communities or with other stakeholders. At the Musina office, the researchers had the privilege of visiting shelters for asylum seekers set up the CAO. Materials such as pamphlets, videos and photos were given to the researchers at most offices. The case management systems of the CAOs were looked at, and information was later collected about resources recovered by the Advice Offices.

From September to November, the information was transcribed, coded, analysed, interpreted and documented in this paper. An Abridged Report of the findings and recommendations was also produced. In this document, the findings are considered according to main themes covered in the interview questions, and later discussed in terms of the objectives and scope of the study. Finally, the findings and conclusions give rise to recommendations to contribute to the positioning the CAO sector within the justice system in South Africa. It concludes with areas to follow up for further research.

Profiles of the Community Advice Offices

The section below presents a short description of each of the Community Advice Offices, including where it is located, its inception, the areas it serves, the primary issues it deals with and challenges. The Advice Offices are all well-established, staffed with paralegals who have immense experience working to help people in communities. Most of the Advice Offices have been in existence for around two decades; the youngest, Bohlabela, is a well-established Advice Office of 10 years, while the oldest, Musina, was set up almost 30 years ago. The majority of these Advice Offices emerged from the 1994 post-apartheid democratic dispensation, part of the wave of Advice Offices that began to help people access their rights enshrined in the Constitution.²

Gauteng

Ntsu Community Advice Office

This centre is located in Mabopane, a township area neighbouring the cities of Pretoria and Johannesburg in the Tshwane Metropolitan Municipality (Pretoria) in northern Gauteng. The Advice Office, opened in 2008, has its roots in the Mabopane Advice Office which began in 1996 but closed

² For a historical overview of paralegals in South Africa, see Dugard and Drage, "To Whom do the People Take their Issues?", 4-11.

in 2005 due to financial difficulties and lack of resources. As clients kept coming to Director Seth Mnguni's house for assistance, he reopened the centre as the Ntsu Advice Office in 2008.

In the area the AO serves, most of the population is unemployed and poor. Most of the Ntsu clients are African black South Africans and a few foreign nationals who are working in the mines. The office itself is located at a community centre owned by the municipality – within walking distance for most of the people in Mabopane - and the director has managed to negotiate with the owners so they do not pay to use the premises. The office has a good relationship with the community leaders and the municipality.

All the members in the office are mature, with a great deal of life experience and history of community work. Their training includes work with Black Sash and some have received training at university on paralegal work, the law and issues related to human rights. The two full time paralegals have been highly successful in resolving domestic violence and family dispute issues through restorative justice methods such as mediation.

Much of their work involves labour issues, such as in the case where people are working but they receive no pay slips or payment. There are also a high number of pension fund cases – for example where workers in mines and other companies sign one third pay-outs without their knowledge. The paralegals indicate that there is a rise in cases of killing of spouses and police brutality is an issue in the area.

The office is well known in the area and their workshops are highly attended. Despite the critical nature of the work they do and the value it has to the community, funding is a serious problem. They receive funding from the Foundation for Human Rights (FHR) but it is not enough. The paralegals at Ntsu sometimes go for months without payment but still go to work. There is strong sense of commitment within the team who would at times use their own resources, such as money and homes, to assist the clients. "Once a paralegal, always a paralegal; we serve our community regardless of challenges."³

The Centre for Human Rights and Information (CEHURI)

CEHURI is located in the town of Stinkwater in Hammanskraal, a rural part of the northern Gauteng province. It was founded by Mareko Moreroa, the Director of CEHURI, in 1999 after the closure of Hammanskraal Advice Office due to lack of funding. CEHURI was registered in 2000 as an NPO.

CEHURI serves a vast area of 89 villages with a staff of only 4. One of the main problems of the area is economic. Most of the people are unemployed and though they may hold temporary jobs, most rely on social grants to survive. Another major problem they are dealing with is drugs. Called nyaope in Gauteng (whoonga in KZN), this deadly street drug is affecting many young people and brings with it violence and crime.

Resources are a problem for CEHURI and at the time of the study it held funding from the Foundation for Human Rights, though this was not enough. Often the staff goes unpaid, yet they all are committed and continue to do their work. When there are resources, they share it out among them. They are organising creative initiatives to raise funds to keep the work going, for example approaching the department of agriculture and negotiating with the City of Tshwane for land.

³ Ntsu management committee member, (Ntsu 3-MC), 9 June 2014.

The CEHURI office is in an old building shared with a motor mechanic, which is noisy, dirty and disruptive to the clients and staff. It lacks a telephone and in January (2014), it was broken into, with their laptop and files stolen. They also provide food parcels and clothes to the community and when the office was robbed they were stolen. Their case has been with the police but nothing has been recovered. At the time of the interviews, the paralegals said they are mostly doing referrals “since our office is not really up to standard. As you see we share the office with a car garage, it is not safe we need a place of our own”.⁴

KwaZulu-Natal

Plessislaer Advice and Support Centre

Established in 1997, Plessislaer was the first support centre to be set up by the Centre for Community Justice and Development (then the Centre for Criminal Justice) under the direction of Winnie Martins. This was a response to the fact that while people had rights on paper, they were not able to access these rights. Recognising the high levels of abuse of women in the community, the office initially focussed on the needs of women and children; domestic violence, maintenance, rape, child abuse. Most of their clients are the poor people who cannot afford legal fees, although people from every economic class also come for assistance. Most of the clients are women.⁵

Over the years, community members – both men and women – have sought help for a wide range of socio-legal issues.

The Centre is located in the peri-urban area of Plessislaer, a few kilometres from Pietermaritzburg, in the Umgungundlovu Municipal District (the Midlands of KwaZulu-Natal) and serves a population of 585,000 in 21 communities, covering an area of 648 sq km.⁶ The advice offices is surrounded by informal settlements, townships, and urban areas, including the increasingly urbanised lower Edendale area as well as the city of Pietermaritzburg. Plessislaer itself and the areas it serves include the traditional rural areas that extend far into the surrounding hills. Unemployment is high.

The Advice Office has its own established and secure premises, operating from a park home that is fully owned by the organisation, situated on the premises of the Plessislaer police station. While operating independently, the strategic location on the grounds of the South African Police Service (SAPS), enables a situation that promotes referrals in both directions, gives weight to the work of the advice office, and means they are accessible geographically by most people, even those in far-flung rural areas.

Plessislaer advice office is well-resourced; it has telephones, photocopiers, computers and access to internet. This setup has enabled systematic computer-based recording of cases on a database created for the specific needs of the CCJD CAOs. Information on the cases, demographics, resolutions and follow up are recorded and sent electronically, on a monthly basis, to a centralised database at head office, enabling the information to be organised, accessed and used easily for monitoring and evaluation, discerning trends, identifying gaps between law and implementation, and other research needs. The CAO is staffed by 3 paralegals, Theresa Thusi, Fisani Ngcobo and Khanyi Singh. Mrs Singh primarily works at a satellite office 15 kms across town, located in a previously designated Indian area, at the Mountain Rise police station. Her office work is based at Plessislaer and the desire is to set up

⁴ Sonia Mabulawa, Paralegal, CEHURI, 11 June 2014.

⁵ Khanyi Singh, Paralegal, Plessislaer, 9 June 2014.

⁶ www.ccid.org.za

a secure autonomous office at Mountain Rise. If funds would allow, the Mountain Rise SAPS have indicated a space where a park home could be set down and a permanent Advice Office established.

The Plessislaer Advice Office is a registered NPO, one of 15 established in the interior of KZN by CCJD.⁷ All are supported by the CCJD Head Office in Pietermaritzburg with fundraising and funding support, administration and financial management, education in capacity building and technical support, NGO management, and ongoing training in legal matters. This support has been instrumental in their success, freeing them to concentrate on their work with communities. The paralegals are highly trained and experienced, with two having received paralegal diplomas from UKZN through training organised by CCJD head office, and one having years of experience with the Black Sash and community work before joining CCJD.

Since 2011, a process has been underway to increase the autonomy of the CAOs and all the advice offices have been registered as independent NPOs. The relationship with CCJD Head Office remains strong whereby the semi-independent CAOs are supported in gaining skills and updated information and knowledge. This includes ongoing training to raise and manage funds and manage the many requirements of NGO administration.

Like all the CAOs in South Africa, funding has become a challenge for CCJD as an organisation and for the advice offices it supports, including Plessislaer. A significant factor was the recent wrapping up of a core funder's long term involvement with Advice Offices in the country, including CCJD. There are a number of funders supporting the work of Plessislaer through CCJD Head Office, with dedicated funding, for example, from Foundation for Human Rights and HIVOS for short term projects. Unlike most of the Advice Offices in this study, the staff have always been paid a full salary regularly (monthly).

CCJD has a website (www.ccjd.org.za) and maintains links with the University of KwaZulu-Natal Faculty of Law where the organisation has its roots dating back to 1989 as a research initiative dealing with policing and the political violence in KZN at the time.

Bulwer Advice and Support Centre

The Centre, staffed by Patricia Maphanga and Nokuthula Mchunu, was established in 1998 by CCJD Head Office. It is located in Bulwer, a rural farming area in the Sisonke Municipal District (the Midlands of KwaZulu-Natal), in the foothills of the Drakensburg mountains. It is about 250 kms from the Sani Pass gateway to Lesotho. The Advice Office itself is located in the shopping area of Bulwer. The Centre serves a population of approximately 108,000 in 25 rural communities covering a wide rural district.⁸

Some of the common issues it deals with are domestic violence, family disputes, social grants, and legal issues. Being along a main arterial route from Lesotho, the advice office serves local people as well as a number of foreign nationals. This area is under the traditional leadership of Amakhosi and Izinduna, and many of the issues the paralegals deal with include those related to Zulu custom, such as inheritance rights or compensation payment that clients want to pay or accept for a crime. The paralegals in Bulwer (and in a number of the CCJD CAOs) are currently engaged in a project with the traditional leaders in their areas, focusing on women's and children's rights and on any conflicts between the state law and customary law. Recent update training for the paralegals was held on the Domestic Violence Act, the Sexual Offences Amendment Act, the Child Justice Act, the Maintenance

⁷ Plessislaer, Bulwer, New Hanover, Mpophomeni, Impendle, Himeville, Osizweni, Madadeni, Ixopo, Bergville, Ekuvukeni, Estcourt, Glencoe, Mooi River, Mpumalanga.

⁸ www.ccjd.org.za Accessed 20 August 2014.

Act and the Customary Marriages Act. The aim is for traditional leaders to reach a better understanding of the five Acts as they relate to women and children, and to use the laws to guide the decisions they make in traditional courts.

Like the Plessislaer Advice Office, the Bulwer CAO works from a park home owned by the organisation, situated on the premises of the SAPS. It is a registered NPO supported by the CCJD Head Office with fundraising support, capacity building and technical support, an independence process and NGO management, and ongoing training in legal matters. The support of CCJD as an umbrella organisation has procured the resources of secure premises, computers, telephone, and internet.

The same issues concerning CCJD funding in Plessislaer affects the Bulwer Advice Office.

Limpopo

Musina Advice Office

Musina advice office is located just 20km from the Beitbridge boarder of Zimbabwe and South Africa. It was established in 1988 and until 1996 had a focus on political issues of apartheid. After democracy the focus changed and the office is now dealing issues related to the strengthening of democracy through education advocacy and assistance. In 2007, with the economic collapse of Zimbabwe's economy, they had a high influx of legal immigrants, asylum seekers, refugees, and illegal immigrants. It is a very busy centre dealing with both local and foreigners' cases. The majority of their clients have low economic status; domestic workers, contract workers, lower class jobs, though middle class people also come.

The office is within a township in Musina, in a house given to the centre. They are four paid workers. The office is well known within the community, especially the director Jacob Matakanye whom the community calls Mayor due to his impact and service to the community. Due to the high number of cases relating to illegal immigrants and documentation for foreigners from Zimbabwe and other surrounding African nations, the office liaises with the police and Home Affairs on issues such as foreign immigrants who are detained and those who need documents to work and live in South Africa. The Advice Office has set up two shelters where men and women from other countries stay. and provides human rights protection for the foreign nationals. The office also faces cases of labour relating with unfairly dismissal and payment of desperate foreigners. There is high number of farm workers and as such the office assists them on workers' rights. The paralegals in Musina advice office are respected within the community and by the Government. During the visit to the area, Jacob Matakanye was invited to be the chairperson of a community program which involved the Army, police and Government officials. This creates an opportunity for the advice office to contribute to the community. It works closely with other organisations focused on migration and international refugees such as the UNHCR, Save the Children, and UNICEF.

The Advice Office has marketed itself a great deal and gets some funding (eg Atlantic philanthropy), though it is not enough. Matakanye indicated that they once had 18 paralegals for an emigration project (2008-2010), which provided enough funds, and now their funds have been significantly reduced. An example given was that in Limpopo there are 18 centres, and Musina is the only Advice office funded by the NGOs.⁹

Musina Advice Office is a registered NPO, has a Facebook page and is working on a website.¹⁰

⁹ Jacob Matakanye, Director, Musina, 7 August 2014.

¹⁰ <https://www.facebook.com/MusinaLegal?ref=stream> Accessed 17 October 2014

Opret Advice Office

Opret Advice Office was established in 2000 by director and founder Norea Mmina Mokgaetji. A needs analysis was done, asking questions and gathering data from the communities about their problems and needs, and it was discovered that there were human rights violations in the area. Opret CAO is located within the town of Mokopane (formerly Potgietersrus) in Limpopo province, two hours north of Gauteng by road. The main economic activities in the area are farming and mining; the area being one of the most rich in South Africa in terms of agriculture and minerals such as diamonds, platinum and granite.¹¹ Consequently, many of the common cases handled by the CAO relate to labour issues. It is a very busy centre, staffed by five paid workers, as it is the only CAO serving the town and the villages around it. It deals with both local and foreigner's cases (primarily Zimbabwe nationals as it is along the main arterial route to Gauteng province). There are high rates of domestic violence, family disputes, and substance abuse. The drug nyaope is a big problem. In addition to advice, counselling, referrals and educating the community on human rights, they also empower the community on social development. They offer development training and help people to start a business as well as train and teach the community on how to manage money. The director is in the Community Policing Forum, involved in peacebuilding, educating gangsters. She has encouraged them to begin businesses selling cold drinks and now they are employed, converted from crime, and work with the police.

The CAO serves a vast area where, in contrast to the natural riches of the area, most of the people in the communities are unemployed, unable to read and write, and are poor: "Our community members are earning less than R2000/month."¹²

Like the other CAOs, funding is a challenge. One of the consistent funders in the past was the Foundation for Human Rights but that stopped in 2006. Again, sometimes the staff go for months without payment. The CAO rents a four-room upstairs office in the town which is inadequate for their needs as it is too small, very expensive and the landlord sometimes intrudes on their work. They would like to have their own building as well as have more advice offices in the large rural areas. They have computers (laptops from the Department of Social Development), telephone, and adequate office equipment.

Mpumalanga

Bohlabela Advice Office

Bohlabela Advice Office is located in Bushbuckridge, a rural area with many villages, very near to the western boundary of Kruger Park. Mozambique serves as the eastern boundary. The area is vast, covering 37 municipalities. Most people are very poor and illiterate, unemployment is high and those who do work have low paying jobs such as working in shops or on farms. The main source of income is social grants. Some obtain income from family members living elsewhere (remittances) and few from wages. Farm labourers working on farms are considered to be the poorest. Many people in the area experience chronic hunger.¹³ As the advice office is close to Mozambique, many of the issues concern foreign nationals – such as people having no IDs, labour issues when they are not paid, and children left behind when parents die.

¹¹ www.en.wikipedia.org/wiki/Mokopane Accessed 17 October 2014.

¹² Norea Mmina Mokgaetji, Director, Opret, 12 August 2014.

¹³ "Food Insecurity in Bohlabela", Department of Agriculture, South Africa. www.poster_Bohlabela.pdf . Accessed 5 August 2014. Two-thirds of the 71, 000 households experiencing chronic hunger in the Bohlabela district live in Bushbuckridge.

Founded by director Derrick Marimane, the Advice Office began in 2005, coordinating workshops held on human rights. People started coming in to the office to report human rights violations. The office networked with (MAJC) Mpumalanga Access to Justice, Legal Aid South Africa, and the National Paralegal Association. Locally, they network with home-based care, NGOs, SASSA, Home Affairs, and the Municipality. In 2103, they opened an advice office in Hluvukani to assist people in other rural areas. The Advice office works from a very small office that they share with a security company.

They had funding from the Foundation for Human Rights for human rights awareness projects in the communities. The Mpumalanga Access to Justice Cluster also provides some fund. In addition to the awareness raising, advice, mediation and partnerships, the Advice Office does skills development with the community such as budgeting. Derrick does training, educating those who did not pass matric and that brings in some funds. Old Mutual bought computers for the Advice Office. Funding remains a main challenge.

Nkomazi Advice Office

The Nkomazi office is situated in Mpumalanga within a rural area. It is about 20 minutes' drive from the centre to the border of Swaziland and South Africa. In this rural area there is a high rate of unemployment and poverty. The people in the area survive through piece jobs, agricultural projects, grants and pension money.

The Advice Office was founded by director Daphne Nkosi as a response to her love for the people in the community and their great need for help. People started sharing their problems with her after she arrived in the area in 1983. Until 1993, she was in a programme that helped immigrants. When it closed, together with the Catholic priests in the area, they discussed how to help people. The centre began in 1994, initially situated at the Tribal courts and eventually (2000) in the present building that they raised funds for, built and own.

People in the area suffer from chronic hunger and food insecurity. Many clients come hungry, and so do children. Director Daphne Nkosi said, "Hunger is an issue here and I am trying to get funding to start a soup kitchen. Some people end up taking medications on an empty stomach. It is very hard to see people starving and not do anything... We have been using our own money to try and feed them." The Nkomazi community participate in the activities organised by the advice centre and has trust for the centre.

Being close to the Swaziland border, they also deal with many issues related to immigrants, such as IDs, immigration, abuse by employers, and children orphaned and left when their immigrant parents have died. Disputes and labour issues are common. Many issues relate to tribal and traditional leaders. The paralegals deal with community issues that had to do with Indunas, the chief or traditional leaders of the area. The office is part of the National Process of the Traditional Courts Bill.

Another major issue is drug abuse. According to the paralegals, many of the people who come from Swaziland bring *dagga* and other drugs across; and they impact the area since it is close to the border. The drugs are sold in the area and thus the AO has all sorts of drug related cases. They provide counselling for those involved in drug abuse and refer to relevant authorities and institutions for assistance.

There are 9 staff members, with 3 paralegals working full time. Due to lack of funding, the team may go without payment for long periods. One of their self-generated sources of income is from fees from workshops Daphne facilitates.

The paralegals agree that other communities also need this office. The area of Nkomazi is so vast, and mostly rural, that they need more offices to assist the community fully.

Key Findings and Case Studies

What is the role of the CAOs, why are they needed? What issues and problems do they deal with and what are the methods of dealing with them? What authority do the paralegals have, and how are their relationships with stakeholders and communities. What is the impact of their work? This major section of the report documents key findings under these themes, followed by information on training and experience of the paralegals, and recovery of resources by the CAOs, case management systems, and challenges and needs of the CAOs. This section discusses reflections twenty years after democracy, and what would happen if CAOs were to close.

Needs of the People and the Role of Community Advice Offices

The motivation for the CAOs and the committed work of the paralegals lies in the deep concern for the conditions under which ordinary people live. The Advice Offices work with people who are poor, the most vulnerable and marginalised for whom legal and social justice remains inaccessible. “The system does not help people effectively”, is a common refrain from clients, the CAOs and even stakeholders. As is evident in the profiles explaining how the Advice Offices started, it is the personal motivation and commitment of the paralegals and staff that makes the CAOs unique and especially effective.

Although the Constitution and Bill of Rights enshrine access to justice as a right, communities lack knowledge of their rights under the law. When they need help, advocates and attorneys are too expensive. One example given was in cases of illegal occupation where people lose their houses. To deal with such cases, advocates charge R20 000 – far beyond the means of ordinary people. Legal aid is one instrument set up to enable access to justice, but has been criticised as not really helping communities in that they concentrate on selected legal cases.¹⁴ Further, they do not offer restorative justice. Seth Mnguni’s words are true for all the CAOs and the communities they serve. He says:

Many community members are poor and cannot afford lawyers so the advice office provides assistance regardless of the financial status of individuals. It is also available to create access for communities to justice and “demystify the law” – and to also make people understand the law. The advice office is breathing space for the communities, especially those who cannot afford [legal help]. Community members who have had their doors shut, we re-open.¹⁵

This is the strength of the CAOs. People need help on complex issues but are obstructed when they seek it from other places. Home Affairs is alienating and people too frequently get “the cold shoulder”. Treatment from the police is an issue. At hospitals patients spend days going to the hospital but not getting assistance. In small claims court, money issues take time to be processed. Other examples and cases are indicated throughout the study. The CAOs, through the creativity, dedication, skills and

¹⁴ The same paralegal commented that in his perception, cases are selected by virtue of which ones benefit them rather than to help clients without favour and that corruption has infiltrated some systems. There is also criticism by communities based on their perception that, in the example of criminal cases, legal aid funds the criminals. This perception does not understand the full picture of the right to legal representation, which is essential because of the seriousness of the consequences of their crimes. This is Legal Aid’s original mandate. The mandate and limitations of Legal Aid and why the CAO sector is key in access to justice is an area that needs more research.

¹⁵ Seth Mnguni, Director, Ntsu, 9 June 2014.

knowledge of the paralegals, with the weight of the law and the Constitution behind them, are able to negotiate this mystifying, inaccessible, and too often hostile terrain.

Role of the Advice Offices

The office gives the people advice and help the community to get legal assistance. They advise people on legal matters and write letters for people who do not know where to go to get their cases solved. Most community members trust getting help from the advice centre, they are not happy to go anywhere else for assistance. They assist community members who cannot afford legal fees and lawyers. Many community members within the area are poor and cannot afford lawyers so the advice office provided assistance regardless of the financial status of individuals. All the clients are assisted without favour.¹⁶

We educate and empower our communities on their rights. We offer them advice and referrals. In domestic violence cases we conduct mediation and advice, on family conflicts we also mediate. We also provide counselling for both women and children because they are the most vulnerable to abuse. On labour issues we also advise and sometimes call the employer, e.g. when the employer does not want to pay, we write a call-in letter and try to resolve the issue. If we struggle we refer it to the other offices. We fight for the rights of the clients. Maintenance cases are referred to the Department of Justice. Sometimes we call the fathers and try to talk to them to be able to change. In many of the maintenance cases, people are not getting paid so we intervene and help. We also intervene in consumer affairs, we don't just refer but we also assist through mediation.¹⁷

In the communities in which the CAOs are situated, many people are poor and vulnerable, especially so in the rural areas. Many are unemployed and have nothing, and they face desperate problems. They need information and assistance about difficulties such as how to apply for a grant, what to do if an orphaned child needs a birth certificate or if they are a foreign national and need ID documents. What if an employer doesn't pay or a person is evicted from the farm they worked on for 40 years and now have no home and no money? Because the CAOs are close to the community, they understand their problems and socio-economic conditions. The paralegals share the same geographic space and culture as their clients and are able to negotiate plural legal systems, and determine how to straddle the formal law and traditional African customary law.

Primarily using alternative means of dispute resolution, such as mediation and negotiation, the advice offices work to find ways to resolve problems out of court. They reconcile and restore relationships within families and community. Through listening and referral, they reduce trauma to those hurt in any way. They find ways to offer practical assistance, discerning the needs behind the immediate problem. The advice offices, through the paralegals, listen to people, guide, assist, advise, counsel and serve communities in need, those who are most at-risk - marginalised groups, whether it is women, men, elderly people, children, disabled, unemployed people, foreign nationals, widows, and the poorest of the poor who do not know where to go to get the help they need.

Knowing and having relationships with relevant service providers such as the police, courts, Home Affairs, SASSA and others, they are able to refer clients to the right people who can help them. The paralegals "take matters from grassroots level and coordinate with the relevant offices and stakeholders" relieving the stress and confusion the client carries inside.¹⁸ Sometimes the paralegals

¹⁶ Chairperson Bohlabela, (Boh 3-MC), 14 August 2014.

¹⁷ Barbara Joyce Stephens, Paralegal, Nkomazi, 18 August 2104.

¹⁸ Fisani Ngcobo, Paralegal, Plessislaer, 9 June 2014.

will accompany the client to the stakeholders' offices to get assistance, following up on the case until it is finalised. One client described the many ways the CAO assists in her story of how the CAO helped her child withdraw from Nyaope.

The advice office gave us appropriate advice and issues are finalised. Most of the people come to Opret because it does not discriminate but helps people. My child was having Nyaope and turned to crime cases so the centre found a place of safety where he can recover and have a future. They really assist us fully. The advice office also provides shelter. They also provided food parcels for those who need it. The centre assists us beyond their work description. When one is having a case with the centre they always do follow ups, they call us back and do follow up after the case. They phone and check us. Even when my case was finalised they phoned to follow up on my progress.¹⁹

The advice offices reach out to communities through public events and community meetings, including awareness raising in schools, to educate and inform people on the Constitution, their human rights, and what are human rights violations. In the process, they simplify the law, defend people's rights, and give them the tools to use to claim their rights. They empower people so that they know what to do when in trouble or need help and thereby access the justice that is their right under the Constitution. The important role the CAOs play in the implementing the Constitution was underlined by the stakeholders interviewed.

In their educating the people to understand the Constitution, CAOs play an important role in the strengthening of democracy. It is strengthened when stakeholders, including service providers, traditional leaders and government become aware of the community's needs through the lobbying and advocacy of the CAOs. And when they become aware of their rights, they also become aware of their responsibilities to the community and to making the government work.²⁰

Why do People Come to the CAOs?

In the words of a client,

The office is helpful for people like us. We do not work and do not have transport to go to other places but the office is available for us. I was warmly received, I was worried about the child who was abandoned by the mother, the social workers gave empty promises, the advice office promised us that they will assist and they assisted as they promised. The office is close to the community and reduces costs and time.²¹

In the words of a paralegal,

Paralegals are user friendly, no consultation fees. We are like family, we are accessible and always there for them. We are located right in the homestead. We are available; we link people to the departments which will assist the community. We create an environment for the community to access justice. We are a circuit that links. Importantly, in the advice office we negotiate and use restorative justice and reconciliation. Mostly they find closure and will not be enemies.²²

People come to the Advice Offices because they, and the paralegals who staff them, are accessible:

¹⁹ Opret focus group participant, (Op-9-FG-Cl/Co), 12 August 2014.

²⁰ Jacob Matakanye, Musina, 7 August 2014.

²¹ Client, Plessislaer, (Pless 13-Int-Cl/Co) 10 June, 2014.

²² James Chirwa, Musina paralegal, 7 August 2014.

- Geographically, they are located in the communities themselves
- Economically - services are free
- In terms of time - clients come in anytime, without an appointment
- No one is turned away, regardless of their issue – they will be referred to other stakeholders if the issue calls for it
- They are able to translate difficult legal and bureaucratic language into frames that local people can understand
- They respect the clients that come to see them and the community knows this
- The communities trust them and know their cases will remain confidential, unlike reporting it to the police or dealing with it at court, for example
- They use methods that are understood, preferred and accepted by the communities
- People know their cases will be dealt with effectively, efficiently and until they are finalised

These features include practical physical reasons – location, affordability, shared language and culture – as well as ‘hard skills’ and ‘soft skills’. ‘Hard skills’ include legal knowledge and informed practical avenues to solve problems. ‘Soft skills’ are the values of human relating, including respect, trust and confidentiality, and the ability to bring people in conflict together in an emotionally safe and impartial environment. These reasons are inseparable. I will expand on a few of these below.

The CAOs are often the first place to go when people need help. They feel free, and are not afraid. Information is free. They know the paralegals will give them time, and they can ask any question; for example, what is needed to get documentation such as IDs and birth certificates is explained so clients do not have to waste time and what little money they have, going up and down to Home Affairs. One young woman who described herself as poor and uneducated, had a case in court regarding her late fiancé’s will and was up against the ex-wife who was wealthy and with political connections. She found herself totally disempowered by the attitude of the court officials towards her as a ‘lowly’ person. She was unable to understand what was going on – not only because of the legal language and procedure, but because of the fact that it was all conducted in English. The process alienated her and treated her without dignity. When she arrived at the advice office, she was confused about the status of her case and they assisted her.

As told by the board members of the Nkomazi advice office, because of South Africa’s apartheid oppression, the communities come with a background of inferiority. They fear the unknown and will not, for example, just go to the police.²³ Another paralegal echoes the fear. “People are afraid to go

Explaining why they go to the CAOs, clients and community members in Bohlabela described their perceptions of, or experiences with, other service providers

- We don’t trust the police: they do not care if you report on rape, they take their time to react.
 - My sister’s child was shot and they are not helping, they (police) keep asking for statements.
 - Even if there are robbers in the house they delay or not even come.
- Senior issues: last week an old person was hit by a car and eventually died before they arrived; the police take time to respond to such cases as well as the hospitals or ambulances.
- Hospital issues: there is no help there and, there is a shortage of doctors. You can just find one doctor, and they do not help and there is also shortage of staff. They also discharge people who are very sick. Even pregnant women are sent back home.
- Mbabane Clinic also takes time – they do not really care, the Department of Health does not follow up and give food supplies.
- They just give prescriptions and yet they know we do not have the money to buy the medicines.
- Home based workers too do not have resources. Home based carers end up not looking after the patients because there are no resources to do so.
- Court: they do not help, if I see a person killing my relative and report him, the next thing you see is those perpetrators walking around free and that’s really painful.

²³ Nkomazi stakeholders focus group, (Nko 8-StakeFG), 19 August 2014.

to the police fearing to be arrested so the office prepares them to go to the police.”²⁴ At Musina, where many clients are stateless having run away from Zimbabwe, they share that fear. When they go to the paralegals for advice and assistance, they know that they will not be arrested but assisted.²⁵

Trust, Confidentiality and Care

An important reason why people come to the CAOs is because of trust and confidentiality. Clients trust the legal advice and accuracy of the information given, and that they will be assisted until the matter is finalised. The paralegals are known and are trusted, and matters are confidential between the client and the staff. “People prefer us than the SAPS because we are patient and there is confidentiality.”²⁶ One paralegal describes these aspects of trust.

They trust the confidentiality and trust the office and the people working. It is friendly and we speak the language of the people and we demystify the law and made the people understand. We give free but useful legal advice. People trust the office.²⁷

Trust also comes from people knowing they are cared about and will be cared for. One paralegal describes the vulnerability of people who are hungry and how they are treated:

We understand victims; they come with emotions, no food, so we want to help. We supply food and help in a way we can. People come because of trust and care.²⁸

Respect and Dignity

The paralegal who assisted me was not a worker but became a mother. When I came to the office I was hurt and crying but on my departure I was laughing and smiling. The paralegals assisted me. I also have advised my friends to come to the advice centre to be assisted and they have been assisted.²⁹

Like anyone seeking help for personal problems, clients come to the advice offices in a vulnerable state. They may have suffered abuse or trauma for example, or have no food at home but are trying to support children and cannot access social grants. Often before they get to the advice office, they have been to other service providers, may have been sent from pillar to post by someone who has little time or interest to listen to them, and they are tired, confused and stressed. Arriving at the advice offices, they find someone who sees them as a person, has their interests at heart, has time to hear their story and discern the kernel of the issue. They feel they are respected and taken seriously. They are treated with dignity, as valued human beings rather than bothersome or even discarded people.

Many clients who participated in the study had similar experiences to this participant who said “I received a warm welcome at the advice centre after being ignored by the social worker in town. The advice centre assisted me with care.”³⁰ They contrasted poor treatment along a continuum: from careless, perfunctory, unconcerned or incompetent to rude or even abusive treatment by other service providers (many of whom are overwhelmed and do not have time), with the patient and friendly support they received at the CAO by people who take them seriously.³¹ There were many

²⁴ Derrick Marimane, Director, Bohlabela, 14 August 2014.

²⁵ Stakeholder, Human rights lawyer, Musina, (Mus 4-Stake), 7 August 2014.

²⁶ Fisani Ngcobo, Paralegal, Plessislaer, 9 June 2014.

²⁷ Chairperson, Bohlabela, (Boh 3 –MC), 14 August 2014.

²⁸ Lisiba Johannes Morolong, Paralegal, Opret Advice Office, 11 August 2014.

²⁹ Client, Plessislaer (Pless 14-Int-CI/Co), 10 June 2014.

³⁰ Client, Plessislaer, (Pless 9-Int-CI/Co), 10 June 2014.

³¹ Patricia Maphanga, Paralegal, Bulwer, 11 June 2014.

clients who spoke with love and lightness about the community-based paralegals, using familial terms of deep bonds they had formed because of how they were helped and the way they were treated.

Effective and Efficient

Management committee members, clients as well as stakeholders describe the work ethic and effectiveness of the paralegals; how determined they are and go above and beyond the call of duty. In something as basic as their working hours, a management committee observes that they work during weekends and after hours to assist clients.³² Others comment on their promptness and hard work.

They take their time to assist the community. Most of the people do not go to other offices due to the fact that they are not efficient and prompt.³³

At the advice office there is dignity, love and public relations. The office has determination, hard work and are people orientated.³⁴

The advice office is efficient and acts promptly.³⁵

The passion the paralegals have for their work – demonstrated in the way they act without delay and get things done - is recognised and valued.

“We love the job even if we do not get paid. We do not put money first. We succeed because we love our work.”

*Derrick Marimane,
Bohlabela Director,
14 August 2014*

CAOs are Able to Deal with a Wide Range of Issues

Community members come to CAOs with a range of issues and the paralegals are able to respond to them effectively. They are innovative in that the direction of their actions is determined by the particular needs of each case.

The problems people bring are wide-ranging and complex. Some issues are common to all the Advice Offices. In the specific demographic areas of each CAO, there are issues that are unique or more prevalent than in other areas. For example, in the CAOs near national borders (Musina, Bohlabela, Nkomazi), there are more issues relating to foreign nationals. In rural areas, issues relating to tradition and custom are common. In areas with little economic activity, poverty and hunger afflict the community, while on farms, workers may be exploited, dismissed, under-paid or unpaid, or evicted. Below is a list of issues all the Advice office commonly deal with on a regular basis. This is followed by distinctive problems specifically mentioned by different Advice Office. In the last section, the two issues of foreign nationals and tradition and custom are looked at in more depth.

Common problems

- ❖ Domestic Violence
 - parents, couples, neighbours and extended families
- ❖ Rape
- ❖ Child abuse
- ❖ Maintenance Issues
- ❖ Family disputes

³² Management Committee member, Bulwer, (Bul 3-Int-CI/Co), 12 June 2014.

³³ Client, Bulwer, (Bul 6-Int-CI/Co), 12 June 2014.

³⁴ Management Committee member, Bulwer, (Bul 6-MC), 11 June 2014.

³⁵ Stakeholder, Department of Health, Bulwer, (Bul 5-Stake), 11 June 2014.

- ❖ Labour issues
 - unfair dismissals, and unfairly paid, immigration
- ❖ Pension/provident funds
- ❖ Evictions
- ❖ Housing and service delivery
- ❖ Social grants
- ❖ Crime
- ❖ Violence
- ❖ Land issues and title deeds
- ❖ Consumer issues

Other common issues for advice or assistance fall under the broad heading of legal advice and social problems.

- ❖ Legal advice:
 - includes applications for Peace and Protection Orders (now called Harassment Order), ID documents and birth certificates, issues such as Intestate succession and property rights, divorce, welfare grants, child neglect and abandonment, alternative care for children, disclosure of HIV status, road accident fund claims, missing persons, problems with hire purchase, and neighbour disputes.
- ❖ Social problems:
 - include dealing with issues such as teenage pregnancy, poverty, substance abuse (nyaope/whoonga, alcohol – most commonly men), juvenile delinquency, stranded children, child not attending school, cultural beliefs and practices, such as virginity testing, circumcision, traditional medicine and poisoning, payment of compensation in relation to pregnancy, cleansing rituals, widow inheritance and witchcraft.

Distinct Problems Mentioned

Other problems specifically emphasised in different CAOs include:

- ❖ Chronic Hunger:
 - This is especially mentioned in Nkomazi, where people come to the office having no food. Children also have no food. Most of the Advice Offices organise food parcels for people, even using their own money to do so.
- ❖ Police brutality
- ❖ Gangsters in schools
- ❖ Drugs being sold to children
- ❖ Counselling young mothers how to look after their child
- ❖ Nyaope/whoonga
 - The drug is widely abused and fuels crime and violence.
- ❖ Battle between culture and democracy
 - For example, estate cases that address cultural issues on inheritance. Families of deceased relatives claim the property. There was a case in Opret where a will was written but the families involved did not understand or accept it. The advice office obtained a letter from the Master of the High Court to enforce the will.
- ❖ Assist business people amongst black people eg partnership issues within black companies
- ❖ Immigrants and refugees:
- ❖ Housing and service delivery:
 - The community is promised development with the municipality or any other organisations and at times those things do not happen so the community come to the CAO for assistance.

- ❖ Access to water and electricity in the area:
 - The CAO intervenes and liaises with the authorities, working with councillors to resolve the community's problems.³⁶
- ❖ Pension fund:
 - Workers in mines and other companies sign one third pay-outs without their knowledge and they are also underpaid and unfairly dismissed.
- ❖ Land eviction, forced removal
 - In Bohlabela, people stay in farms and do not get compensated, sometimes their houses are demolished. The CAO refers them to the department of rural development for assistance and have created a good relationship with the municipality and community chiefs so that they can assist the community on these issues.³⁷
- ❖ Immigrants and refugees:
 - In Bohlabela, foreign nationals come from Mozambique.
 - In Nkomazi, there are many issues affecting foreign nationals, especially from Swaziland.
 - In Musina, 20 kms from the Zimbabwe border, this is the main issue they deal with.

Below is a closer look at the issues of foreign nationals and cases seen related to tradition and culture.

Foreign Nationals

Several of the CAOs visited are located near the borders of other countries – Zimbabwe, Swaziland and Mozambique – and deal on a regular basis with issues relating to foreign nationals. In Musina, which is right on the border with Zimbabwe, they help and care for high numbers of Zimbabweans and other foreign nationals who cross the border.

We are an office at the border and as such have high cases of refugees seeking asylum and documents. We assist them to apply for permits. The office also visits detention centres, we help clients that are detained and most of these clients are Zimbabweans, we help them to apply for permits and also enquire on the reasons for detention. Employers are taking advantage of desperate foreigners; for example, the employer will call the police after the work is done so they won't pay for the work.³⁸

They have case where people come reporting that they have lost their permit and are now having problem with the police. They assist them by referring them to Home Affairs for further assistance, following up at Home Affairs with a recommendation letter so that the office will provide the needed documents.³⁹ Musina has also set up centres for foreign nationals to stay in, one for men and one for women and children in Musina. They work closely with other organisations such as UNHCR.

In Bohlabela and Nkomazi, many of their clients are from neighbouring Mozambique and Swaziland. The CAOs stress that issues of documentation are very important so they work on educating foreign nationals on how to get legal documents. The advice offices find that many people who cross the border come illegally and while staying here, they have children. Some of them die and leave their children without birth certificates, and thus they cannot get access to child grants.⁴⁰ Mozambican clients at Bohlabela explained how, when they go to Home Affairs to get documents for children, they are treated with prejudice, told 'your children are from Mozambique', and not helped. "They did not want to give us IDs." Because the children do not have IDs, they are not going to school. Further, the

³⁶ Derrick Marimane, Director, Bohlabela, 14 August 2014.

³⁷ Ayanda Banda, Paralegal, Bohlabela, 14 August 2014.

³⁸ Jacob Matakanye, Director, Musina, 7 August 2014.

³⁹ Jacob Matakanye, Director, Musina, 7 August 2014.

⁴⁰ Chairperson, Bohlabela, (Boh 3-MC), 14 August 2014.

children need help because where they are staying is over-crowded rendering them susceptible to diseases such as TB.⁴¹

Tradition and Culture

In rural areas especially (but not only), CAOs deal with a high number of issues related to African tradition and culture, such as land issues, inheritance issues, lobola, witchcraft, virginity testing, circumcision and initiation, abduction for marriage (*ukuthwala*), and other cases.

The conflict comes when African customary law clashes with the statutory law. For example, “the traditional tribal courts have problems with the children’s courts, who think that their way of addressing cases should be followed, not the other”.⁴² But some of the most common issues are related to widowhood, patrilineal inheritance and land ownership in which women are especially disadvantaged. There are cases where culture requires that a woman whose husband has died must marry the young brother of the late husband (*ukungwena*). A male participant shared, “When my brother dies, I must take the wife, which is a health hazard. It is tantamount to rape...Cultural traditional norms are affecting the health of people so laws need to be enforced.”⁴³ Participants talked of abuse where extended families take all the cattle and belongings when a man dies. “Widows are taken advantage of by their husbands’ relatives who take away everything and leave the poor widow to suffer with the children”.⁴⁴

In Oct 2004, “the Constitutional Court declared the African customary law rule of primogeniture unconstitutional and struck down the entire legislative framework regulating intestate deceased estates of black South Africans. ...”⁴⁵ The case upholds the rights of widows, girl children and others, to inherit the deceased’s estates, and when upheld, prevents their eviction from the family home when the husband or father dies. However, it is also the case that this law is not always applied. The challenge is “to ensure implementation of the decision since the affected women and girls are located in rural areas and many deceased estates are dealt with informally”. The CAOs play a crucial role here in bridging customary law and statutory law, assisting widows with their husband’s estate, ensuring their rights are upheld, and mediating between family members to bring about peace and justice in the family.

The CAOs work with these and other challenges that involve the traditional authorities, inviting them to workshops as well as being invited by them to conduct educational workshops on the law. CAOs value these relationships, respect protocol and follow proper channels to establish good relationships with the traditional leaders so they know the community members’ rights under the law.⁴⁶ In Bulwer and Plessislaer, the CAOs are working with traditional leaders, providing information on the Domestic Violence Act, the Sexual Offences Amendment Act, the Child Justice Act, the Maintenance Act, Intestate Succession Act and the Recognition of Customary Marriages Act. In Bohlabela, workshops have assisted the traditional authorities in dealing with land related cases.⁴⁷

Other matters mentioned include providing training and workshops on issues which cause divisions in the community, such as those related to election and succession of chiefs. Chieftaincy funds are also

⁴¹ Bohlabela client focus group, (Boh 5-FG-CI/Co), 15 August 2014.

⁴² Khanyi Singh, Paralegal, Plessislaer, 9 June 2014.

⁴³ Nkomazi stakeholders focus group, (Nko 8-FG), 19 August 2014.

⁴⁴ Nkomazi stakeholders focus group, (Nko 8-FG), 19 August 2014.

⁴⁵ Quoted in Karen Buckenham’s paper “Community-based Paralegals and the Provision of Socio-Economic Support to Older Women in KwaZulu-Natal, South Africa”, (to be published). This refers to the landmark case: *Bhe v. Magistrate Khayelisha & Ors* 2005 (1) BCLR 1 (CC), 15 Oct. 2004.

⁴⁶ Management Committee member, Plessislaer, (Pless 5-MC), 9 June 2014.

⁴⁷ Derrick Marimane, Director, Bohlabela, 14 August 2014.

questioned as an area in which the community's rights are violated, where people are requested to pay the chiefs and sometimes there are many different people who are claiming to be chiefs.⁴⁸

Negotiating plural legal systems is an important area of justice that the CAOs are uniquely able to deal with. These are a survey of examples - the complexities and how the paralegals deal with them needs much more research.

How Do They Work?

We use all the means to assist our clients and we are flexible in our work.⁴⁹

We deal with cases in different ways according to its needs. Most of our solutions have worked and a few fail.⁵⁰

Community-based paralegals sometimes call themselves a 'jack of all trades' in that they deal with any and every problem that people bring to them. At the Plessislaer and Bulwer Advice offices, one of their core values is that no one gets turned away. Due to the complexity of people's problems, they employ creative means to address them. The direction and substance of the paralegals' work depends on the problem that is presented to them.

All the Advice Offices deal directly with clients who, victimised in some way, come into the office seeking help with their issues. In order to address clients' problems, the CAOs use the following strategies at least:

- They provide legal information in order to inform people of their rights and possible courses of action
- Where it is the client's wish, they assist with out-of-court mediation and conflict resolution
- They offer counselling to traumatised clients
- They work in partnership with government departments and private organisations in order to maximise the provision of services to clients and obtain financial entitlements and documents
- They conduct presentations and focus groups in communities to educate them about their rights and how to access them, so that they can solve their problems independently
- They participate in community development and training projects

Information, Advice, Assistance and Counselling

CAOs provide free legal advice and assistance. As most people do not know where to go with their cases, the paralegals give them direction. Assistance can be as simple as helping people to fill forms when they cannot read or write, or assisting a client to interpret contracts or informing them of documents they will need for IDs. Sometimes all a person needs is for the paralegal to pick up the phone and make a call to a person who can help them. Other cases are complex and require much more, some examples of which are mentioned throughout the document.

All the advice office do counselling in the course of their work. This includes trauma counselling, for example with victims of rape, domestic violence, criminal violence, death and disaster, counselling with those infected and affected by HIV and AIDS, counselling in bereavement and stress. "They deal

⁴⁸ Nkomazi stakeholders focus group, (Nko 8-StakeFG) 19 August 2014.

⁴⁹ Jacob Matakanye, Musina, 7 August 2014.

⁵⁰ Jacob Matakanye, Musina, 7 August 2014.

with victims who are experiencing problems with courts. There are people who are afraid to go to the courts and the office assists them.”⁵¹ Even just listening to people tell their stories is a form of counselling and profoundly healing. Their work is also described as offering spiritual assistance.⁵²

Restorative Justice

For all the CAOs, the principal methods for dealing with clients’ problems fall within the approach of restorative justice. Restorative justice is defined as an approach to justice that seeks to repair harm done to the victim. It attends to the needs of the victims and the offenders, as well as the community, rather than focusing on punishing the offender.⁵³ Primarily using mediation and negotiation, victim empowerment and reparation, the paralegals explain how, together with the clients and the other party, they seek to find a just solution for the client while at the same time restoring the relationship between the parties. This involves listening, and with the consent of the clients, engaging all the parties into dialogue to solve the problem. Often other family members are brought in. The purpose is to help both parties reach an agreement. All the paralegals emphasise that they remain impartial in the mediation. “We do not take anyone’s side and we want people to be helped. We want a win-win situation.”⁵⁴

The result is that it brings communities together rather than polarising people against one another. It is a method preferred by both the paralegals and the people from communities who come to see them. And ultimately the solutions come from the people.

Mediation is most commonly used in disputes and family related cases. With families, the purpose is to reunify the families through counselling. Clients are brought together to work out a constructive solution. For example, in the following case of maintenance, a client explained how the Advice Office helped her family.

I had an issue that my husband did not pay for the children’s fees and food. He was not responsible. I went to the advice office who called in my husband and mediated on the case. Now I am happy because he promised to take care of the children and now they are going to school. They talked to my husband and now kids go to school. The office is working hard to restore families.⁵⁵

This approach is used, and is successful, in most cases, from issues as diverse as land eviction, relationships between parents and children, and labour issues. In land eviction cases, people are brought together and issues can then be settled out of court. In labour cases, for example if farm workers have problems with their employers, the Advice Office calls meetings with them and the employers together, to mediate and resolve the issues. Through restorative justice methods, most cases are able to be resolved in the Advice Office.

Mediation is effective even in violent cases where the paralegals are able to defuse a tense situation and turn it into a constructive dialog: “We calm people and try to discuss so that we can have peace.”⁵⁶

It is also used on a communal level, to creatively find solutions to problems the community is experiencing with the government and service delivery; for example,

⁵¹ SAPS Stakeholder, Plessislaer, (Pless 7-Stake), 10 June 2014.

⁵² Management Committee member, Bulwer, (Bul 4-MC), 11 June 2014.

⁵³ <http://legal-dictionary.thefreedictionary.com/Restorative+Justice> Accessed 27 October 2014.

⁵⁴ Lisiba Johannes Morolong, Paralegal, Opret, 11 August 2014.

⁵⁵ Opret focus group participant, (Op 9-FG-Cl/Co), 12 August 2014.

⁵⁶ Paralegal, Nkomazi, (Nko 3-Para), 18 August 2014

Restorative justice approach is key in our work, we seek to restore peace in families and communities...We even use it on case where the community wants to protest because the government has not done what it promised. We use restorative justice by bringing both parties to discuss a constructive solution to the issue before violence. In most cases we succeeded and yes we also have failed on few cases. Restorative justice is important.⁵⁷

According to KZN paralegals, the restorative justice approach differs from the way traditional leaders approach restorative justice, and poses a challenge. "We use the restorative justice system but it clashes with the traditional leaders. It is difficult for them to see who is right or wrong."⁵⁸ As mentioned earlier, this is an area that requires more research to document the diverse and creative ways in which the paralegals are able to straddle plural legal systems.

Generally, across the CAOs, while most cases are resolved successfully through restorative justice and other methods (between 80-85 percent), about 15- 20% of cases are referred.

Referrals

Referrals to appropriate institutions and agencies are supported by monitoring of the progress and outcome of the cases. If clients meet with difficulties or obstruction in claiming their rights, the paralegals act on their behalf.

Examples include:

- ❖ Criminal cases such as murder are referred to the police.
- ❖ Rape is referred to the police and the medical doctors.
- ❖ Warrants of execution and attachment of properties are dealt with by attorneys.
- ❖ Children's cases are referred to child welfare.
- ❖ Grants are referred to SASSA.
- ❖ ID documents, birth certificates and asylum applications are referred to Home Affairs.
- ❖ Domestic violence cases are referred to police and courts, eg, to apply for a Protection Order or lay a charge.
- ❖ Labour cases are referred to the CCMA or the Department of Labour.
- ❖ Human rights cases referred to Chapter 9 Institutions such as the Commission on Gender Equality – eg/ a case where a family was denied the right to claim the husband's estate.⁵⁹
- ❖ If people who stay on farms are evicted and their houses demolished, they are referred to the Department of Rural Development.

Cultivating good relationship with such stakeholders and others is essential.

Follow Up

When clients are referred, the paralegals follow up to check whether the client was helped. Considering the gravity of the cases, they will phone or visit the client to ensure that the case is finalised and solved. They also call the stakeholders to find out the progress of the cases.⁶⁰

If a case is referred, often both stakeholders and the client call or come on their own to update the advice office on the progress of their case.

⁵⁷ Jacob Matakanye, Director, Musina, 7 August 2014.

⁵⁸ Fisani Ngcobo, Paralegal, Plessislaer, 9 June 2014.

⁵⁹ Derrick Marimane, Director, Bohlabela, 14 August 2014.

⁶⁰ Khanyi Singh, Paralegal, Plessislaer, 9 June 2014.

If an issue is resolved through mediation or counselling, follow up is done with the client to ensure the solution is working. In cases that involve children, the mother in most cases, is spoken to on how to look after the child.

The issue of follow up and resolution of cases is a unique feature of the community-based paralegal's work. Other legal offices or services do not follow up on cases to make sure they are finalised. This is also a reason why community members go to the CAOs.

Public Education and Awareness

All the CAOs carry out educational and awareness raising events with the communities so that they know and can access their rights and their right to services, something one paralegal described as "liberation of the mind".

People need assistance. The big issue is ignorance – we need the minds of the people to be liberated. Literacy is needed. Education is needed.⁶¹

Through road shows, seminars, public events such as CEHURI's Human Rights day campaign where they showed a video to about 300 community members and discussed their human rights. Community meetings and presentations are held, essential education is given to people on their legal and socio-economic rights based on the Constitution, much needed in vulnerable rural communities especially. The CAOs visit schools, such as Plessislaer's work addressing child pregnancy, bullying, child trafficking, and abuse. They visit tribal courts on the same issues, running workshops with the traditional leaders.⁶² The paralegals educate on family law and worker's rights, immigration law, children's rights, criminal and civil laws amongst others, empowering people through the workshops. As a result of this awareness, people identify how they can be helped with their problems and they come to the office to consult after workshops.⁶³

At these workshops, many of the advice offices distribute pamphlets which extend the reach of the education.

Such education is key, says one stakeholder, because when people do not have other means to have their urgent matters addressed, when people are afraid of the law enforcement agencies, and local police in their area do not attend forums, there is no working together to resolve problems. When communities do not know who can help, they will take the law into their own hands. CAOs educational work provides a way out of the mire; further, it finds ways for constructive links between stakeholders and communities to be created.⁶⁴

Other

Other ways the CAOs help the communities include home visits to follow up on referrals made to the advice office or to visit people who are not able to come to the advice office. Because poverty is very high, many CAOs try to provide clothes and food (with the help of donations from churches, shops, local businesses, individuals and the paralegals themselves). At Nkomazi, they help children by getting them school uniforms and sometimes by assisting their parents to get jobs. The CAO will sometimes

⁶¹ Joseph Nki Molapo, Paralegal, Ntsu, 9 June 2014.

⁶² Khanyi Singh, Paralegal, Plessislaer, 9 June 2010.

⁶³ Opret focus group participant, (Op 9-FG-Cl/Co), 12 August 2014.

⁶⁴ Stakeholder, Human rights lawyer, Musina, (Mus 4-Stake), 7 August 2014.

hire people from struggling homes to come and work if the CAO has something for them to do. They plan on opening a soup kitchen to be able to help people who come to their offices hungry.⁶⁵

Musina has established two shelters where foreign nationals, both men and women are housed and fed. Most of them have been abused or are in need of documents. The women and children's centre is organised and well built. The area for men is out in the open and there is need for a building. The men sleep outside under a shade. The advice office works closely with these centres.⁶⁶

Most of the CAOs are involved in community development one way or another. Bohlabela helps people acquire skills, training, for example on budgeting and skills for business, teaching about water, sanitation, proposals, and business plans.⁶⁷ Others establish projects for support groups, and initiate projects in the community to do sewing and crafts to generate income.

Partnerships with Other Stakeholders

Positive relationships with stakeholders enables the CAOs to refer clients to the right people who can help them. In the CAOs interviewed, the relationships are generally positive although there are some that are difficult. A strength of the CAOs is that they keep the door for dialogue open for the sake of the clients.

Some of the many stakeholders the CAOs work with are listed on the next page in Table 2.

Table 2. Partnerships

State	Other
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⁶⁵ Paralegal, Nkomazi, (Nko 3-Para), 18 August 2014.

⁶⁶ Jacob Matakanye, Director, Musina, 7 August 2014.

⁶⁷ Bohlabela focus group participant, (Boh 5-FG-CI/Co), 15 August 2014.

<ul style="list-style-type: none"> ❖ Department of Health ❖ Department of Labour ❖ Department of Home Affairs ❖ Department of Education ❖ Department of Social Development ❖ Chapter Nine institutions <ul style="list-style-type: none"> ○ Human Rights Commission ○ Gender Commission ❖ Legal Aid ❖ SASSA ❖ CCMA ❖ South African Defence Force ❖ COMSA ❖ Community government forum ❖ Magistrate ❖ Road transport development forum committee ❖ SAPS ❖ Local municipalities, provincial and national structures 	<ul style="list-style-type: none"> ❖ Law Society of South Africa ❖ Lawyers for Human Rights ❖ Red Cross ❖ Legal Resource Centre ❖ Probono.org ❖ IEC on voter education ❖ United Nations High Commission on Refugees ❖ Save the Children South Africa ❖ UNICEF ❖ Membership in other NGOs ❖ SANCA ❖ Local AIDS and District AIDS Council ❖ Community programmes and activities ❖ Traditional leaders ❖ Schools ❖ Development committee ❖ Pension offices ❖ Churches ❖ Community groups ❖ Community Policing Forum ❖ Consumer affairs
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Authority

Authority of the CAOs falls under two categories: legal authority backed up by law, and moral authority for their work based on the good and truth of what they do, how they do it and the outcome of cases.

Legal Authority

Paralegals are not legally qualified and cannot appear in court. They do not have authority to enforce the law but they are educated in the law and they know the avenues to follow for it to be enforced.

In terms of their legal authority, participants refer to their knowledge and that they represent what the law says to the people. Their final authority is based on the Acts of the Constitution.⁶⁸ Their advice and their arguments are based on the law. “We are bound and guided by the law and authority – what the law says is right, we represent it.”⁶⁹ Where the law isn’t meeting the needs of the people, they have to voice this to the correct authorities. Additionally, their education and skills learnt at workshops teach how to deal with issues or whom to refer to “so we have authority based on our education on legal matters and human rights.”⁷⁰

Further, the information they share and solutions they implement with the clients are given weight in the authority that the law can be enforced. For example, a ‘call-in’ letter requesting a respondent to come to the office is taken seriously. Mediation on domestic violence or a maintenance agreement can be backed up with the threat of the law – a Protection Order or taken to court, respectively. “[We

⁶⁸ Patricia Maphanga, Paralegal, Bulwer, 11 June 2014.

⁶⁹ Mankeko Moshiba, Paralegal, Opret, (Op 2-Para), 11 August 2014.

⁷⁰ Ayanda Banda, Paralegal, Bohlabela, 14 August 2014.

have] authority to enforce decisions; the authority is advice-based and shows consequences. For example, one who abuses can be prosecuted based on what the law says; we support the law so we have authority in the law.”⁷¹ Even if it is not the CAO that carries this power, they are part of the network that does, and this gives their work weight in the community.

Moral Authority

We do not have authority but if it's wrong it is wrong.⁷²

“The value of the moral authority of CAOs, in a time of creeping disillusionment with lack of service delivery, increasing economic disparity and constant reports of corruption, cannot be underestimated in this time of South Africa’s developing democracy.”

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In addition to paralegals’ legal authority, albeit limited, the Advice Offices hold a great deal of moral authority; because of the community-based paralegals who staff them. The paralegals’ motivation for doing this work is love of and concern for the people. That is why the Advice Offices started and that is why they continue to exist – even though their resources are becoming more and more scarce.

The community know the love and commitment of the people behind the work. The personal character of the staff is the vein of gold running through the authority they carry.

The paralegals understand the hardships people struggle with and treat them with respect and dignity as they do their utmost to help them. They are not ‘on-top’ of the people but with them. They take cases seriously and deal with them promptly and efficiently. They know the law, they are informed and skilled, and if the case is out of their realm they refer then follow up. They persist until the case is worked out successfully and finalised. There is trust from the people and respect from the stakeholders. The paralegals’ commitment to going above and beyond is

well known.

They always call the police on follow ups of cases; Daphne calls all the time. The centre also visits orphans, domestic violence victims, problem teenagers, they are able to refer. They are pushy; they are able to push to the last level. At the SAPS, if they send someone back they will go back with the person. Very persistent. The paralegals work hard, Daphne keeps persisting until their clients are assisted.⁷³

[They] work very hard, they are hundred per cent above the formal justice system. Issues at the advice office are attended to urgently without delay.⁷⁴

Community participants how contrast they are normally treated by other service providers with how they are treated by the paralegals. A few of the litany of complaints are listed below:

Officials of the formal justice system are lazy and they do not follow on our reports.⁷⁵

At the Department of Health you will be there up to 4pm without being assisted....they cut the queue at the clinic after serving a few clients.⁷⁶

⁷¹ Derrick Marimane, Director, Bohlabela, 14 August 2014

⁷² Daphne Nkosi, Director, Nkomazi, 19 August 2014.

⁷³ Nkomazi stakeholders focus group, (Nko 8-StakeFG), 19 August 2014.

⁷⁴ Plessislaer client, (Pless 17-Int-CI/Co), 9 June 2014.

⁷⁵ Bulwer client, (Bul 12-Int-CI/Co), 12 June 2014.

⁷⁶ Opret focus group participant, (Op 9-FG-CI/Co), 12 August 2014.

People are angry with SASSA and other offices. They come to the advice office where they get assistance and advice.⁷⁷

The social workers in town are not doing their jobs and as a result we get assistance from the advice centre offices.⁷⁸

In addition to being capably assisted with their problems, there is the way people say they are treated at the CAO.

They treat us well and they also care for us. The welcome is nice and the people are not biased. When we come anytime they assist us regardless of time and our financial conditions. There is no discrimination, there is no racism, we do not pay. It is helpful.⁷⁹

Clients say the paralegals' commitment, hard work, humanness, dedication and informed way of doing their jobs should be emulated by all service providers.

They are able to assist the community, they are very welcoming and their approach in helping the community is very good. The formal justice must also learn from the CAO.⁸⁰

Other offices need to come together and visit their office. Other offices do not go out to the people to deal with their challenges. Most sectors do not go out as well. They are sent to the office to write reports and they write the wrong things. The advice office goes to the people and is well informed.⁸¹

And indirectly, the CAOs' ethics or moral authority may have a positive effect on other service providers, urging them to be better and do better just by doing what they do and how they do it. One stakeholder commented on their influence by example:

The stakeholders feel pushed by the office. The paralegals go for months without payment but still they work hard.⁸²

It is hard to measure moral authority as it is something inherent in a person or organisation, something recognised by and bestowed organically on a person or entity by others. As a variation of the opening quote, the bestowing of moral authority on the CAOs is a recognition by the community that 'when it is right, it is right.'

The value of this moral authority, in a context of creeping disillusionment with lack of service delivery, increasing economic disparity and constant reports of corruption, cannot be underestimated in this time of South Africa's developing democracy.

Relationship with the Community

In light of the discussion so far, it is evident that the CAOs have excellent relationships with the community. They call anytime for help, they refer other people, they come to express gratitude for the services and work of the paralegals. All the community members – clients, management committee and stakeholders alike - had positive things to say about the advice offices. Musina's experience is the norm.

⁷⁷ Bohlabela Stakeholder, (Community Environmental Officer), (Boh 4-Stake), 15 August 2014.

⁷⁸ Plessislaer client, (Pless 9-Int-CI/Co), 9 June 2014.

⁷⁹ Musina community focus group, (Mus 5-FG-CI/Co), 8 August 2014.

⁸⁰ Bulwer client, (Bul 15-Int-CI/Co), 12 June 2014.

⁸¹ Bohlabela Stakeholder, (Community Environmental Officer), (Boh 4-Stake), 15 August 2014.

⁸² Nkomazi stakeholder focus group, (Nko 8-StakeFG), 19 August 2014.

We have an amazing relationship with the community...Even when the cases are over they keep on coming back to us and they refer other people to us.⁸³

The relationship extends beyond the office: “We assist other clients on the road and in taxis.”⁸⁴ “Sometimes they come home for advice. They trust the office. The approach of the advice office is that of confidentiality.”⁸⁵

Relationship with Stakeholders and Service Providers

As seen in a previous section, all the Advice Offices have cultivated relationships with other stakeholders for the sake of their clients. One of the questions asked of the participants in the study concerned perceived or real prejudice encountered in relation to other stakeholders.

Prejudice

The question asked whether there was prejudice in relation to stakeholders and other service providers (such as SAPS, the courts, lawyers, SASSA, Home Affairs and others) given that the CAOs straddle gaps in the social and justice systems, that they also hold the people working in these sectors accountable in some way, and that community-based paralegals’ qualifications are unregulated and to some extent unrecognised within the legal realm.

Overwhelmingly, the interviewees said that prejudice is minimal, as reflected in the Bohlabela comments below.

We don’t have [prejudice], and we refer to the professionals in most cases. People have respect for the advice centre because we really support our community.⁸⁶

We have never come across such, our role is to advise; we are not lawyers. We will not compete with the lawyers. We give basic legal help so we know our boundary. The problem comes when we don’t understand our roles as paralegals.⁸⁷

As seen in the previous section, good working relationships are cultivated for the good of the clients they serve and different organisations appreciate their work. They are in the common cause of helping the community. Referrals go both ways (from and to the police, magistrate, Home Affairs etc), each participates in events organised by the other, and there is collaboration in common forums.

However, by some participants, two main prejudices were mentioned.

The first issue is in relation to the legal fraternity and how they perceive the work of the paralegals – to what extent they are qualified, and whether they are trying to take the attorneys’ work.

Some attorneys think and assume paralegals do not know anything so it is important to have a good relationship with the attorneys. Some feel we are taking their work. We try to find attorneys who will understand to assist us.⁸⁸

Second, by nature of the work the CAO is doing, some institutions feel the CAO is exposing them. It is not because the CAOs see themselves as watchdogs. Rather the paralegals say they are doing their

⁸³ Jacob Matakanye, Musina Director, 7 August 2014

⁸⁴ Khanyi Singh, Plessislaer Paralegal, 9 June 2014.

⁸⁵ Theresa Thusi, Plessislaer Paralegal, 9 June 2014.

⁸⁶ Bohlabela Chairperson, (Boh 3-MC), 14 August 2014.

⁸⁷ Bohlabela Director, Derrick Marimane, 14 August 2014.

⁸⁸ Mankeko Moshiba, Opret paralegal, 12 August 2014.

job and assisting these institutions – helping government to give services to the poor. But the perception is unavoidable because it is true that the problems are revealed to the Advice Offices and they act on them. Jacob Matakanye sums up all of these points in a comment regarding prejudice and Musina’s relationship with stakeholders.

We really want to show the Government the impact of our work. We have Probono working with us and linking us with the law forum. Some keep asking whether we are qualified to do the work we are doing and some even feel that we are taking their clients. Government institutions such as Home Affairs feel that we are there to expose them but we are doing their job and assisting them. We are helping the Government to give services to the poor and vulnerable. Corruption is high in South Africa and as such advice centres are needed.⁸⁹

Lastly, just to mention that prejudice in the case of the CAOs can be an indicator, as Morolong of Opret comments:

If a person does not approve of your organisation, you must ask why they do not approve then fix it....our jobs and results will speak for themselves.⁹⁰

Training and Experience of the Paralegals

The level of basic paralegal training, experience and education of the community-based paralegals involved in the study is extensive, from university education (LLB) to paralegal training. Most of the paralegals have achieved paralegal diplomas from training programmes such as University of KwaZulu-Natal (UKZN), Community Law and Resource Development Centre (CLRDC), and Black Sash. Sources of training have also included Street Law, Lawyers for Human Rights (LHR), the Centre for Applied Legal Studies (CALs), the Human Rights Commission (HRC) and others. Some of the paralegals have university level education in other professional fields as diverse as business and agriculture.

All the paralegals bring to the work a great deal of practical knowledge and experience with an average of 13 years’ paralegal experience (ranging from one year for one who is legally-trained at university to one whose CAO was established in response to apartheid oppression 30 years ago). The source of their training is varied, as in any profession. However, all are aware that the establishment of common accredited standards and levels within the paralegal profession is important for its regulation (See Appendix IV for details).

Ongoing Training and Support

Ongoing training is undertaken by a few of the CAOs in workshops and individually. In two of the Advice offices – Plessislaer and Bulwer - the paralegals are continually updated and receive ongoing training on new legislation and its implications, with recent update training held in 2013 and 2014 on the law, computers and a computer-based database, fundraising, gender issues and economic justice. Such training enables the paralegals to analyse the needs and engage more effectively with communities. The need for ongoing training was raised by a number of the paralegals, board members and stakeholders interviewed. However, as indicated in the challenges below, the frequency of

⁸⁹ Jacob Matakanye, Musina Director, 7 August 2014.

⁹⁰ Lisiba Johannes Morolong, Opret Paralegal, 11 August 2014

ongoing training varies considerably between the advice offices, with some not having participated in training for over 5 years or more.

SASSETA accredited training is now offered to the paralegals in KZN by the umbrella body for two of the CAOs (CCJD).

Recovery of Resources on Behalf of Communities

The Community Advice Offices are playing a crucial role in recovering resources for their clients. Between 2013 and mid-2014, the eight Advice Offices in the study have recovered over R4 000 000.00 (as shown in Appendix V).⁹¹ Monies recovered include maintenance, government grants or support, pension and provident funds, death benefits, funeral expenses, stokvel, credit collections/debt, and disputes between individuals and labour related issues. Some cases are presented below. In the first, a woman sought help from the Musina advice office regarding her deceased husband's life insurance and pension.

I was desperate, without hope. My husband passed away and I had problems with the issue of life insurance and pension of my husband. After 2 years, [funds] told me that I owe them. Because I did not work, it was hard to pay. I was assisted and given guidance by the office...They helped me to get my title deeds and R196 000. The office also helped to reduce the pressure at the court and the cases were faster...they help for free.⁹²

Another case involving provident fund is reported by Bulwer on the CCJD website. The Advice Office facilitated a provident fund payment of R 85 790 to a young woman whose mother had died.

The 24 year-old woman sought help from the office when the fund had refused for three years to pay her deceased mother's provident fund to her. She was told she had to wait until her 14 year-old brother, who was also entitled to a payment, had turned 21. Paralegal Patricia Maphanga called the Fund and explained to them that her client was entitled to receive the money, but the Fund refused. She then wrote to the local ombudsman to explain the situation, and he called the Fund who then agreed to release the money. The young woman has used the money to enrol in tertiary education, and Patricia has helped her to apply.⁹³

In labour-related issues, many clients seek help because payments due to them have been withheld. This includes compensation for injuries and diseases, leave payouts, unfair dismissals, and situations where an employer has not paid the employee. In the offices who deal with foreign nationals, there is much abuse of vulnerable labourers by withholding wages.

I came as a border jumper from Zimbabwe and I went to the shelter. They [Musina Advice Office] gave me a place to stay and helped me get asylum and to get a job. The boss I worked for died but the wife refused to pay me, taking advantage that I am a foreigner. The woman went to Home Affairs to report me because she did not want to pay the money I worked for. I went to the Advice Office with the help of a friend and Jacob Matakanye assisted me. At first she said they cannot pay, and Mr Matakanye mediated and I was paid fully. The office assists foreigners who are abused in working environments.⁹⁴

⁹¹ If the total amount recovered by the 15 AOs under the umbrella of CCJD is added, the figure comes to over R6 000 000.00 in this period.

⁹² Musina client focus group participant, (Mus 5-FG-CI/Co), 8 August 2014.

⁹³ Reported on the CCJD website www.ccjd.org.za

⁹⁴ Musina client focus group participant, (Mus 5-FG-CI/Co), 8 August 2014.

Estate issues are common, with women and children being especially vulnerable when the husband or father dies. One participant in Nkomazi explained how the Advice Office assisted their family in getting a share of the estate of his deceased father who had many wives and 13 children.

My father died and we are children with different mothers so we had problems with the sharing of his estate. I was also written down in his will as a beneficiary. The advice office helped me and gave me direction. I came in tears and they helped me.⁹⁵

There are cases where costs are not recorded by the advice office as money recovered, but which involve recovery of funds. A case being dealt with by the CEHURI advice office involves an elderly woman who, being vulnerable physically and unable to read and write, depends on one of the family to assist in money matters such as banking and collecting her pension. But the family member helping her was stealing her money while pretending to care for her. After having been informed of the case by the neighbours, the paralegal intervened and made sure that the woman was assisted by a different, trusted family member. Now the older woman is receiving the full amount of money due to her. The paralegals in CEHURI continue to follow up on the family at the end of every month to see if the grandmother receives her money and is looked after well.⁹⁶

Besides funds, the Advice Offices recover other resources, such as in the case below:

I know someone who had an issue involving her house. She had a house burnt and she lost everything and the centre helped her now she has a bigger room and they managed to raise food for them. The centre interviewed in this disaster and now the house was build and she is now having shelter and food.⁹⁷

The cases above and the amounts recovered by the Advice Offices is significant, especially to those families whose livelihood depends on those funds.

Impact

The value and impact of the work is evident in the points above. Community members are satisfied with the way their cases were dealt with. Paralegals were effective in helping them. Educational events effectively serve to inform people of their rights and where to go to get help. The CAOs carry moral and attributed legal authority. They are well-trained and experienced, and most of all, highly committed. Their relationships with the community and stakeholders allows them to find just and equitable solutions. Together, these findings indicate the extraordinary impact of the CAOs on enabling access to legal, social and economic justice for the poor in South Africa. This impact was further evident in the cases related by the community, the paralegals and the stakeholders.

One of the surprising findings is the positive impact of the CAOs on clients' health.

I have hypertension (BP), and since the office is here I am fine no more have [high] blood pressure (elderly man). They helped me on my cases that involved my car. And now, my first born son died and the other sons in Pretoria want to take that money but the law says if he is not married, the father will take care of his estate. They are still processing that case and there is hope. There is love in this office and now I have no [high] blood pressure.⁹⁸

⁹⁵ Nkomazi client focus group participant, (Nko 9-FG-CI/Co), 18 August 2014.

⁹⁶ CEHURI client focus group participant, (CEH 10-FG-CI/Co), 12 June 2014.

⁹⁷ Opret client focus group participant, (Op 9-FG-CI/Co), 12 August 2014.

⁹⁸ Nkomazi client focus group participant, (Nko 9-FG-CI/Co), 18 August 2014.

This was supported by one of the stakeholders who works with the Department of Health. She said that she has seen health problems, such as high blood pressure caused by stress, disappear after clients come to the Advice Office.

Chronic patients are referred to the CAO because most of them are stressed and have social problems. After being referred to the CAO the blood pressure destabilised.⁹⁹

The impact of the work has implications beyond the health and wellbeing of the client - for the state health care system it means fewer cases, lower morbidity, less cost. For the employer it means less absenteeism. There are many other implications. It is an important area for further research.

Case Management Systems

All the CAOs use manual systems of recording, using case registers and carefully recorded case files in organised systems. Online or computerised databases are not yet used by most, with exception of Plessislaer and Bulwer (more below), though one CAO scans their files into pdfs, and in others, cases may be written on computer and saved in word files. All the CAOs have the desire to use technology to deal with their data. However, this is obviously hampered by, amongst other things, the lack of computers, landlines, and internet.

At Plessislaer and Bulwer, there is systematic computer-based recording of cases on a database created for the specific needs of the CCJD CAOs. Information on the cases, demographics, the problem and how it is dealt with, and follow up are captured locally at the CAOs and sent electronically, on a monthly basis, to a centralised database at CCJD head office, enabling the information to be organised, accessed and used easily for monitoring and evaluation, discerning trends, identifying gaps between law and implementation, and other research needs. At the same time, a parallel manual system is kept for quality assurance during the transition to computer. The process of transition and training of the paralegals to use computers is ongoing, with the manual system gradually being simplified and ultimately phased out.

20 years After Democracy – Are CAOs Still Needed?

As indicated in Profiles section, many of the CAOs were set up post-1994 to help people know and access their rights under the Constitution. Twenty years after democracy, are community advice offices still needed? The answer was overwhelmingly yes.

At one level, this was explained by paralegals in terms of the practical ongoing needs of the community. There are new trends of problems and people need advice. There is a lack of resources for the community. The CAOs provide the link between stakeholders and the community – sometimes all it takes is a phone call. They are easily accessible and available, and they have time to sit and listen. They provide help especially in rural areas where many community members are illiterate and they operate on the ground where the people are. All these reasons echo the needs and issues described earlier.

“After 1994, although all South Africans technically had all sorts of rights (civil and political, as well as socioeconomic), it remained difficult to actually access them, providing a new role for paralegals to attempt to translate the new Bill of Rights into reality. Indeed, as people gradually become aware of their rights (in no small part due to the educational work of paralegals) there has been an ever-growing need for paralegal assistance in claiming them.”

Dugard and Drage 2013, p.9

⁹⁹ Stakeholder Bulwer, (Department of Health), (Bul 5-Stake), 11 June 2014.

On another level, the CAO work is described in terms of strengthening this democracy. People are still poor, they are still oppressed and violated. What are the avenues to change this? The CAOs strengthen democracy through education, empowerment, advocacy and assistance.¹⁰⁰

There is more need for the advice office in this democratic time. We still have high rate of poverty and we still have people that are illiterate who need to be educated and empowered. Advice offices are needed, if you just look at the cost of legal fees, most people cannot afford a lawyer and as such they need the services of paralegals.¹⁰¹

The people still need education on human rights and access to justice. People are still oppressed and their rights are violated hence advice offices are needed. We need the office because the powerful use their money to take advantage of the law. Today it needs money to get justice so the advice office is important because it assists those in need to get help. There are so many issues to be dealt with today so the office is still important.¹⁰²

We still need it because the education that was supposed to be given is not there yet. They [social issues] have changed due to time changes. We don't want to see offices burnt, we want dialogue and education.¹⁰³

If the CAOs Close?

People will suffer.¹⁰⁴

Closure of the Advice Offices would be an inconceivable disaster for the communities. With emotion, as in the few selected quotes below, participants from all the CAOs, including clients, paralegals, stakeholders and board members, repeated over and over again the suffering that would follow.

The community will suffer and their rights will continue to be violated. There will be more confusion.¹⁰⁵

If the office closes, people who are suffering will suffer more. It will be difficult. They will go up and down and will not get advice.¹⁰⁶

People will suffer. The poor cannot pay legal fees and it will be hard for them.¹⁰⁷

They will not know where to get legal assistance. Their rights will be violated even more if there are no paralegals. The poor will suffer.¹⁰⁸

People will suffer.¹⁰⁹

It will be the beginning of sorrow for the community.¹¹⁰

¹⁰⁰ Jacob Matakanye, Director, Musina, 7 August 2014.

¹⁰¹ Jacob Matakanye, Director, Musina, 7 August 2014.

¹⁰² Chairperson, Bohlabela, (Boh 3-MC), 14 August 2014.

¹⁰³ Lisiba Johannes Morolong, Paralegal, Opret, 11 August 2014.

¹⁰⁴ Nkomazi Paralegal, (Nko 3-Para), 18 August 2014.

¹⁰⁵ Jacob Matakanye, Director, Musina, 7 August 2014

¹⁰⁶ Chairperson, Bohlabela Advice, (Boh 3-MC), 14 August 2014

¹⁰⁷ Lisiba Johannes Morolong, Paralegal, Opret, 11 August 2014.

¹⁰⁸ Mankeko Moshiba, Paralegal, Opret, 11 August 2014.

¹⁰⁹ Plessislaer stakeholder, (SAPS), (Pless 7-Stake), 9 June 2014.

¹¹⁰ Client, Plessislaer, (Pless 10-Int-CI/Co), 9 June 2014.

The community members will die because too many children and families are surviving because of this office. If it close the community will suffer.¹¹¹

Children will suffer – some will not go to school.¹¹²

Child-headed households are being taken care of by the office.¹¹³

If the Advice Office closes, children will suffer.¹¹⁴

As a person dealing with disability I will suffer without the office.¹¹⁵

If it closes I am going to suffer.¹¹⁶

It will be hard for the country.¹¹⁷

People's rights will be violated, they will go up and down looking for advice, they will not be able to get legal assistance because they cannot afford to pay legal fees, it will lead to confusion and sorrow, community members will die, children will be cast adrift, disabled people will not get help, and it will leave a major gap in making the justice system accessible, having implications for the nation's democracy. Others said that communities will not have information, there will be no IDs, no grants, people will lose their jobs. Asylum seekers will suffer. Hungry people will not have food. They will die. The advice offices cannot close because peoples' problems will continue, and who will attend to them? Who will look after the children? Who will represent the poor?

If the centre is closed there will be death and suffering. We will all suffer because who will represent the poor. We need this office to continue serving the community. We will be in trouble; people will die because they do not know where to go for help... there will be chaos.¹¹⁸

A woman began crying, "My daughter is disabled and this office is my home. If they close were will I go for help? This is where I get support."¹¹⁹ This client expressed the feeling of all the community members in the study: "This office is part of our life and cannot close because we need it. It is our hope."¹²⁰

Strengths, Challenges/Needs and Recommendations

Below are some of the key strengths and challenges or needs of the sector from the research finding. The recommendations arise from these findings and are made in recognition of ongoing discussions and strategies already being undertaken within the community advice office sector at both local and national levels.

Funding

As is evident in the profiles, funding is a struggle for every CAO. Critical constraints due to funding affect all aspects of the Advice Offices. It is remarkable in some cases that a CAO still functions at all.

¹¹¹ Patricia Maphanga, Paralegal, Bulwer, 11 June 2014.

¹¹² Bohlabela Focus Group member, (Boh 5-FG-CI/Co), 15 August 2014.

¹¹³ Nkomazi board member, (Nko 6-MC), 19 August 2014

¹¹⁴ Bohlabela Focus Group member, (Boh 5-FG-CI/Co), 15 August 2014.

¹¹⁵ Bulwer client, (Bul 10-CI/Co), 12 June 2014.

¹¹⁶ Bohlabela Focus Group member, (Boh 5-FG-CI/Co), 15 August 2014.

¹¹⁷ Daphne Nkosi, Director Nkomazi Advice Office, 18 August 2014

¹¹⁸ Musina Client focus group, (Mus 5-FG-CI/Co), 8 August 2014.

¹¹⁹ Plessislaer client, (Pless 14-Int-CI/Co), 10 June 2014.

¹²⁰ Bulwer client, (Bul 13-FG-CI/Co), 12 June 2014.

Several advice offices have been without donor funding for half a year or longer - for some it has been years. At the time of the interviews in June 2014, Ntsu was without any funding and the two staff members had not been paid for months. It was not the only CAO in this position. Nkomazi, Bohlabela, Opret, CEHURI and Musina echoed the situation of Ntsu: "To run the office it needs money and sometimes the paralegals go for months without payment."¹²¹ A stakeholder who had also been a paralegal told some of his story:

I studied Law at school, my brother worked as a paralegal too at Musina Advice office; I joined and was interested in human rights law. I volunteered at Musina legal centre; I volunteered for 4 months and was paid for 3 months only. The issue of funding is important for the work of paralegals. At times they go for months without payment. The office needs funding.¹²²

Even if there is no funding, paralegals continue to serve the community for free because they love their work and they love the community. But this is unsustainable as paralegals also have families to feed. As one paralegal shared:

Every time you say you go to work you don't know what to tell your children - 'I'm going to work - what - bringing what back?' So most of the people are sacrificing, they are compromising their situations.¹²³

Proper funding is needed to support essential conditions for the CAOs to work. Regular and worthy salaries for the paralegals are a first priority. People cannot work indefinitely with no income no matter how committed they are. Paralegal work is a profession, but lack of funds means losing good people to other, better paying jobs. Then there are other basics: the ability to afford secure conducive office space where clients can be attended and where equipment and case files can be kept safe; electricity; telephones to enable the CAO to contact clients and stakeholders, and do follow-up (personal cellphones are used by most paralegals); money for stationery; and transport. For both Ntsu and CEHURI, lack of funding led to the closure of their previous CAOs. It was their commitment to helping the community that impelled them to open the present CAOs, despite continuing lack of resources.

"Similar to the gap that rural public health workers fill in relation to doctors, paralegals provide a dynamic, cost-effective, community-oriented alternative to lawyers."

Open Society Justice Initiative, p. 18

Advice Offices said they are not doing as much as they should because they don't have funding. Paralegals use their own money to help people; for example buying food parcels, buying uniforms or sending children to school.

Advice offices have initiatives to provide some funding themselves. Donations and in-kind contributions come from churches (for example, food parcels and clothes), businesses (on request, for example computers at Bohlabela), and individuals.

Plessislaer and Bulwer CAOs are relatively well-resourced due to solid funding and capacity building provided through the support of the CCJD Head Office. Their premises and equipment are simple but adequate and secure. The paralegals are paid regularly. The organisation has been able to invest resources into developing a sophisticated and user-friendly computer-based data capturing system tailored to the specific needs of CCJDs paralegals, as well as carry out ongoing training of the paralegals. The current funding climate for the CAOs is more precarious.

It is worth noting that the Foundation for Human Rights has played a significant role in supporting the work of all the Advice Offices in the study. While the funding is not enough, and often the CAOs have

¹²¹ Jacob Matakanye, Director, Musina, 7 August 2014.

¹²² Musina stakeholder, security, (Mus 3-Stake1), 7 August 2014.

¹²³ Ntsu 2-Para, Paralegal, Ntsu, 9 June 2014.

been waiting for months to hear about their proposals, the funding most of the CAOs have received from FHR for specific short term projects has helped to keep them going. However, bits and pieces are not enough to sustain an organisation. Continuous financial support is needed and the constant lack of reliable resources causes a gap.

Transport

Another need expressed by all the CAOs is transport. Vehicles are needed as the paralegals travel long distances, especially to reach rural areas. Public transport or a paralegal's own car are used (if there is one; but not available if broken), or lifts are provided by others, such as in Plessislaer where the paralegal may share transport with the police. Much of the paralegals' work is done on foot – because of transport - as well as not having access to other more efficient means of communication.

But most of the times we walk the distances. We have to go out here, go to the Master of the High Court". He says 'why didn't you email me this?' 'I don't have the facilities', 'Okay but I am here, let us address these cases'.¹²⁴

The capacity to do home visits, especially to visit the elderly or disabled clients, are hamstrung without transport.

We have trouble visiting our clients because we do not have transport. At the moment we need transport so that we can work effectively.¹²⁵

Accommodation

Four out of 8 CAOs own their own accommodation. These are Plessislaer (park home on premises of SAPS), Bulwer (park home on premises of SAPS), Musina (building given to them in the township) and Nkomazi (building built by them in an accessible area). While improvements were indicated by some – such as to be made disability friendly – their working place is secure and suits the needs of the CAO.

The other four CAOs use rental accommodation. Ntsu has managed an arrangement to use the premises rent-free but the other three CAOs renting expressed their unhappiness with their space. For CEHURI, it is noisy, insecure and small. For Bohlabela, they share the premises with a security company and also find it to be too small. Opret rents an office which they say is very expensive and managed by a landlord who intrudes on their work. Proper accommodation is essential for the CAOs to be able to work effectively.

More Paralegals, More Advice Offices, More Services

There is too much work to be done. Client, paralegals, management committee/board members and stakeholders from every advice office say the amount of working being done by the paralegals, and the needs of the community exceed the services that can be provided by the number of offices and paralegals who staff them. There is a need for growth and expansion of the Advice Offices.

Rural communities especially need greater access to advice offices and those interviewed say more should be established in these communities.¹²⁶ Rural communities need the knowledge of their rights

¹²⁴ Ntsu Paralegal, Joshua Nki Molapo, 9 June 2014.

¹²⁵ Bulwer management committee member, (Bul 4-MC), 11 June 2014.

¹²⁶ Plessislaer client, (Pless 13-Int-CI/Co), 10 June 2014.

and they need help in dealing with the social and legal problems they face. In the vast areas where the Advice Offices work, the rural communities are too far and many people cannot come to the office.

Public education is a central aspect of the work of Advice Offices in making people aware of their rights and how to access them. It needs to be done more but in most of the Advice Offices, it is constrained by resources available.

Training and Education

For one to succeed, we need to do our work, read and go to workshops. Empowerment is important. Law is not static so as paralegals, we keep on reading.¹²⁷

There is a need for regular training and education, especially in the law, fundraising and financial management. Those like Plessislaer and Bulwer who have ongoing training appreciate that it enables them to do their work more effectively. Most paralegals want more training and to be up-to-date on current legal matters so they can distinguish problems and advise accordingly.

The need for training was emphasised more forcefully by the stakeholders who underlined the need for paralegals to have more training in the law. Their knowledge must be deepened and it must be continuous because the law is not static. Further, included in such training, and related to the next point, should be clarification as to the paralegals' expertise and responsibilities and the limitations of this.

Code of Ethics

The need for a code of ethics was raised by stakeholders. This relates to boundaries around how the profession is practiced as well as curtailing unethical behaviour, which may be intentional or unintentional.

For example, ethical concerns mentioned include paralegals doing something they are not capable of, such as an unknown procedure; taking on an issue they cannot handle and making poor decisions; creating an expectation and failing to deliver; assisting beyond their limitations and legal authority; and as money is an issue, there is room for corruption or payment. Thus there is a need for a formal board within the sector to regulate paralegals and ethics.

The establishment and signing of a code of ethics would have positive implications for recognition and regulation of the CAO sector.

Care for the Paralegals

Paralegals work hard and deal with cases that are sometimes traumatic. Professionals in other helping occupations, such as counsellors, social workers and psychologists, have access to formal structures within their profession to debrief. As it is, paralegals find their own methods, such as talking to one another, going to church, going to women's groups, praying and other spiritual resources. Shopping is also a method mentioned by some, which can create more stress! The need for personal counselling should be recognised.¹²⁸

¹²⁷ Lisiba Johannes Morolong, Paralegal, Opret, 11 August 2014.

¹²⁸ Patricia Maphanga, Paralegal, Bulwer, 11 June 2014.

One client, appreciating the help she had received and the approach used with her case felt a simple and immediate way to extend care to the paralegals; “it also would be important to get someone clean and make tea for the paralegals”, so that this is not also part of their workload.¹²⁹

Recommendations

1. Funding

Funding is a problem for the entire paralegal sector, funding is an issue. South Africa is not funding the paralegals although we work hard. The government is funding the home based care and there is no organisation willing to support us. International donors used to support us but now no one is interested in sponsoring a democratic country like South Africa.¹³⁰

All of the Advice Offices depend on donor partners to support their work and clearly this is inadequate in the restricted funding climate that has characterised the NGO sector in South Africa for the last decade or more. Shifting priorities for international donors in view of South Africa achieving democracy, support shifted to strengthening governance, and the global economic recession hit the Advice Offices hard. While global economies are now recovering from the recession and more funds are available, funders are discerning carefully where to put their money. How will it be used? What is the substance of the work? In this climate, articulating, communicating and clearly promoting the work of the sector is essential. The sector has a strong unique and informed voice to speak collectively into national issues of justice, governance, food insecurity, poverty, gender, xenophobia, traditional affairs and so on.

There are limited resources available now from funders and CAOs are sending proposals to the same organisations. On the other hand, many of the CAOs are doing work with government departments (for example, Dept of Labour) regarding issues unique to the communities they serve, and others are receiving private sector donations. CAOs successful in this can share their knowledge with other CAOs. Another strategy working for many CAOs is local support – from shops, businesses, individuals, churches (especially in-kind contributions such as food and clothing, even wheelchairs and computers) – and this can be intensified.

Hand in hand with this is developing the skills and strategies of the paralegals to do such fundraising. As fundraising takes a great deal of time, demands skill and is highly competitive, those organisations who have people who can do this work well are at an advantage. For example, the CCJD paralegals (20 CBPs, staffing 15 Advice Offices), say they are free to focus on their work because the Head Office raises funds, among other things, for their CAOs. This is an efficient model freeing up each Advice Office from having to devote their time, energy and resources learning how to look for funds, prospecting, writing proposals, administering the finances and other aspects of managing such resources, especially when their expertise and interest is in helping the community. Other CAOs that have a number of paralegals, such as Musina, have a dedicated person to raise the funds. For smaller CAOs, it might be useful to them to consider the practicalities of forming clusters in regions to enable such support. This model of an umbrella structure or clusters is one to investigate further throughout the country and was mentioned by stakeholders. Sharing of resources, collaboration and empowerment in education and training with other advice offices was advocated.¹³¹

¹²⁹ Bulwer client, (Bul 11-Int-Cl/Co), 12 June 2014.

¹³⁰ Jacob Matakanye, Director, Musina, 7 August 2014.

¹³¹ Nkomazi, Stakeholder focus group, 19 August 2014.

South African private sector funders should see the value of the work and its contribution to South African development and democracy. For example, one of the magnates, Patrice Motsepe was urged to provide funding because of the great work the paralegals are doing.

A number of participants urge government to intervene to support the CAO sector, similar to the home-based care model with the Department of Health. Along the same lines, Open Society compares the role of paralegals in relation to lawyers to that of rural health workers in relation to doctors. This legal assistance alone is argument for government support. Add to it the social and economic assistance they give to communities, the benefits to the state far outweigh the costs.

Recommendation 1: With donor funding scarce, the CAOs in the study acquire minimal funds through different methods. Many of the CAOs are doing work with government departments, and others receive private sector donations. Local support – from shops, businesses, individuals, churches (especially in-kind contributions such as food and clothing, wheelchairs and computers). These can be intensified, and best practice for finding alternative funding can be shared amongst CAOs.

Since donor funding is at the moment the primary means of income for the CAOs, it remains important to develop the skills and strategies of the paralegals to do such fundraising. Collaboration in this should be considered.

As fundraising takes a great deal of time, demands skill and is highly competitive, those organisations who have people who can do this work well, have the time and expertise, are better off than the majority who do not have this capacity. Some paralegals and stakeholders raised the idea of forming clusters of CAOs in different regions to collaborate in fundraising, rather than each office struggling to do this in isolation, especially when their expertise and interest is in helping the community and the work is so demanding.

Recommendation 2: Sharing of resources, collaboration and empowerment in education and training with other advice offices is a possibility to explore further. This model is successful for 2 CAOs which are affiliated with a support office.

Government intervention in support of the CAO sector, similar to the home-based care model with the Department of Health, was recommended by CAOs and stakeholders alike. Open Society writes that “Similar to the gap that rural public health workers fill in relation to doctors, paralegals provide a dynamic, cost-effective, community-oriented alternative to lawyers.”¹³² The legal assistance provided by CAOs is alone an argument for government support. Add to it the wide-ranging social and economic assistance the CAOs give to communities – thereby circumventing courts, police, health costs; and rather supporting peaceful and healthy communities – it seems self-evident that the ‘economic and social payoff’ of supporting the sector outweighs what it would cost the state in rands to support it, and what it would cost the state economically and socially if the sector collapses.

Recommendation 3: In support of the argument for state funding of the CAO sector, it would be useful for a social economist to research the concept of social payoff in relation to the immediate, long term and indirect impacts of the services provided by the CAO sector versus the costs of the state to support it.

¹³² Open Society Foundation. *Community-based Paralegals: A Practitioner’s Guide*. Open Society Justice Initiative. New York. 2010. Available online at www.opensocietyfoundations.org/sites/default/files/paralegal-guide-20101208.pdf, p. 1.

Recommendation 4: Explore funding models that involve the state: For example, those that project a progressively increasing contribution of funding from the state over a number of years. Acknowledging concerns about how such a relationship would be set up so the CAO sector's strengths do not disintegrate under a state structure, there must be a clear strategy and memorandum of understanding to ensure the sector's independence.

2. Training

Basic Paralegal Training

While the paralegals had training in their profession, the level and source of this was inconsistent. Most had paralegal diplomas, 2 had university level training in the law, and all had impressive experience. But it is difficult to compare and measure a uniform level of competency when the training is so diverse – some accredited, some not.

Ongoing Training

Ongoing training in the law has been limited. In six of the eight CAOs, the paralegals last had training in 2009 or before. Paralegals need regular training and education, especially in the law, fundraising and financial management. The need for more and ongoing legal training was emphasised more forcefully by the stakeholders.

Recommendation 5: CAOs' knowledge must be deepened and continuous because the law is not static. Further, included in such training, and related to the next point, should be clarification as to the paralegals' expertise and responsibilities and the limitations of this.

3. Code of Ethics

Stakeholders emphasise the need for a code of ethics that delineates boundaries around how the profession is practiced as well as curtailing unethical behaviour, whether intentional or unintentional. Ethical concerns include paralegals doing something they are not capable of, such as an unknown procedure; taking on an issue they cannot handle and making poor decisions; creating an expectation and failing to deliver; assisting beyond their limitations and legal authority; and as money is an issue, there is room for corruption or payment. Thus there is a need for a formal board within the sector to regulate paralegals and ethics.

Recommendation 6: The sector should consider a process to establish a code of ethics to which all CAOs would subscribe, and think through how this would be adhered to. Such a code of ethics would have positive implications for recognition and regulation of the CAO sector.

- 1. Communication** - *Individual CAOs and the sector as a whole need to consider how to publicise the work they do and share the knowledge they acquire, raising their profile and extending their presence in the networks and associations they belong to, both locally and internationally.*

CAOs use community education events, posters and pamphlets with information about the Advice Office and what they do, booklets about laws and how they should be applied, videos for public events, websites and social media, newspaper articles and radio to make communities aware of their work.

Word of mouth is the most common way that people became aware of the offices. Marketing and advertising are areas of challenge. There is a need to market the CAOs more so that the community will be aware of their existence, and, on a larger stage, the significance of what is being done by the CAOs is known.

The sector has a strong, unique and informed voice to speak collectively into national issues of justice, governance, food insecurity, poverty, gender, xenophobia, traditional affairs and so on. Communicating and clearly promoting the work of the sector is essential.

4. Marketing

While there are few discretionary funds at hand for dissemination of information through print media, there are free means that some of the participants suggested. These include using community radio to give advice and let people know of the CAOs work. Another is community newspapers. Most people now carry cellphones. The potential impact of social media in sending out messages of events and services – to communities, stakeholders and other influential sectors - should be explored. Greater awareness of the work would bring support regarding the next point - funding.

The CAOs in the study have different ways that communities, funders and other stakeholders become aware of their work. As indicated earlier, this includes community education events, posters and pamphlets with information about the Advice Office and what they do, booklets about laws and how they should be applied, videos for public events, websites and social media, newspaper articles and community radio.

Word of mouth is the most commonly mentioned way that people became aware of the offices. Marketing and advertising were areas that participants named as a challenge. There is a need to market the CAOs more so that the community will be aware of their existence, and, on a larger stage, the significance of what is being done by the CAO.

Recommendation 7: There are few discretionary funds for dissemination of information through print media, but there are free means that can be used more. These include community radio and community newspapers. Most people now carry cellphones. The potential impact of these, social media and technology should be explored. Greater awareness of the work would also stimulate interest by donors. Research and knowledge dissemination of the CAOs' learnings is would are other effective means to explore.

5. Care for Community-Based Paralegals

Paralegals deal with cases that are often traumatic. Professionals in other helping occupations, such as counsellors, social workers and psychologists, have access to formal structures within their profession to debrief. As it is, paralegals find their own methods, such as talking to one another, going to church, and other spiritual resources.

Recommendation 8: The sector collectively needs to recognise and consider mechanisms for counselling support of the paralegals.

Areas for Further Research

Throughout the document, areas for further research have been raised. Below are a number of areas suggested, but there are any number of studies that this research may have stimulated.

A first is to carry out a comparative study of the mandate of Legal Aid, the gap in access to justice, and the ways that the Community Advice Office sector address this gap.

A second relates to the way community-based paralegals are able to straddle plural legal systems and find resolution to problems that respect peoples' beliefs and traditions. Case studies can be carried out in different provinces on the relationship of the CAOs with Tribal Authorities, specifically looking at cases that cross both systems.

Third, as the sector aims for regulation, a simple quantitative study can be done, in detail, of income, salaries paid, budget, etc. of Community Advice Offices.

Again, concerning regulation and recognition, an empirical study of a wide sample of paralegals' training and experience should be done, looking into the substance of the courses taken, areas where paralegals are equipped and knowledgeable, areas where they feel there are gaps in their knowledge, and areas where, against the background of formal programmes, there are gaps in their formal instruction. Following this, a study can Survey training programmes in the country for community-based paralegals in depth – situated at universities, at SASSETA accredited programmes at NGOs, and informal programmes. Compare their content and call working groups to agree the content so that paralegals emerge with consistent qualifications.

A fourth area is to quantify, as as much as is possible, the 'social payoff' – the economic value of the CAO sector in South Africa¹³³

- a. Region by region:
 - i. Health
 - ii. Bypassing litigation – eg/ employee-employer disputes
 - iii. Cost to state – bypassing courts, SAPS

These are just a few of the areas of investigation stimulated by this pilot study on the profile and positioning of the Community Advice Office sector.

A Last Word

Although the CAOs in the study have varied histories and structures, it is clear that they and most importantly, the paralegals who run and staff them, share the same purpose and commitment, deal with common issues, and share similar strategies and methods for resolving problems and educating communities.

Similarly, in terms of funding all are in a vulnerable position. This has affected and continues to have an impact on resources and the capacity of the CAOs to do their work to the degree that they would like to. Support and funding of the CAOs is necessary so that poor communities in South Africa have access to justice.

¹³³ On the framework of social payoff, see for example, the discussion by economist Ousmane Faye on the economic and social costs and benefits – long term and short term - of providing pensions for the elderly in Africa. O. Faye, "Basic Pensions and Poverty Reduction in Sub-Saharan Africa." *CREPP Working Papers*, CREPP, HEC Management School – University of Liege, Department of Economics (2007). <http://www2.wg.ac.be/crepp/papers/crepp-wp2007/07.pdf>. Accessed 23 July 2013.

This research has shown that the CAO sector is a critical layer in the justice system and that its recognition, regulation and support is in the interests of South Africa as a nation. CAOs are a lifeline helping communities to survive. “People come out of hopelessness when they visit the Advice Offices”, said one paralegal. A last comment puts it this way: “there will be chaos if the offices close. There is a need to give people knowledge. It will be darkness. There will be darkness. There is a need to provide justice to the community and now there is a serious blackout.”¹³⁴

¹³⁴ Joshua Nki Molapo, Paralegal, Ntsu, 9 June 2014.

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Appendix I. Map Gauteng, KZN, Limpopo and Mpumalanga

White stars represent the Advice Offices visited:

- Gauteng: Ntsu Advice Office, Mabopane [near Pretoria]
 CEHURI, Stinkwater Hammanskraal [north of Ntsu]
- KZN: Plessislaer (near Pietermaritzburg)
 Bulwer [near Lesotho]
- Limpopo: Musina Advice Office [near Zimbabwe border]
 Opret Advice Office [south of Polokwane]
- Mpumalanga: Bohlabela Advice Office, Bushbuckridge [West of Kruger Park + Moz.]
 Nkomazi Advice Office [near Swaziland and Mozambique borders]



Appendix II. Abridged Profiles of Selected Community Advice Offices

Advice Office	Year Established	Paid Staff	About the Advice Office	Description of Area and Key Problems Dealt With	Resources and Funding	Own Office
Gauteng						
Ntsu	1996 to 2005 (Mabopane) 2008 (Ntsu)	2	<ul style="list-style-type: none"> ➤ Started in 1996 under the name Mabopane Advice Office but was closed in 2005 due to funding. ➤ Reopened as Ntsu in 2008 	<ul style="list-style-type: none"> ➤ In town of Mabopane, Gauteng ➤ Township ➤ Most of the population is unemployed and illiterate. 	<ul style="list-style-type: none"> ➤ Struggling with funding ➤ Premises inadequate ➤ Staff sometimes not paid ➤ Issues with computers and other resources 	N - rent-free
CEHURI	1999	4	<ul style="list-style-type: none"> ➤ Founded in 1999 by M. Moreroa after closure of Hammanskraal AO due to funding. Registered as an NGO in 2000. 	<ul style="list-style-type: none"> ➤ Located in town of Stinkwater in northern part of Gauteng province ➤ Serves a vast area of 89 villages ➤ Main issues are economic – unemployment, temporary jobs, most rely on social grants to survive ➤ Drugs (Nyaope/whoonga) is affecting the youth and brings with it crime and violence 	<ul style="list-style-type: none"> ➤ Struggling with funding ➤ Premises inadequate and insecure ➤ Lacking resources such as telephone, internet, computers stolen 	N rent an office in town; inadequate space shared with mechanic's business
KwaZulu-Natal						
Plessislaer	1997	3	<ul style="list-style-type: none"> ➤ First Advice Office founded by CCJD (formerly CCJ, situated at Faculty of Law UKZN Pietermaritzburg at the time. Directed by Winnie Martins – founder of CAO and access to justice community outreach programme. 	<ul style="list-style-type: none"> ➤ In township of Plessislaer outside of Pietermaritzburg. An urbanised area surrounded by townships, informal settlements and rural areas. 	<ul style="list-style-type: none"> ➤ Has had adequate funding to meet the needs – core funding raised by CCJD Head Office ➤ Funding for specific projects by FHR (human rights days), HIVOS (LGBTI) ➤ Secure premises, equipment like computers and overhead costs covered by CCJD head office ➤ Funding is becoming increasingly difficult 	Y park home on the premises of the SAPS
Bulwer	1998	2	<ul style="list-style-type: none"> ➤ Founded by CCJD (formerly called CCJ), when situated at Faculty of Law 	<ul style="list-style-type: none"> ➤ Serves Bulwer area in KZN Midlands – rural, traditional, as well as the urban town – 25 communities and districts 	<ul style="list-style-type: none"> ➤ Has had adequate funding to meet the needs – core funding raised by CCJD Head Office ➤ Secure premises, equipment like computers and overhead costs covered by CCJD head office ➤ Funding is becoming increasingly difficult 	Y park home on the premises of the SAPS

Limpopo						
Musina	1988	5	<ul style="list-style-type: none"> ➤ Founded by Jacob Matakanye ➤ From 1988 and until 1996 had a focus on political issues of apartheid ➤ Now dealing issues related to the strengthening of democracy through education, advocacy and assistance ➤ They had 18 staff and now have 5 because of funding 	<ul style="list-style-type: none"> ➤ Borders with Zimbabwe – 20 kms away from Beitbridge border post ➤ Deals with both local and foreigner's cases – illegal immigration, food and shelter, documentation ➤ Labour issues ➤ Set up shelters for asylum seekers and refugees 	<ul style="list-style-type: none"> ➤ Funded by government depts and civil society funders ➤ Up until about 2012 funding was successful but now struggling ➤ Was funded by Canadian embassy, Lotto and others 	Y house given to the CAO
Opret	2000	5	<ul style="list-style-type: none"> ➤ Founded in 2000 by Norea Mmina Mokgaetji 	<ul style="list-style-type: none"> ➤ One of the most busy offices visited ➤ Serves a vast area, mostly rural, surrounding Mokopane; most people are poor, unemployed and illiterate ➤ Nyaope/whoonga is a problem ➤ Traditional practices and the law ➤ Deals with local people and foreign nationals, esp from Zimbabwe. ➤ Labour issues and domestic violence 	<ul style="list-style-type: none"> ➤ Received funding from FHR til 2006 ➤ Funding by MAGI (multi-agency grant initiative) originally got the CAO off the ground and encouraged its work ➤ Others included DSD provincially and nationally, Victim Empowerment Support Programme, National Lottery through Access to Justice, and Labour Dept. 	N rent is very expensive; bad landlord; need own building
Mpumalanga						
Bohlabela	2005	3	<ul style="list-style-type: none"> ➤ Started with coordinating workshops in the area then people started to report violations of human rights ➤ Is in Bushbuckridge, in a very small office, sharing with a security company 	<ul style="list-style-type: none"> ➤ Borders with Mozambique - many issues concern foreign nationals – no IDs, children left behind when parents die 		N rent is expensive
Nkomazi	1994 (at Tribal Authority) 2000 (present location)	8	<ul style="list-style-type: none"> ➤ Founded in 1994, operating from the Tribal authority; ➤ Moved premises to Thembaletu, fundraised, built own office and began at present centre in 2000. 	<ul style="list-style-type: none"> ➤ Traditional customs, leaders and law ➤ Borders with Swaziland and Mozambique - Migration, child-headed households ➤ Hunger 	<ul style="list-style-type: none"> ➤ Struggling with funding – funded by FHR but not enough ➤ Get food donations from churches – Roman Catholic, Salvation Army and Seventh Day Adventists ➤ Have computers, phones, own building ➤ Need computers – one has stopped working, one is old 	Y built own office

Appendix III. Contact Details of Participating Community Advice Offices

Gauteng	KwaZulu-Natal	Limpopo	Mpumalanga
<p>Ntsu Community Advice Office</p> <p>Seth Mnguni 147 N Mabopane 0190 012 702 1337 073 243 0758 ntsuaadvice@gmail.com</p>	<p>Plessislaer Advice Office</p> <p>Fisani Ngcobo, Theresa Thusi, and Khanyi Singh Plessislaer Police Station Pietermaritzburg 033 398 0194 plessislaer@ccjd.org.za www.ccjd.org.za</p>	<p>Musina Advice Office</p> <p>Jacob Matakanye PO Box 610 Musina Tel: 015 533 1002 086 540 2990 Cell:083 531 0751 messinalegaladvice@gmail.com https://www.facebook.com/MusinaLegal?ref=stream</p>	<p>Bohlabela Resource and Advice Centre</p> <p>Derrick Marimane Maviljan; Bushbuckridge Municipality PO Box 2231 Bushbuckridge 1280 Fax: 013 799 1841 Cell: 082 543 0546 qta@webmail.co.za</p>
<p>Centre for Human Rights and Information (CEHURI)</p> <p>Mareko Moreroa Suite 6323B, Tirisano Building Trust Farm, Stinkwater 082 065 4530 diresprinters@gmail.com</p>	<p>Bulwer Advice Office</p> <p>Nokuthula Mchunu and Patricia Maphanga Bulwer Police Station 039 832 0194 Bulwer@ccjd.org.za www.ccjd.org.za</p>	<p>Opret Advice Office</p> <p>Norea Mmina Mokgaetji PO Box 702 Mokopane 0600 Mokopane: Mogalakwena noria@webmail.co.za Fax: 015 491 2523 Mobile: 072 082 2725 PO Box 702 Mokopane 0600</p>	<p>Nkomazi Community Advice Office</p> <p>Daphne Nkosi PO Box 1057 Shongwe Mission 1331 lren.green@yahoo.com Tel: 013 781 0660 Fax: 086 546 2547</p>

Appendix IV. Education, Training and Experience of Community-Based Paralegals (CBPs)

Advice Office	Name	Position	Year Joined	Exp. w/ org ¹³⁵	Education, Experience, Training
<i>Gauteng</i>					
Ntsu	Seth Mnguni	Founder and Coordinator	1996	18	<ul style="list-style-type: none"> ➤ long history of community work and activism - involved in mediation between ANC and IFP in 1990 during the turbulent transition from apartheid ➤ did a Street Law course and was deployed in Tembisa to mediate in the violence ➤ has undertaken a community leadership course at the University of Potchefstroom ➤ is informed through ongoing interaction with the community ➤ last formal training was in 2005
	Joshua Nki Molapo	Paralegal	2013	9-10 (mths)	<ul style="list-style-type: none"> ➤ studied law at North West University in 1987 ➤ is a teacher, journalist and legal practitioner
CEHURI	Mareko Moreroa	Founder and Coordinator	1999	15	<ul style="list-style-type: none"> ➤ trained by the Industrial Aid Society Johannesburg, Centre for Applied Legal Studies mediation course, University of Pretoria, University of South Africa, Lawyers for Human Rights, and the Pretoria Council of Churches
	Sonia Mabulama	Paralegal	1999	15 (19)	<ul style="list-style-type: none"> ➤ trained at the University of Orange Free State in 1996, and also trained with the Human Rights Commission
<i>KwaZulu-Natal</i>					
Plessislaer	Theresa Thusi	Paralegal Coordinator	1999	15	<ul style="list-style-type: none"> ➤ legally trained and have paralegal diplomas from the University of KwaZulu-Natal or the Black Sash ➤ continually updated and receive ongoing training on new legislation and its implications through support of CCJD head office ➤ in 2013 and 2014, received training on updates in the law, training and ongoing mentoring on computers and the database, training in fundraising, gender issues, and economic justice.
	Khanyi Singh	Paralegal Coordinator	2005	9	
	Fisani Ngcobo	Paralegal Coordinator	2002	12	
Bulwer	Nokuthula Mchunu	Paralegal Coordinator	1998	16	<ul style="list-style-type: none"> ➤ legally trained and have paralegal diplomas from the University of KwaZulu-Natal ➤ continually updated and receive ongoing training on new legislation and its implications through support of CCJD head office ➤ in 2013 and 2014, received training on updates in the law, training and mentoring on computers and the database, training in fundraising, training on gender issues, and economic justice.
	Patricia Maphanga	Paralegal Coordinator	2000	14	

¹³⁵ The first number indicates years with the present organisation as of 2014. The number in the bracket, if there is one, indicates total years of experience as a paralegal, including work at other organisations doing paralegal work.

Limpopo					
Musina	Jacob Matakanye	Founder and Coordinator	1988	26	<ul style="list-style-type: none"> ➤ Born in Musina, resided there and educated there ➤ Trained at University of Limpopo – Law (LLB) in 1986; also trained by Black Sash ➤ Focussed on this work all his life – been a paralegal all his life ➤ Joined underground movement in 1986 during apartheid period of unrest ➤ Is a community leader and church leader involved in local district and provincial leadership
	James Mordichai Chirwa	Admin Paralegal Reports, proposals, management, etc	2006	8	<ul style="list-style-type: none"> ➤ Trained as paralegal - background in sales management ➤ Trained on monitoring work in prisons and shelters ➤ Experience in management. ➤ Started as paralegal - due to lack of funding the office could not hire people so was compiling information for the justice office.
Opret	Norea Mmina Mokaetji	Founder and Coordinator	2000	14 (18)	<ul style="list-style-type: none"> ➤ Started working as a paralegal with Mokerong AO in 1996. ➤ Is a registered debt counsellor and a Paralegal Practitioner after doing a course with the University of the North West ➤ Obtained a diploma in law and applied psychology. ➤ Great deal of experience in communities assisting people
	Lisiba Johannes Morolong	Manager, co-founder and paralegal of Opret Advice Office	2000	14	<ul style="list-style-type: none"> ➤ Has worked with the Dept of Transport, with experience on both the national and provincial task teams. ➤ Studied psychology with UNISA. ➤ Did a course in agriculture on animal breeding and meat production. ➤ Empowers and assists the needy through agriculture ➤ Oversees the work and handles the most difficult cases
Mpumalanga					
Bohlabela	Derrick Marimane	Founder and Coordinator	2005	9	<ul style="list-style-type: none"> ➤ Has a post-Diploma qualification – National Higher Education Diploma in Public Management ➤ Teaches public management and finance at Bushbuckridge College ➤ Attends courses on training in community leadership and others
	Ayanda Massiah Banda	Paralegal	2007	7	<ul style="list-style-type: none"> ➤ Started as an Administrator and attended workshops on becoming a paralegal – covered the basics of cases and opening files as well as legal matters like divorce, domestic violence, crime, wills and estate issues
Nkomazi	Daphne Nkosi	Founder and Director	1994	20	<ul style="list-style-type: none"> ➤ Trained as a paralegal with the Black Sash ➤ Extensive work with communities and immigrants
	Barbara Joyce Stephens	Paralegal			<ul style="list-style-type: none"> ➤ Information not available

Appendix V. Recovery of Resources on Behalf of Communities

Advice Office	Year	Funds recovered	Number of beneficiaries	Description
Gauteng				
Ntsu Advice Office	2012-2013	R 99 600.00	7	Provident Fund, Civil claim, UIF, Burial society, surplus
	2013 – Pending	R 277 000.00	3	
	TOTAL 2013-14	R 277 000.00	10	
CEHURI	2013-2104	R 944 645.00	Data not available at time of report	Labour, social grants, special pension, UIF, social societies, RAF, individual, pension or provident fund, insurance
	TOTAL 2013-14	R 944 645.00		
KwaZulu-Natal				
Plessislaer	2013	R 39 769.45	4	Maintenance, gov't grant or support, pension or provident fund, compensation of injuries and diseases, death benefits, funeral expenses, stokvel, credit collections/debt, leave payouts
	2014 Jan-May	Nil	Nil	
	TOTAL 2013-14	R 39 769.45	4	
Bulwer	2013	R 517 671.09	26	
	2014 Jan-May	R 507 900.00	14	
	TOTAL 2013-14	R 1 025 571.09	40	
CCJD as a whole (15 Advice Offices)	2013	R 1 801 855.30	414	
	2014 Jan-May	R 1 112 575.00	266	
	TOTAL 2013-14	R 2 914 430.30	680	
Limpopo				
Musina	2013	R 20 000.00	15	Unfair dismissals
	2014	R 30 000.00	4	
	TOTAL 2013-14	R 50 000.00	19	
Opret	2013-2014	R 1 667 100.00	Data not available at time of report	Death claim, provident fund, civil claim, pension fund, labour case (plus reinstatement)
	TOTAL 2013-14	R 1 667 100.00		
Mpumalanga				
Bohlabela	Data not available at time of report			Pension/provident fund, social grants, claims against societies and clubs, bank ombudsman, workers compensation (COIDA), special pension, from individuals to individuals, loans, stokvel, employer-employee debt where the employer did not pay the employee
Nkomazi	2013	R 28 460.00	76	
	2014	R 26 356.00	56	
	TOTAL 2013-14	R 54 816.00	132	

Appendix VI. Final Financial Report 31 December 2014

Activity/Item	Item detail	Cost	Expenditure				
			May-July	Aug-Dec	Description	Total Expenditure	Balance Remaining
1. Preparation of proposal	<ul style="list-style-type: none"> Work plan, budget and narrative written for proposal Submission of proposal to NADCAO Revisions made based on feedback by NADCAO Researcher's fees (R 1000/day x 8 days = R8 000) 	R 8 000	R 8000.00			R 8 000.00	R -----
	SUBTOTAL		R 8000.00			R 8000.00	R -----
2. Initiate research study: Meetings with research team	<ul style="list-style-type: none"> Review proposal and work plan with team Plan and coordinate logistics Discuss interview and FGD questions for clarification and agreement on approach Estimate meetings to occur 1 day/ month in Pietermaritzburg Researchers' fees: Primary researcher (R1000/day x 1 researcher x 4 days = R 4 000); Research Assistants (R500/day x 2 research assistants x 4 days = R 4 000); 1 CCJD staff assisting with logistics (R 500/day x 1 staff x 4 days = R 2 000) 	R 4 000	R 4000.00			R 4 000.00	R -----
		R 4 000	R 2000.00	R 2000.00		R 4 000.00	R -----
		R 2 000	R 2000.00			R 2 000.00	R -----
	SUBTOTAL	R 10 000	R 8000.00	R 2000.00		R10 000.00	R -----
3. Organise site visits to 2 CAOs in KwaZulu-Natal, Gauteng, Limpopo and Mpumalanga for 2 researchers (8 CAOs)	<ul style="list-style-type: none"> Contact CAOs to arrange visits to their centres Paralegals organise clients to participate in the interviews (R200 admin fee per office x 8 offices = R 1600) Arrange travel and accommodation to the centres Contact other key stakeholders in the region for interviews and/or to participate in FGDs Researcher fees: Primary researcher (R 1 000/day x 3 days = R 3 000); 1 CCJD staff person assisting with logistics (R 500/day x 3 days = R 1 500) 	R 1 600	R 200.00 R 200.00 R 200.00 R 200.00		Ntsu CEHURI Plessislaer Bulwer Bohlabela Nkomazi Musina Opret	R 1 600.00	R -----
		R 3 000	R 3 000.00	R 200.00 R 200.00 R 200.00 R 200.00		R 3 000.00	R -----
		R 1 500	R 1 500.00			R 1 500.00	R -----
	SUBTOTAL	R 6 100.00	R 5 300.00	R 800.00		R 6 100.00	R -----

4. Interviews and Focus Group Discussions	<ul style="list-style-type: none"> Fee for local specialists to guide and translate, where necessary (R300/day x 2 CAOs x 4 provinces x 2 days = R 4 800) 	R 4 800	R 1 200.00	R2400	Gauteng All CAOs	R 3 600.00	R 1 200.00
	<ul style="list-style-type: none"> Refreshments for participants from communities who come for the interviews or FGDs (R 700/ CAO x 8 = R 5 600) 	R 5 600	R 845.30 R 1 400.00 R 1 600.00	----- R 1 800 R 1 000 R 1 000	KZN – Plessislaer and Bulwer Gauteng – Ntsu – Khwani Trading Gauteng – CEHURI – L.M. Baloyi Limpopo - Musina; Limpopo - Opret – L.J. Kumo CC Mpum – B’b’ridge – Monasi World Mpum – Nkomazi - FUBZ	R 7 645.30	R 2 045.30-
	<ul style="list-style-type: none"> Travel reimbursement for participants from communities (R 80 x 20 persons x 8 CAOs = R 12 800) 	R 12 800	R 2 019.00 R 2 389.00	R 2282.00 R 1000.00	Gauteng - local KZN - local Limpopo - local Mpumalanga – Nkomazi - local Mpumalanga – BB’ridge – S. Ndlovu kombi	R 7 690.00	R 5 110.00
	<ul style="list-style-type: none"> Researcher fees: Primary researcher (R1 000/day x 3 days x 2 CAOs = R6 000); 	R 6 000		R 6 000.00		R 6 000.00	-----
	<ul style="list-style-type: none"> Research assistants (R500/day x 2 RAs x 3 days x 8 CAOs = R24 000) 	R 24 000	R 2000.00 R 2000.00 R 2000.00 R 2000.00	R 7 500.00 R 4 000.00 R 4 000.00	Gauteng and KZN: 4 days x R500/day 4 days x R500/day 4 days x R500/day 4 days x R500/day Limpopo and Mpumalanga: 15 days x R500/day 8 days x R500/day 8 days x R500/day	R23 500.00	R 500.00
	SUBTOTAL	R 53 200	R 17 453.30	R 30 982.00		R 48 435.30	R 4 764.70
5. Data analysis	<ul style="list-style-type: none"> Analysis of data and Interpretation of meaning drawn from analysis Researcher’s fees (R 1 000/day x 10 days = R 10 000) Research assistants (R500/day x 2 RAs x 2 days each CAO x 8 CAOs = R 16 000) 	R 10 000 R 16 000	R 3 000	R 7 000 R14 000 R 3 000 R 3 000 R 3 000 R 3 000 R 4 000	CCJD – Researcher’s fees Additional time - analysis of data** Ntsu + CEHURI Musina + Opret Bohlabela + Nkomazi Plessislaer + Bulwer Transcriptions	R 10 000.00 R 14 000.00 R 16 000.00	R ----- R14 000.00- R-----
	<ul style="list-style-type: none"> Technical consultant (R 3 000/day x 1 day = R 3 000) 	R 3 000		R3 000	Technical Support	R 3 000.00	R-----
	SUBTOTAL	R 29 000	R 3 000	R 40 000		R 43 000.00	R14000.00-

6. Report writing - Interim and Final Reports	<ul style="list-style-type: none"> Preparation of reports Report writing Researcher fees: Principal researcher: Interim Report (R 1 000/day x 10 days = R 10 000); Final Report (R 1000/day x 10 days = R 10 000) 	R 10 000 R 10 000		R10 000.00 R 10 000.00 R 6 000.00 R 3 990.57	 Final Report Additional time - write final doc't** Abridged Report (not budgeted)**	R 10 000.00 R 19 990.57	R ----- R 9990.57-
	SUBTOTAL	R 20 000		R 29 990.57		R 29 990.57	R 9990.57-
7. Per Diem includes costs for: - Accommodation in the field - Meals	<ul style="list-style-type: none"> R 1000/night x 2 researchers x 2 nights x 2 CAOs x 4 provinces = R 32 000 (accommodation costs vary greatly – this is a generous estimate) R 200/day x 2 researchers x 3 days x 2 CAOs x 4 provinces (meals) = R 9 600 	R 32 000 R 9 600	R 3 300.00 R 2 021.80 Nil	R 5 200.00 R 2 010.00 R 4 040.00 R 4 583.20 R 1 020.00 R 3 109.55 Shared	Ntsu/CEHURI-Gauteng-TebogoB+B Musina – Limpopo – Bushmen’s Opret – Limpopo - Lutea B’b’ridge – Mpum - Miconalia Nkomazi – Mpum – Mamli KZN - Enaleni KZN Gauteng Limpopo Mpumalanga	R20 153.20 R 5 131.35	R 11 846.80 R 4 468.65
	SUBTOTAL	R 41 600	R 5 321.80	R 19 962.75		R 25 284.55	R 16 315.45
8. Travel for 2 researchers a. Within KZN for interviews and FGDs b. To/from and within Gauteng for interviews and FGDs c. To/from and within Limpopo for interviews and FGDs d. To/from and within Mpumalanga for interviews and FGDs	<ul style="list-style-type: none"> Rental for 1 car R600/day x 3 days x 2 CAOs = R2400 Rental for 1 car R600/day x 2 CAOs x 3 days = R3600 Flights for 2 researchers to Johannesburg and back (R 2500 x 2 =R5000) Rental for 1 car R600/day x 2 CAOs x 3 days Flight for 2 researchers to Johannesburg and back (R 5000) Rental for 1 car R600/day x 2 CAOs x 2 days Flight for 2 researchers to Johannesburg and back (R 5000) 	R 3 600 R 3 600 R 5 000 R 3 600 R 5 000 R 3 600 R 5 000	R 1 260.00 R 3 541.12 R 500.00 R 314.00 <u>R 3 061.60</u> R 7 416.72 R 2 900.00 R 1 631.80 R 2 067.40 <u>R 1 808.00</u> R 8 407.20 R 1 843.30		Private car and public transport in KZN Wozani Car Hire Stipend for RA driver RA to airport RA – PMB to Joburg return Budget car hire RA – flight – JHB – Polokwane RA – flight – Polokwane – JHB RA – PMB to Joburg Budget car hire RA – flight- Joburg to PMB RA – flight – Joburg – Polokwane RA – flight – Polokwane - JHB Tolls, petrol, parking in Lim+Mpum	R 1 260.00 R 7 416.72 R 8 546.92 R 10 250.50	R 2 340.00 R 1 183.28 R 53.08 R 1650.50-

e. Travel for researchers for team meetings in Pietermaritzburg	<ul style="list-style-type: none"> Use of own car and/or public transport 	R 1 000	R 75.84	R 101.12		R 176.96	R 823.04
	SUBTOTAL	R 30 400	R 8 752.56	R 18 898.54		R 27 651.10	R 2 748.90
9. Administration and materials	<ul style="list-style-type: none"> Phone, photocopies, emails, fax, postage, airtime Batteries for recorders; 2 USB sticks (R 500 batteries; 2 x R100 USB = R 700) CCJD Administrative and infrastructural support 	R 1 000 R 700 R 20 000	R 678.55 R 79.90 R 20 000.00	R 364.20 R 415.83		R 1042.75 R 495.73 R 20 000.00	R 42.75- R 204.27 R -----
	SUBTOTAL	R 21 700	R 20 758.45	R 780.03		R 21 538.48	R 161.52
TOTAL		R220 000	R 76 586.11	R119423.32		R220 000.00	R -----

NB: **

- Accommodation, per diem and travel costs were overestimated purposely as the logistics of planning are often unpredictable, leaving a balance of **R23990.57**.
- Researcher's time for data analysis and documentation were underestimated. The following was reallocated from the above sections to cover the time:
 - Data analysis (R 1000/day x 14 days = **R14000**)
 - Documentation (R 1000/day x 6 days = **R 6000**)
- Abridged Report not budgeted for (R1000/day x 4 days = R 4000 adjusted to **R 3990.57** to balance budget)