

PARALEGAL TRAINING IN LESOTHO

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ABSTRACT

This study examines how paralegal training in Lesotho was designed and managed. It analyses the content of the training and methods used. An assessment is made of how the participants used the training in the field.

Since the inception of paralegal training in 1993 in Lesotho, no systematic and consolidated analysis has been done to present a story on the existence of the paralegal training programme. Paralegal training in this context is defined as the training of community-based people who are given skills to help disadvantaged individuals and groups to fight for their rights through the legal system. The legal profession adopted the use of "barefoot lawyers" to address the imbalance in the accessibility of legal services and facilities. Internationally the use of paralegals has taken root. In Lesotho the use of paralegals is fairly new, so there is the need to explore this approach. There are two organisations involved in paralegal training - the Community Legal Resource and Advice Centre (CLRAC) and the Lesotho Federation of Women Lawyers (FIDA). Both serve urban and rural populations.

Lesotho being a case in point, this is a study aimed at obtaining in-depth information to highlight the paralegal training programme in Lesotho. It sought to ask critical questions about who were recruited as paralegal trainees, which topics were handled in the paralegal training programme, what training methods were used and what responsibilities paralegals fulfil after training. The outcome of this study has already contributed towards establishing a common content and methodology by presenting a systematic analysis of differences and common issues.

The methods used to compile the Lesotho case study of paralegal training were reference to files and reports kept by CLRAC and FIDA, in house interviews and observations and interviews with paralegals and village leaders. Forty paralegals, who were trained by the two organisations, were involved in the study. They were identified from the districts of Molepolole, Maseru, Mafeteng, Thaba-Tseka, (the three districts where CLRAC operates), Teyateyaneng and Quthing (two of the three districts where FIDA operates). An interview schedule was developed which was used

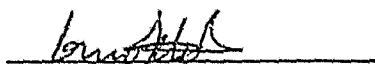
to collect the information from the different respondents who were available during data collection phase of the study. The outcome of this study is that paralegal work is useful. There is the need to train more people as paralegals and to design the paralegal training programme in such a way that it responds to problems within a given context of rural and urban settings.

KEY WORDS:

Paralegal training, case study, "barefoot lawyer" / "barefoot doctor", field worker training, Non-formal education.

DECLARATION

I declare that this research report is my own unaided work. It is submitted for the degree of MEd in the University of Witwatersrand, Johannesburg. It has not been submitted before for any other degree or examination in any other university.

A handwritten signature in black ink, appearing to read 'Linakatso', is written over a horizontal line.

Linakatso Mokhothu

13 , September, 2000

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LIST OF ACRONYMS / ABBREVIATIONS

ANC	African National Congress
BCP	Basotuland Congress Party
BNP	Basotuland National Party
CBO	Community-Based Organisation
CCMA	Commission for Conciliation, Mediation and Arbitration
CEDAW	Convention on the Elimination of Discrimination Against Women
CLC	Community Law Centre
CLRAC	Community Legal Resource and Advice Centre
COSC	Cambridge Overseas School Certificate
DCHR	Danish Centre for Human Rights
FIDA	International Federation of Women Lawyers
HRAG	Human Rights Alert Group
IA	Internal Animator
ICJ	International Commission of Jurists
JC	Junior Certificate
LCA	Lesotho Consumer Association
LCD	Lesotho Congress for Democracy
LEAP	Legal Education Action Project
LFTU	Lesotho Federation of Trade Unions
LHR	Lawyers for Human Rights
LRC	Legal Resources Centre
NDI	National Democratic Institute
NGO	Non-Governmental Organisation
PFP	Partnership for Productivity
POWA	People Opposing Women Abuse
RAT	Rural Advice Training
SACU	Southern African Customs Union
SADC	Southern African Development Community
TBA	Traditional Birth Attendant
UIF	Unemployment Insurance Fund
VDC	Village Development Committee
WILDAF	Women in Law and Development in Africa
WLSA	Women and Law in Southern Africa

CHAPTER ONE

INTRODUCTION

This chapter presents the statement of the problem and the justification for the study of paralegal training in Lesotho. The motivation for the researcher to engage in the study, and the aim and objectives of the study are discussed. The chapter concludes with a brief summary of the report.

1.1 STATEMENT OF THE RESEARCH PROBLEM

Traditionally access to legal information and services has been a privilege of the rich and the educated. Although most of the population of developing countries lives in rural areas, legal services are concentrated in urban areas. Legal services are therefore inaccessible to the majority of the disadvantaged. In a study on Maintenance Letuka notes that women who attempt to pursue maintenance claims face many problems. "Most people's problems begin with the problem of money to get to the urban centre where the court is and for most women transport costs are a deterrent " (Letuka et al.1991:124). In "Working for Justice: The Role of Paralegals in South Africa," Penuell Maduna (a member of the Secretariat of the African National Congress (ANC) Department of Legal and Constitutional Affairs) referring to South Africa said,

"One of the legacies the new post-apartheid society will inherit from the apartheid regime is the inaccessibility of justice to the masses of our people. Justice in South Africa, even without apartheid, is justice for the chosen few, the rich; the state has never deemed it necessary to invest in making it accessible to the poor and indigent ..." (Legal Education Action Project / Black Sash, 1990:7).

The International Commission of Jurists (ICJ) had a similar concern. In 1982 they carried out a programme of introducing a system that would provide legal services in the rural areas of Africa. The system involves training paralegals to provide legal services with the support of lawyers. The use of paralegals has been effected in countries such as Kenya, Lesotho, Mozambique, Namibia, South Africa, Zambia, Zimbabwe and Senegal (Tsanga & Olatunbo, 1994:9).

1.2 THE PURPOSE OF THIS STUDY

The purpose of this study is to contribute knowledge towards improving the paralegal training programme in Lesotho. This study will focus on the experiences of two organisations that carry out paralegal training in Lesotho: the Community Legal Resource and Advice Centre (CLRAC) and the Lesotho Federation of Women Lawyers (FIDA). After completing their training, paralegals are expected to inform and educate people on their rights under the Constitution of Lesotho and the Universal Declaration of Human Rights (The International Bill of Human Rights, Fact Sheet No. 2, Centre for Human Rights 1988:21).

1.3 OBJECTIVES OF THIS STUDY

The objectives of this study may be stated as follows:

1. To assess the training the paralegals received and how they utilise their training.
2. To assess the strengths and weaknesses of the paralegal training programme in Lesotho.
3. To consolidate and document insights made into the paralegal training programmes of CLRAC and FIDA.
4. To make recommendations for improvements to the paralegal training programme.

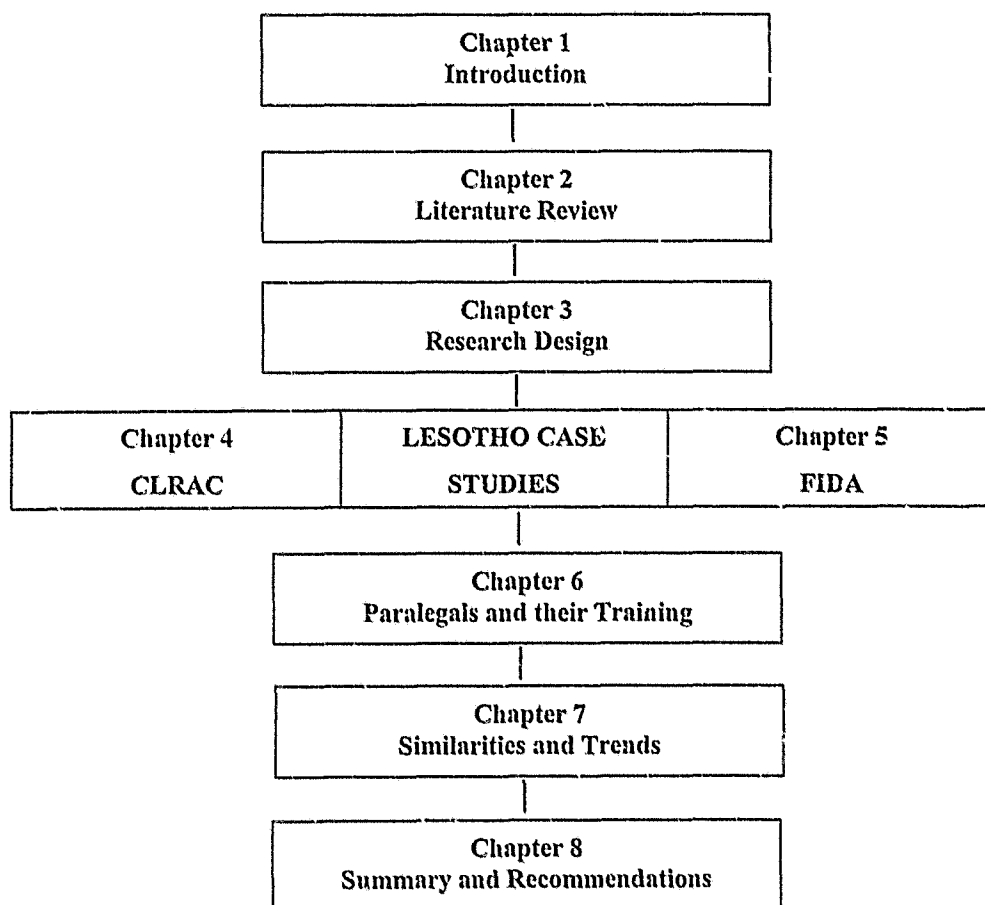
It is the intention of the researcher to tell the story of paralegal training in Lesotho, as managed by the above two organisations. The programmes of these two organisations will be fully discussed in chapters four and five. The case studies discussed in these two chapters will contribute towards building the knowledge that the policy-makers and programme implementers of both organisations can use to improve upon their training programmes. This study is presented in a case study format, basing it on a World Bank (Coombs, 1974) model for compiling case studies. A selection has been made of issues related only to training and research in adult education, such as the political environment, and the economic and legal system. It is a case study of paralegal training in Lesotho in which each organisation is discussed individually

because of the different approaches adopted by the two Non-Governmental Organizations in carrying out their training. The study does not, however, aim at comparing the paralegal training activities of the two organisations. Literature on paralegal training in Africa and Asia is also reviewed. Reference is made to literature on training community health workers.

1.4 OVERALL SYNOPSIS OF THIS REPORT

The schematic provided in Figure 1 is intended to guide the reader on the approach adopted in writing this research report.

Figure 1: Schematic Layout of the Research Report



Chapter two presents the context for paralegal training in Lesotho. The literature covers issues which have a bearing on paralegal training.

Chapter three discusses the research design and approach. Research questions addressed through the study are presented. The research approach included a process in which the researcher was both an insider and an outsider. The researcher participated in a workshop for paralegal training but also acted as a participant observer. A review of office documents was also undertaken.

Chapters four and five present an overview of the paralegal training programme and a case study from each of CLRAC and FIDA. Because the study is not comparative, it became evident during the research process that each organisation had to be handled separately since their approach to paralegal training was different.

Chapter six discusses the results of the study which in essence reflects the training of paralegals and what paralegals do after they have been trained. The analysis and interpretation of the data collected are presented. Responses by the paralegals, chiefs and facilitators of the paralegal training workshops are covered. Observations during visits to two district offices and to one South African organisation are also presented.

Chapter seven draws together similarities and trends in paralegal training in Lesotho and elsewhere in the Southern African Development Community (SADC) region.

Chapter eight presents summaries and conclusions drawn from the study. Recommendations towards the improvement of the programme are also made in this chapter.

CHAPTER TWO

CONTEXTUALISATION AND LITERATURE REVIEW

This chapter aims to help the reader place the study within the broad context of Lesotho. The discussion on the context covers relevant aspects of the political, economic and social environment of the country. An overview of the relevant aspects of the legal system is presented to help the reader understand the circumstances that led to the founding of the two organisations on which this study focuses. It also presents literature which is relevant to paralegal training.

2.1 HISTORICAL AND SOCIO-ECONOMIC CONTEXT

Lesotho gained independence from the British in 1966. The first five years of self-governance offered a sign of peace and stability. In 1970 Lesotho held a second general election, the outcome of which was suspended by the then ruling Basutoland National Party (BNP). A state of emergency was announced and the opposition went into exile. An era of a one-party government, which ended in 1986, began. For sixteen years the country was governed by people who were not democratically elected as there were no elections during this period. Violations of human rights were prevalent, committed by those in power against the opposition and by the opposition itself. In 1986 the military took over. The military became arrogant. Killings became common. The 1993 general elections returned Lesotho to democratic rule. The Basutoland Congress Party (BCP) won all sixty-five constituencies. Although this was the will of the people, it created a challenge to democratic principles as there was no opposition in Parliament. After a long period of fighting within the BCP a split was formalised in June 1997 when the majority of Members of Parliament, together with the Prime Minister, decided to leave the BCP to form a new party, the Lesotho Congress for Democracy (LCD).

The return to democracy in 1993 brought back a government whose powers flow from the Constitution of Lesotho. The Constitution is the supreme law of the country which, for the first time in the history of Lesotho, entrenched human rights. It is within the framework of the

entrenched rights that Non-Governmental Organisations (NGOs) deal with the promotion and protection of human rights.

A 1994 report on poverty in Lesotho indicates that Lesotho's population is increasing at a growth rate of between 2.6 % and 2.9 % per annum (Sechaba Consultants, 1994:6). Sechaba Consultants' projections for 2001 are that the population will be 2.4 million people. The population density is eight people per square kilometre in the highlands and twenty people per square kilometre in the lowlands (Letuka et al., 1994:4).

Lesotho's land needs far outweigh the available land. The growth rate for Maseru, the capital city, is estimated at between 7 % and 11 %. Encroachment on arable land is fast, leaving very little land for food production.

Economically Lesotho is dependent on South Africa and on the Southern African Customs Union. The declining mining industry in South Africa has contributed to the declining economy of the country. Mineworkers are being retrenched in great numbers. This results in a number of households becoming very poor as most breadwinners were mineworkers. Sechaba Consultants noted that

"Men who had struggled for weeks to find work on the mines described to us how difficult it was to get past the first line of officials without paying a bribe" (1994:103).

Poverty is a new challenge to Lesotho's democracy. It creates a climate conducive to crime. People commit crime and violate the rights of others because of hunger. The legal system is inadequate and fails to deal with criminal behaviour. It, therefore, fails to protect human rights. The reason given by those in authority for their failure to fulfil the expectations of the electorate for the delivery of justice is inadequate resources at all levels. Letuka (1991:129) notes that "there is a backlog of maintenance cases because police are short staffed. A maintenance court with its own prosecutor and magistrate was suggested as a way to remedy the backlog of maintenance cases which was believed by prosecutors to be a pattern in all districts." There are

few judges and magistrates. "The high frequencies of postponements are sometimes due to unavailability of judges, lawyers, witnesses and other factors. (Letuka 1991: 129). Most of the LLB graduates of 1997 and 1998 of the National University of Lesotho have been employed as magistrates. Physical structures, especially court rooms, are inadequate. However, a new court building was completed in 1998. Hopefully judiciary bottlenecks are being minimised with these improvements.

In a study on poverty carried out by Sechaba Consultants (1994:101), injustice is mentioned as one of the top six causes of poverty. Unfair practices are cited as a cause of poverty. The study mentioned that it is difficult for poor people to gain access to land and other resources but it is even more difficult to demand their rights because of low status.

Since independence Lesotho has gone through different phases of political upheaval at the hands of the political leaders, but the 1996 Amnesty International report stated that

"There was a continuing political tension between the civilian government and the security forces, over whom the government failed to exert control" (Amnesty International Publications 1996:209).

It is of great concern that this situation thrives despite human rights being entrenched in the Constitution of Lesotho. This observation is important as it threatens the credibility of democratic governance. If the government, which is expected to ensure that human rights are enjoyed by all the citizens of a country, is held to ransom by security forces, it becomes difficult to understand how human rights education programmes can be effective.

In preparation for the 1998 national elections, the National Democratic Institute for International Affairs (NDI) made a small study, which was subsequently summarised in their report "Political Change, Voter Mobilisation and Voter Education" (NDI, 1997). The study notes that the electorate is unhappy. Reference is made to unemployment, hunger, high cost of education, social decay, and broken promises of the 1993 elections.

Other problems are related to the dual nature of the legal system in which Roman Dutch law and "customary" law run parallel. Roman Dutch law, which is also referred to as "received" law, is law that originated from the indirect rule by the British. Basutoland, as Lesotho was then known, was administered by the Dutch settlers who occupied the Cape of Good Hope. These Dutch settlers had introduced the Roman Dutch law into the Cape Colony and it was subsequently introduced into Lesotho. "Customary" law, in contrast, is law that is not written and is flexible. According to Mamashela in Family Law Through Cases in Lesotho (1991) this dualism was a result of the legislative power which was in the hands of the British High Commissioner after the "gun" war. The gun war broke out between 1880 and 1881 when the Cape authorities tried to disarm the Basotho.

A policy of indirect rule was introduced, leaving considerable authority with the Basotho chiefs, both to continue to administer the customary law in their courts and to regulate the distribution of land.

The customary laws of Lesotho are found in a code called the "Laws of Lerotholi", written after the arrival of the missionaries. The missionaries brought other cultures, religion and education. A peculiar feature of customary law is that no legal representation is allowed. Reasons given are that customary law is simple and accessible to village people. Customary law is affordable as the services of a lawyer are costly. Is it, therefore, a fair conclusion that customary law is simple and accessible? How does it become simple when it has been influenced by the cultures of the missionaries who brought education to Lesotho? These are questions on which this study will reflect because the researcher believes that the confusion caused by the dual nature of the legal system is not easy to unravel.

It is the researcher's contention that dualism of the legal system also presents a challenge for providers of legal services. It has created an environment for the use of alternative ways of addressing legal problems, hence the birth of the Community Legal Resource and Advice Centre (CLRAC) and the Federation of Women Lawyers (FIDA). Issues of what decision an individual at village level takes before deciding on whether or not to use customary law or received law will become relevant to this discussion.

2.2 LEGAL SERVICES

The structure of the courts reflects the duality of the legal system. This observation is made by Letuka et al. (1991:8). Customary courts (such as Local Courts, Central Courts and the Judicial Commissioner's Court) administer customary law, while general law is administered by the Magistrate's Court. Matters related to customary law are dealt with by the customary law structures. If recourse to these courts is exhausted then, on appeal, the case goes to the High Court and then to the Court of Appeal.

Magistrate's Courts are made up of different classes which deal with criminal and civil matters differentiated by the monetary value involved. Decisions made at the Magistrate's Court level which need review are taken to the High Court and the Court of Appeal as they are the superior courts.

The above description indicates the extent of "red tape" and the complexity of the structures of justice. It is easy for an uneducated person to fail to access justice because of his/her failure to understand how the system works.

2.3 LITERATURE REVIEW

2.3.1 INTRODUCTION

As indicated earlier, this chapter discusses literature on paralegal training in different countries in the Southern African Development Community (SADC) countries. The rationale for starting the paralegal movement, different curricula, the kind of training that paralegals receive, and the role of paralegals in the provision of legal services, are analysed. The review aims at putting together a broad picture of paralegal training models that will be used as a basis for consolidating paralegal training in Lesotho. This review is important because Lesotho's experience in paralegal training is fairly new. The experiences of other paralegal training programmes will enrich future efforts in paralegal training in Lesotho.

The case study method is important because Babbie (1973:37) mentions that the case study represents a comprehensive description and explanation of many components of a given situation. An example of a case study which examined the history, religion, politics, economic, geographic, racial and make up of a community was given. The example indicated that the case study method can be used to study all aspects of social life. It presents a comprehensive picture and is able to describe inter-relationships which exist. Based on this description, the case study was relevant and appropriate to describe the two paralegal training programmes of CRAC and FIDA.

The importance of a study on paralegal training is underscored by Tsanga (1998) who wrote a thesis on *Taking Law to the People: The Experience of Zimbabwe*. She acknowledges the reality of the infancy of community-based legal activities. She hopes that her study will contribute towards organisations managing such programmes (Tsanga, 1998:18). The literature reviewed draws parallels between the training of paralegals and the training of other field workers. This inter-relationship between field workers in other fields, particularly their training, and the legal field will bring experience gathered over many years into the legal field. There are lessons to be incorporated into the training of paralegals.

The use of "barefoot" lawyers (paralegals) is a new concept compared to the use of "barefoot" doctors, traditional birth attendants, community health workers and other paramedics. Therefore it is important to generate more knowledge that will contribute towards the programme performance of organisations that use paralegals to advance justice.

The literature gives ideas about how paralegals in Asia and in the SADC countries are identified. Who is a paralegal, what type of people they are, how they are recruited. It looks at how paralegals are trained and deployed after training. The philosophical approaches taken by the different organisations are analysed. The design and evaluation of paralegal training programmes and the teaching and learning methodologies are important in the discussion as well as the teaching methods. For example, Walters and Manicom (1996) suggest that a gender sensitive workshop should encourage trust amongst the participants; they should feel safe to talk, play and analyse issues. In such workshops story-telling and household objects are used for learning.

Freire (1985:177) on the other hand encouraged the researcher to include villagers in the study because they have a wealth of knowledge. He says "when I refer to peasants, my emphasis is on our need to learn from others, the need we have to learn from learners in general. I have continually insisted that we must learn from peasants because I see them as learners at a particular moment in my educational practice."

The kind of designs that have been developed for paralegal training programmes will be analysed to assess the extent to which interactive methods are used in their implementation and the extent to which trainers are willing to learn from the learners as Freire suggests. The manner in which the paralegals function is important, hence literature that will provide this information will be reviewed.

Paralegal training will be discussed within the broad context of popular education theories. Literature that discusses popular education and participatory teaching methods will be referred to in the discussion. Literature which discusses the use of non-specialists in other fields, such as health, will give additional perspectives that can be applied in the training of the paralegals. Office records, such as files, reports, newsletters and library material, were used as an additional source of information. A visit to the Black Sash office in Johannesburg was another useful source of information. The training activities are reflected in Appendix 9 but the researcher made the following observations:

The experience from Black Sash indicated that publicity for a paralegal training programme is important. Black Sash used a leaflet to publicise their course. The main point raised is that the course runs for three-and-a-half months. Its focus is on building capacity in running community-based advice offices with the aim of assisting and empowering the disadvantaged. It also seeks to assist people to deal with day-to-day problems and to bring about an awareness of human rights. Invitations were sent to CLRAC and FIDA to send their paralegals for training but CLRAC and FIDA did not have the funds to pay for the training. Applicants to the course should be accountable to somebody. Therefore they have to be sent on the course by a church, community-based organisation (CBO), NGO or civic organisation. It was indicated clearly that individuals who are not part of a structure are not accepted for the course. Another requirement

is that a sponsoring organisation must take cognisance of gender balance. If it sends two representatives, one must be a woman. Another important point brought out was that paralegal work is not a means of generating income so a paralegal or paralegal advice office must not ask for money from those they serve. It is noted that one of the cornerstones of paralegal work is that it is a development activity which aims at enabling people to make their own decisions and to take action themselves for redress of their grievances. An important aspect of paralegal work is to build a strong civil society which will control the power of the politicians. An applicant to the paralegal course is therefore expected to sign a contract that binds the trainee to the Black Sash code of conduct. Based on the foregoing, the Black Sash sees its target group for its services as unorganised workers, pensioners, the homeless, the poor and generally those whose basic rights are denied. The paralegal training is therefore designed in such a way that it gives advice workers skills to serve the needs of the abovementioned groups.

The scope of the literature review excludes literature from the developed world as the experience gained in the developed world may not be relevant to the situation of developing countries. The scope of the study itself does not warrant such wide coverage. Note must however be made that Currin (1994) in her study looked at the role of paralegals in the developed world and in developing countries. She concluded that paralegals in the developing world play a political role and are legal activists because they deal with problems of marginalised groups of people. Focus will be made on literature on SADC countries, as indicated. Reference will be made to literature from Latin America and Asia because these two regions and Africa have a common bond of colonial history and deprivation.

The literature contributes knowledge for immediate application by those involved in the design of paralegal training activities.

Clark (1997:43) makes the point that Non-Governmental Organisations (NGOs) may provide mechanisms which enable the poor to participate in development with or without an invitation from government. He points out that in some countries NGOs play an effective opposition role while in other countries they are the voice of the weak and vulnerable. This is a pertinent observation because in Lesotho advocacy NGOs are perceived by government to be an

opposition; yet the NGOs see themselves as the voice for the voiceless. Bosch (1997:233) acknowledges the changing context of Brazilian NGOs when she says that NGOs have traditional links with social movements. They represent activists from different concerns such as human rights, women, race, ecology, AIDS and many others. They perform political tasks of creating awareness through popular education and private advisory services to popular organisations. A distinction between NGOs is made in that there has arisen a specific type of NGO, committed to social transformation and the promotion and defence of human rights.

Bosch (1997) sees the main features of the work of Brazilian NGOs as:

- Being autonomous from government and political parties.
- Their target populations are groups excluded from their basic rights.
- Their methods give priority to building horizontal relationships with people and organisations, offering advisory services, education on legal rights and the linking of community organisations with broader social movements.

In the legal arena they seek the following:

- The implementation of laws which reflect a new social order.
- To guarantee equal access to justice for all.
- Constitutional changes through wider participation at constituent assemblies.
- The creative application of existing laws, both in legal actions and in the political struggle, to promote new rights.
- To promote an understanding that the law is connected to issues of power.
- The types of organisations described above are similar to CLRAC and FIDA. The similarities will be demonstrated in chapter six.

The writer is doubtful whether there will be evaluative studies that can guide this work. The idea of material on evaluation is brought in because an assessment of an educational and a development activity implies some evaluation component. Material on evaluation of development activities will be discussed to draw lessons for evaluating paralegal training. The

limitations in the review will include the fact that literature on paralegal training in Lesotho is inadequate. The researcher is doubtful whether there is enough material that discusses the concept of a paralegal, their training and function.

2.3.2 THE BODY OF THE REVIEW

The review will first categorise the discussion into different themes. The following groups will be key sources of information: International Commission of Jurists (ICJ) and Women and Law in Southern Africa (WLSA) and different individuals involved in paralegal work.

It should be noted that the literature on the paralegal concept or movement that was accessible to the writer is mostly oriented towards training manuals and modules that guide practitioners on how to design educational encounters. This review therefore covers the definition of paralegals, their selection, training and their deployment. Literature on philosophical and ethical issues in research is reviewed as well as material on evaluation.

The review will be structured in two different ways. Broad groupings, according to the subject matter, will be made. The discussion on issues relating to paralegals will be divided into the broad issues of recruitment, training and deployment. The first theme that the literature discusses is the definition of a paralegal, what kind of people they are and how they are selected and trained.

2.3.3 WHO IS A PARALEGAL?

In *Working for Justice: The Role of Paralegals in South Africa* (LEAP / Black Sash, 1990:9-10), different writers defined paralegals in many ways. In a keynote address to the conference that resulted in writing the abovementioned book, Penuell Maduna mentioned that paralegals as a phenomenon were new and they came into being as a result of the need to transform society. He defined paralegals as

"community workers armed with basic skills in law, who are accountable to the

masses of our people, functioning under the auspices of numerous human rights and legal resource groups. These paralegals have played a crucial role in the defence of our people against severe repression and the tyranny of apartheid" (LEAP / Black Sash, 1990:9 - 10).

Tsanga & Olatokunbo (1994:14) see a paralegal as

"someone who is based in the community; who has a basic knowledge of law and its procedures; has skills and a good attitude that will enable him or her to do the following:

- Conduct educational programmes to bring to disadvantaged people an awareness of their rights;
- Facilitate the creation of people's organisations to enable them to demand their rights;
- Assist in securing mediation and reconciliation in matters of dispute;
- Give advice and enable people to solve their legal and social problems;
- Conduct preliminary investigations in cases that need legal intervention and need to be handled by a lawyer;
- Assist the lawyer with statement-taking, seeking more relevant information to the case and giving required evidence".

There are many words and phrases that are used interchangeably to describe a paralegal. Agimba et al. (1994:8) have adopted a broad look at the non-traditional legal provider. He / she is defined as an

"individual or more often an organization consciously taking a decision to start and implement a programme whose aim is to create the level of awareness of the rights and obligations under the laws of a country" (1994:8).

In the literature such words as "paralegal field worker", "paralegal advice worker", "paralegal

educator", "caseworker", "paralegal worker" are used to define someone who does paralegal work. These different descriptions indicate the different perceptions held about paralegal workers.

In a 1990 Asian seminar on paralegal training in Bangalore, India the participants from Bangladesh, India, Indonesia and Malaysia endorsed recommendations of a seminar held in the 1980s on promoting a new group of lawyers who see the purpose of the legal profession as establishing justice and human rights. Such a group of people would play a significant role in investigating people's problems and would serve as a link between their communities and legal services.

A paralegal worker is a person with basic knowledge of law and procedure who has the motivation, attitude and skills to: assist the lawyer with written statements, required evidence and other relevant information necessary for dealing with such a case.

Note is made that it is easy to work with a paralegal who is attached to an organisation so that they can obtain support.

The experience of when paralegal services are required differs. Some paralegal workers work as individuals and they do not belong to an organisation. There are those paralegal workers who are trained to deal with a particular issue, for example, calamities. Such paralegals would not be equipped with skills to handle other issues such as legal aid, but would know when and how to refer clients for legal aid services.

A theme running through the definitions presented in the report on the Asian seminar referred to earlier is that of the protection of human rights, promoting justice and that of transforming societies. The definitions also indicate how paralegals as individuals and as groups deal with the problems of the marginalised. Thus they are expected to be "jacks of all trades and masters of none".

It is interesting to note that Agimba et al.(1994:8) look at a paralegal as an organisation, which is a different understanding of a paralegal as a person or a group of people.

It has been indicated that in South Africa the paralegal movement was seen as contributing towards the transformation process. This links well with the idea of accessing justice and seeking community oriented measures to deal with injustice.

According to Tilakaratna (1987:51) there is a category of field workers referred to as an Internal Animator (IA).

"A person becomes an IA when his fellow men begin to recognise him as such, that is, a person who has the skills to assist them to initiate or facilitate their actions and who is acceptable (as being sincere and committed) and accountable to them".

The concept of a paralegal fits into this description because most paralegals are sincere and committed to their work. Many started off as volunteers. LEAP / Black Sash (1990:152-153) defines this idea in this manner

"our struggle has a long history of volunteers taking on political tasks, for example, in the defiance campaign of the 1950s. Paralegal volunteers are people who work on a voluntary basis and who are not employed or paid for the paralegal work they do for their organisation. These comrades see their paralegal work as part of their political work and their commitment to their community" (LEAP / Black Sash, 1990:152-153).

2.3.4. WHAT KIND OF A PERSON IS A PARALEGAL?

According to Tsanga & Olatokunbo (1994:8) in The Paralegal Trainer's Manual for Africa, a paralegal requires certain attributes to function optimally. These attributes are as follows:

2.3.4.1 Skills

A paralegal is someone with skills to:

- Counsel
- Evaluate, communicate
- Negotiate
- Write and take statements
- Develop educational materials
- Conduct community diagnosis
- Work with the disadvantaged
- Type, file, keep financial records
- Pass on knowledge on various aspects of law

2.3.4.2 Personality/community standing

In South and South East Asia, paralegal workers have been drawn from the following types of people or society groupings:

- community leaders
- social workers
- representatives of specifically disadvantaged groups, for example, women, trade union leaders, health workers, literacy teachers, religious workers, law students, development workers, political activists, rural youth and student volunteers doing community work.

An important point is made by Tsanga & Olatokunbo (1994:17-18) that an organisation that intends to train paralegals must be careful to give relevant training that takes into consideration the kind of service in which the paralegal is involved. They indicate that it is waste of resources to train a nurse in accident damages. An important point is that if an individual is trained in a relevant field, he / she will not see paralegal work as a burden.

2.3.5 HOW PARALEGALS ARE IDENTIFIED AND RECRUITED

Learning from the Zimbabwe experience (Tsanga 1990:32), one realises that there are different approaches to identifying paralegals. Zimbabweans realised that choosing individuals already operating in organisations such as Women's clubs, the Zimbabwe Women's Bureau and the Adult Literacy Organisation would help minimise the problem of limited funds for the programme but that the approach also considered skills that people had already acquired from their involvement in other development related fields.

Experience gained from training health workers indicates that health workers chosen by their communities feel responsible to the community. The people are likely to be more in control over the health worker and the chances for the health worker to be more accepted by the community are greater. However there are problems such as the fact that a chief could choose his family. Young, inexperienced or irresponsible persons could also be selected. The likelihood of those who are better educated leaving the village are greater. It is hoped that the following suggested solutions by Werner & Bower (1983:2-3) are relevant:

- If everyone is involved in the selection, chances are that the health worker will be accepted.
- Village leaders and their children should not, in general, be selected because poorer people may be left out.
- Young people and those likely to marry soon should be omitted. It is argued that young people do not have the necessary experience and could be irresponsible. This aspect however needs to be considered carefully as it could be interpreted as discrimination against the youth.
- Those with many other responsibilities or official positions should also be omitted.

2.3.6 QUALITIES AND QUALIFICATIONS REQUIRED OF A PARALEGAL

The point is made that lack of formal educational qualifications should not prevent people from being trained as paralegals.

Emphasis should be on the attitude and maturity of a person. The researcher's personal experience is that basic literacy is necessary for a paralegal to be able to learn additional skills.

Suggested attributes for a paralegal according to Tsanga & Olatokunbo (1994) are:

- Trust and patience,
- An analytic mind,
- Creativity,
- Self-criticism,
- Self-reliance that will enable a paralegal to be less dependent on lawyers,
- Respect for people and for democratic decision-making,
- Self-confidence to deal with police,
- Being realistic about their abilities,
- Not misusing the role to promote self-interest.

Among the skills needed are:

- Ability to work with people,
- Communication skills,
- Writing skills at a basic level to be able to deal with local courts
- Ability to develop educational materials (this raises a contradiction: an illiterate paralegal would not be able to produce materials),
- Ability to conduct research (this is another high order performance level that can only develop over a long time),
- Ability to render advice or counselling at a basic level but also to progress to advanced levels. Counselling affects everybody at every level,
- Evaluation skills.

2.3.7 BASIS FOR A PARALEGAL TRAINING PROGRAMME

Agimba et al. (1994:19) believe that a training programme should be based on certain basic information

- Age and gender of the learner,
- Educational level and duration,

(continued)

- Cultural background, religion and attitude,
- Previous experience in working with communities (for example, is the focus on specific groups?),
- What the training should achieve,
- The relationship between the paralegal and the community with which he / she intends to work.

2.3.8 SUGGESTED CURRICULUM FOR A BASIC PARALEGAL TRAINING PROGRAMME

Tsanga & Olatokunbo (1994) suggest the following curriculum for a basic training programme:

- philosophy of using law as a resource for people,
- international human rights standards,
- constitutional rights,
- the difference between constitutional law and statutory law,
- separation of powers between the legislature, executive and the judiciary,
- the procedures involved in enacting laws,
- civil and criminal procedures,
- practical tips on arrest, bail, search and seizure,
- knowledge of laws and procedures governing the establishment of peoples' organisations, co-operatives and trade unions,
- basic knowledge of special laws governing environment protection, consumer protection, etc.

Skills that the curriculum should focus on include:

- skills to understand structural analysis,
- skills in conducting preliminary investigations, evidence gathering and interviewing,
- skills needed in negotiating, bargaining in dispute settlement,
- basic drafting and documentation skills,
- communication skills, and
- skills of organising and mobilising.

A suggested curriculum for specific groups, for example, peasants (farmers):

- Structural analysis to situate peasants in the socio-economic and political reality of the country.
- An overview of laws concerning land ownership.
- Laws concerning possession.
- Laws relating to entitlement to credit.
- Welfare laws.

2.3.9 LAW AND LAY PERSONS

Gnanapragasam (1991:26) notes that

"Law and legal services cannot be the exclusive prerogative of the lawyers and legal practitioners. Grass-roots level community workers can play a very vital role in helping the poor and the disadvantaged to understand law and use it effectively to their advantage".

In India, paralegal training is intended to impart basic knowledge and procedure applicable to the communities with which they work. The training programmes take anything from three days to forty-five days. This indicates that there does not exist a standard against which to measure paralegal training programmes.

The researcher realises that the literature that emerged from workshops and seminars organised by the International Commission of Jurists (ICJ) raises the same issues. This conclusion is drawn from an analysis of a paper presented by Manase at a seminar in Harare in 1990 on "Legal Services in Rural Areas - The Experience of Zimbabwe." Manase notes that there were no materials when the paralegal scheme was begun, which underlines the need for this study. This observation nurtures the researcher's distant hope to produce a manual for training paralegals in Lesotho.

In a paper on *Rural Paralegal Training in South Africa - A case study of the Legal Education*

Action Project (LEAP), the writer indicates that to empower rural communities to resist political repression, the state should train paralegals from under-serviced rural communities so as to empower them as teachers to teach others. The people they train are selected by their communities. Trainers are encouraged to use their skills within their organisations.

LEAP offered advanced paralegal training, which equipped the trainees with skills to work in law firms. The observation is made, however, that lawyers do not recognise those skills. The training gives the following skills to paralegals:

- Knowledge of repression related law and the legal process.
- Practical legal skills.
- How to work with lawyers.
- Teaching skills.
- Counselling skills.
- Referral and monitoring skills.

The LEAP programme is different from the others in that it has an important component on teaching skills. Paralegals also fulfil the role of educators which is why it is essential to give them the necessary skills.

An important lesson raised in the article is that follow-up of the trainees is essential. Manase argues that to assume that a paralegal is doing beneficial work is very dangerous, therefore their performance should be monitored closely (LEAP, 1990:78-80).

2.3.10 WHAT KIND OF TRAINING DO PARALEGALS RECEIVE?

In discussing the kind of training paralegals receive, it should be acknowledged that paralegal trainers are lawyers who are not adequately prepared for the challenges involved in teaching adults and how to apply the skill of teaching of adults who are illiterate. It should also be acknowledged that law is a technical field which needs to be simplified to help disadvantaged people to understand it. The training of lawyers has not exposed them to philosophies behind the provision of legal services to disadvantaged groups. This point is important because many legal

resource centres use lawyers as trainers. Lawyers are subject specialists but they often lack training and teaching skills. Training needs assessment is an essential step in planning a training programme. This helps the trainer choose the best topics and the best methods for the learning encounter.

Agimba et al. (1994:14) suggest that when planning a legal educational programme, the following questions should be asked:

- Is the programme for a specific group or is it a local or national programme?
- Is the content for the training based on clearly defined objectives?

The trainer should therefore ask the following questions:

- on what issues is the programme going to focus,
- why those specific issues,
- what role did the community play in identifying those issues?
- are they the priority issues for the community?

The trainer should always be critical of the expected performance by the learner after the training has been completed.

Nyarko (1997) suggests that training for literacy volunteers should be divided into three phases:

1. An induction conference to deal primarily with helpful materials regarding the job.
2. An orientation session to highlight the goals and objectives of the programme.
3. A programme emphasising leadership roles and problems volunteers are expected to encounter.

Hope & Timmel (1984:153-157) suggest six steps for organising a workshop:

1. Pre-planning
2. Gathering information
3. Analysing information
4. Deciding on the aim of the event
5. Carrying out the event
6. Evaluating the event

These are issues that are pertinent in training activities for paralegals. Assessment of the teaching and learning becomes an important aspect of the planning process for an educational activity. Evaluation of individual learning sessions should be done on a daily basis in order to assess participants' reactions as soon as possible after the presentation. The evaluation of the whole educational experience should be done at the end of the course to find out the extent to which objectives were achieved.

In his manual, *A Participatory Approach to Rural AIDS Education*, Bekalo (1986) outlines a seven step approach that takes the reader through a step-by-step process of planning and organising workshops. These seven steps (Bekalo, 1986:6-7) are:

1. Confidence building
2. Assessing the system
3. Acquiring resources
4. Choosing the strategy
5. Implementing the solution
6. Institutionalising the change
7. Access

For the purposes of this research, the researcher has found only five steps relevant:

- "1. The confidence building step is meant to build trust and understanding between trainer and prospective trainees, paving the way for a strong and lasting relationship.
2. Assessing the client system means that the trainer has "to identify what the

trainees intend to achieve and his or her capacity to achieve the intended goal. The problem identified in the client system is the basis for the workshop goals". [The trainer should also assess his / her own strengths and weaknesses to meet the expectations of the client.]

3. At the level of acquiring resources with clearly defined objectives, both the trainer and the trainee need to identify relevant resources. This confirms educational theories which say that learning is a joint enterprise between the trainer and the learner. [Relevant resources could be materials, information, manpower or money.]
4. Choosing the strategy - With clearly defined problems, objectives and relevant resources required and relevant activities identified, both client and trainer settle on a potential strategy leading to the solution of problems (Bekalo, 1986:7).
5. [The step on implementing the solution refers to the actual conducting of the workshop]. A guideline for conducting a successful workshop is given as follows:

Careful planning, which looks into pre-workshop activities, such as clear and timely communication. The participants in the workshop must be clear about the objectives. They must know what to bring for themselves and for the group. They must be told about the venue, the time and logistical arrangements, including food and accommodation (Bekalo, 1986:7)."

The expectations of the participants are usually different so the trainer must address every expectation creatively.

Workshop materials and support activities should be planned carefully in advance, for example, course notes, equipment, posters, flip-charts, etc. In terms of time management one to two hours per session is suggested. The last step of institutionalising change assumes that knowledge and skills have been transferred to the client system and vice versa. Both parties are enabled to adapt the desired behaviour, but the client system needs support to develop its internal capability to carry out the innovation independently. This however is gradual and time-consuming (Bekalo, 1986:6-7).

Another important point to consider in participatory training is that it is necessary to as far as possible to build a relationship of equality between the trainees and trainers during the training programme (Tilakaratna, 1987:50). The trainer should see himself or herself as a co-trainer with the trainees on a path of joint exploration. This approach will enhance teaching and learning.

2.3.11 ROLE OF PARALEGAL WORKERS IN THEIR COMMUNITIES

Facilitating formation of a people's organisation helps people to focus on specific issues and helps them form their own organisations. This is where the adult education skills that are needed to be a paralegal can be put to good use. Action research skills and nominal group techniques could be some of the skills incorporated into the curriculum of paralegals.

One other role of paralegal workers is education and conscientisation. The whole issue of educating people about their rights and educating them on laws that affect them becomes important. To be relevant, paralegals in Lesotho could focus, say, on areas affected by the Lesotho Highlands Water Project. Paralegal training could include the social and economic rights of the individuals affected by the project.

For an educational activity to be effective, a paralegal should adopt a comprehensive approach as suggested by Tsanga & Olatokunbo (1994) and should understand his/her community according to the following suggested steps:

2.3.11.1 *Steps to be taken in educating communities about their rights*

- **Social analysis** - The first step in engaging in such a process would be carrying out social analysis. This is mentioned as a necessary component to enable the paralegal to understand causes of social problems.
- **Advocacy** - It is important that paralegals bring to the attention of policy makers, problems faced by disadvantaged groups. This may mean presenting the case of the community or an individual before officials.

(continued)

- Counselling, Mediation and Conciliation - Paralegals need to be equipped with skills to mediate in conflict situations. They should be in a position to help communities settle their disputes in non-violent ways.
- "Legal First Aid" - A paralegal should be able to provide "legal first aid", for example, in emergency situations, such as eviction. He should be able to find rapid legal remedies to stop evictions.
- Networking - The paralegal needs to establish links with other organisations to generate support for the problems faced by the community that the paralegal serves.
- Enabling people to present their demands - Mobilising people for mass action or protests so as to present (negotiate/dialogue) their demands with concerned authorities.
- Documentation - Recording important events that happened in the community and a record of activities undertaken by the paralegal.
- Drafting documents - Helping people to write applications, complaints, petitions and other legal documents.
- Assisting the lawyer - The paralegal has to conduct preliminary investigations, interviewing clients, gathering evidence and preparing a summary of facts.

In an article on *Strategies of Third World Women*, Dasso (1986:228-229) notes that one of the strategies in Peru to improve women's rights is to

"train women as paralegals to increase public awareness of women's rights to community members and to defend poor people".

She further says that

"Women are selected by their own groups or organisations to participate in the legal education courses. After seven months of training, the participants in the

courses go to the field for practical experience before they graduate as 'promotoras legales' [paralegals]".

Dasso (1986:228-229) also affirms the important role played by community trainers as advice and information givers in Peru. They reduce legal costs by providing a community-based service that is accessible to women. Community trainers provide a multiplier effect thus increasing coverage. They do this by using local networks and radios and the markets. The trainers have sometimes accompanied complainants to judicial structures, thus exerting pressure on the authorities. The women's arguments gain credence if paralegals are in attendance when they lodge their complaints.

A further note is made by Lora (1986:23) that training marginalised women as paralegals and the creation of a legal office in which they work has begun to demystify the legal system. The traditional relationship between lawyer and client is broken, and total dependence on a lawyer is reduced.

Note is made that although in Peru laws are not discriminatory, the 1984 civil code contains legal ambiguities which, because of cultural factors, condemn married women to dependency on their husbands (Lora 1986:23).

The article further demonstrates the important role played by paralegals by mentioning that sixty women were trained as paralegals, chosen from a district whose mayor was a woman. It is felt that through this input, there are other community changes for example the community is more organised and was able to discourage illegal property sales which were often transacted by corrupt officials. It is noteworthy that in 1986 twenty legal cases had been filed and resolved and that fifteen of them were handled by paralegals without the support of lawyers.

The writer reflects on the 'omission' of not conducting a 'certification' ceremony for the paralegals on completion of their training. This would have demonstrated publicly that the paralegals had acquired the required expertise to give advice on legal issues. Their image would have been enhanced.

It is interesting to note that women in Peru and in Lesotho are treated in the same way in the eyes of the law. Clause eighteen of the Constitution of Lesotho (1993:33-34) guarantees the right to freedom from discrimination but sub-section 4 (c) entrenches discrimination on the basis of culture. It reads, "with respect to any matter in the case of persons who under that law are subject to that law", for the application of the customary law of Lesotho. Letuka et al. (1994:19-20) note that divorce is not common under customary law. Yet, when it happens, its consequences on the woman are serious. Women lose everything they have. They have to choose whether to return to their maiden homes or they have to start afresh on their own. This often forces a woman to remain in a relationship in which she is unhappy.

The different experiences of paralegal training and paralegal work are presented country-by-country: Ecuador, Kenya, Zimbabwe, South Africa and Ghana.

Ecuador

In selecting women to be trained as paralegals, the participants should fulfil the following requirements

- "- completion of elementary education
- recognised leadership / or a trusted member in the organization or the neighbourhood
- availability (in terms of time)" (Gomez, 1986:64).

To cover transport and other incidental expenditure, financial incentives were given to the trainees - in the form of a US \$1.00 "scholarship"! The training course took four weeks and consisted of twenty three-hour sessions. Popular education methodologies were used, such as role-plays and group discussions. The course concluded with a public final closing ceremony, attended by relatives of the paralegals, where diplomas were handed out. It is interesting to note that these diplomas were awarded for attending the course but no mention is made of either course content or an examination being given at the end of the course. The literature review looked at East Africa, in particular, Kenya.

Kenya

Kaduru (1986:236-243) narrates the experience of Partnership for Productivity (PFP) an organisation which runs a women, law and development programme in Western Kenya. The programme is run by two lawyers and twenty-one paralegals. The paralegals live in areas where PFP has projects. These paralegals are known as 'field extension officers'. Their function is to organise legal education meetings in conjunction with local leaders. The paralegals collect basic information from clients before PFP lawyers take action on the cases. An example of how a PFP paralegal helps a businesswoman is given. A small businesswoman, as they put it, may believe that she has a valid lease, but some vital element of the agreement may be missing. A PFP paralegal can help the businesswoman by reviewing the content of the lease. On a more general level, after a paralegal has established contact with local women, PFP legal officers arrange a visit to the area to provide relevant legal education. Land laws, laws on registering groups and business law would, in this regard, be relevant. PFP sees a paralegal as someone who is an integral part of the groups served, helping them to understand their collective problems and how to use law to assert their rights (Kaduru 1986:236-243).

Reference is made to specific development and welfare programmes initiated by the government and how to participate in them.

Zimbabwe

Literature from Zimbabwe gave insight into paralegal training experiences in SADC countries. When the paralegal movement began, the primary aim of beginning such a system was to address the issue of legal services in the rural areas. There was caution, however, as indicated by Tsanga (1990) in an article on paralegals in Zimbabwe that the Law Society would be resentful. This caution determined the initial role of paralegals in Zimbabwe to be that of 'referral agents'. Zimbabwean paralegals were expected to identify legal and non-legal problems and to refer them to organisations that would deal with them competently.

The Legal Resources Foundation was founded to tackle the issue of legal services for rural dwellers. Their approach was to undertake a paralegal scheme. Suitable persons were trained to identify problems in their communities which would have a legal remedy and to refer problems beyond their scope of competence to relevant agencies. The first paralegals from Seke (a district in Zimbabwe) were selected from non-governmental organisations already operating in the area.

The paralegals receive a one week training, based on a training manual, which included the following topics (Tsanga, 1990:128):

- The paralegal worker
- The paralegal manual
- Zimbabwe law
- Zimbabwe court
- Government ministries and departments
- Non-Governmental organisations
- Civil and criminal trials
- Assistance agencies
- Marriage
- Lobola (bride-payment)
- Divorce
- Unmarried mothers
- Property
- Delicts
- Registration of births and deaths
- Estates.

When the Seke pilot scheme was evaluated after sixteen months, it became clear that there was the need to launch a serious legal literacy campaign. A structure which involved Advice Volunteers at the village level was introduced followed in the hierarchy by advice centres run by paralegals. The Advice Volunteers would carry out legal literacy work and refer people to the advice centres.

South Africa

Since Lesotho is land-locked by South Africa, reference was made to literature from South Africa.

In a report on a seminar held in the 1980s on promoting justice, a new type of lawyer (paralegal) who sees the purpose of the legal profession as establishing justice and human rights was advocated for. Such a group of people would play a significant role in investigating people's problems and would serve as a link between their communities and legal services.

Half of South Africa's 40 million population lives in impoverished areas. They are a sector that is vulnerable to oppression, lack of resources and information. Paralegals offer education that will lead to change. Relevant training materials that reflect concerns and issues on the ground were developed. A report in a Lawyers for Human Rights (LHR) National Directorate Publication (Vol. 2, December 1995) indicates that participatory methods were used to teach people to understand the constitution and human rights in the context of their lives.

Taking the history of South Africa into consideration, this approach is relevant as it challenges paternalistic and dominating approaches. This participatory approach follows Malcom Knowles' self-actualisation theory (see Feuerstein, 1986) and Freirian theory of transformation (Freire, 1985).

Wilson & Ramphela (1989:289) note that in those organisations that worked for change,

"Adult literacy is also tackled through a programme that not only promotes the acquisition of literacy skills but promotes general organisation of the local people through encouraging critical analysis of their conditions and joint discussion on short run strategies to deal with some of the problems they face".

Acknowledgement is made of the growth of legal advisory services such as the Legal Resources Centre and the Centre for Applied Legal Studies that use the law to protect the ordinary person.

In analysing the past role of paralegals in South Africa, Njozela (1991:1) notes that paralegals played an important political role. They filled the vacuum created by the banning of mass-based organisations. In the 1990s the paralegal programme run by LEAP was modified to adjust to the changing political climate and to other realities such as the fact that advice offices collapsed when funders limited their assistance to advice centres. A concept of volunteer paralegal units was started. The task of volunteer paralegals in a unit is to give basic legal advice and education in their communities. The strength of the unit according to Njozela was that the members of a unit remained accountable to the organisations they were elected to represent.

Njozela (1991:3) notes that

"training takes place on four levels:

- Volunteer paralegals as well as staff of existing advice structures are trained in their communities by the LEAP field workers.
- Field workers assist paralegals with cases and administration of in-service training.
- Regional training courses are held where other resource organisations from Rural Advice Training (RAT) Group are drawn in to do further training.
- Residential urban training courses with RAT on specific subjects and refresher courses on basic skills are held.

At this time, LEAP was working on producing a user-friendly paralegal manual for South Africa, therefore the training offered by RAT was limited to the content outlined in Table 1 (Njozela, 1991:3).

Table 1: Rural Advice Training Programmes

Basic Training	Specific Training
Role of paralegals	Pensions and grants
Statement taking	Labour law
Interviewing skills	Unfair dismissals
Report and letter writing	Consumer law
Administration and filing	Rent and evictions
Criminal procedure: arrest, bail, etc.	Book-keeping
Rights during arrest and detention	Small claims court
Police raids and use of force	Industrial court
Criminal cases, civil claims and interdicts	
Using lawyers and referral	
Using the press	
Evidence gathering and monitoring	
Workshops and community education	
Role of committees, treasurer, etc.	
Mediation and negotiation skills	
Marshalling and crowd control	

Source: Njozela, L., 1991:12-91

Fine (1992) has a different view. He categorises the role of paralegals into three areas:

Service role

"Paralegals directly serve the community by responding to day-to-day problems like maintenance, evictions, pensions and violence against women" (Fine 1992:6-7).

He suggests that the service role covers two broad issues:

- Advice-giving on legal and social welfare issues, and
- Counselling, referral to other agencies and networking.

Development role

Fine (1992:6-7) further sees the role of paralegals as developmental. Paralegals should help in building community resources which means developing resources and services in rural areas and underdeveloped communities.

Paralegals should conduct community education to inform people of their rights. They should help in the formulation of future policy on access to justice, social welfare and related issues.

Monitoring role

The third role mentioned by Fine is that of monitoring human rights violations, and documenting and publicising such violations.

In the August 1997 issue of the Black Sash newsletter critical questions are asked in an article entitled "Finding a Voice?" Paralegal representation at the Commission for Conciliation, Mediation and Arbitration (CCMA). The point is made that, before the new Labour Relations Act came into force, Black Sash officers successfully participated in and represented non-unionised workers at Conciliation Board meetings. A complaint is raised that the current law excludes paralegals, caseworkers or legal practitioners from representing parties at the Commission for Conciliation, Mediation and Arbitration (CCMA). The need for paralegal or caseworker representation in the CCMA is stressed to indicate the important role that paralegals play in representing victims of labour malpractices. The advice offices are in rural areas where they serve farm workers and domestic workers.

A question is asked as to whether an illiterate worker can represent herself/himself at a CCMA hearing or whether a farm worker can afford to pay attorney's fees. A proposal has been made that the paralegal movement should motivate that paralegals and caseworkers should be allowed to represent workers at CCMA sessions. This motivation should be made on the basis of the

resourcefulness which the paralegals already display. Some examples of current paralegal involvement are:

- Paralegal workers are already involved with legislative interpretive work in their advice-giving duties on a regular basis. In many cases, paralegal workers are required to analyse and apply the relevant provisions of the Act in their labour casework.
- Many advice officers are currently involved in the preparation of a good case for the worker, particularly for bargaining or negotiation purposes.
- In unresolved or deadlocked cases, the advice office workers and paralegals are the people who clarify the rights of their client and prepare them for an arbitration hearing.
- Advice offices and their paralegal workers do not charge for services and are thus very cost-effective for unorganised labour or the poor, who cannot afford attorneys.
- Paralegal workers are available and accessible in many rural communities, and are often the only legal resource people to whom rural dwellers may have access.
- Many paralegal workers are already trained in community conflict resolution. These skills can be applied to CCMA situations.
- The methodology of the Community Law Centre (CLC) is that of enabling the communities to make their own decisions. Rural paralegal committees are elected by their communities. The CLC's role is that of training. The CLC prefers indigenous paralegals who are familiar with the history, problems and needs of their local communities. An intensive training course that runs for two years is given. Paralegals spend two weeks at the CLC each quarter and receive on-site training at their rural offices every month combined with correspondence courses as needed. The paralegal training programme is accredited by the University of Natal, which awards a diploma after successful completion of the two-year programme.

Training for paralegal committees focuses on basic and current legal education, management and financial administration, problem solving and negotiation and mediation skills. The problem related to assessing the quality of the work of the paralegal is raised. A study of what paralegals achieved during 1993 in fifteen rural communities indicated that they:

- Recovered approximately R 28 000 in social welfare benefits which were being withheld from clients through corruption or inefficient administration.
- Monitored government administrative functions to ensure accountability.

Ghana

Reference was made to literature from Ghana since it gave an insight into what other volunteers in other disciplines do. This is important because it will highlight issues that can be adapted to the work of paralegals. In the context of CLRAC and FIDA paralegals are regarded as volunteers. Though there was no literature on paralegal training from West Africa, Ghana provided useful information on the concept of volunteerism.

Experience from Ghana confirms that volunteers have been used in adult education programmes to cut down on expenditure.

The Ghana study cited the following nine most important qualities of a volunteer:

- Good command of public speaking and command of the language of the people.
- A volunteer must have an adequate knowledge of the subject.
- He / she must have patience in the face of frustration and provocation.
- He / she must have the capacity for leadership and be courteous.
- Volunteers must be committed to the cause of the work for which they have volunteered.

(continued)

- They should have a sense of sympathy, empathy, love, respect and be sensitive to the needs, feelings and aspirations of the people they intend to serve.
- They must be above reproach but be approachable and not boastful.
- They must have some educational background. People will not readily accept and respect someone who is as illiterate as themselves.
- Volunteers must be known and trusted.

An indication has been made earlier that there is a high drop-out rate amongst the trained paralegals in Lesotho. In contrast, in Ghana, the question of motivation becomes very important to sustain continued interest in the work for which paralegals volunteered. Literacy volunteers were motivated by receiving badges, T-shirts and caps. Volunteers should be given 'good meals' and should not be treated differently from the authorities. An important point is made that all those interviewed said they expected voluntarism to be paid. A point has been made that sometimes a decline in volunteers has nothing to do with the volunteer himself or herself. The community that has to be served may lose interest in the activity.

In discussing myths, realities and opportunities of non-formal education, Coombs (1976:289) suggests that non-formal education offers opportunities for increasing the number of non-formal education facilitators because it offers cost advantages over formal education on account of its ability to use borrowed facilities or to manage with no facilities at all. The shade of a tree can do under such circumstances.

This approach has the ability to draw on competent people on a part-time basis, either paid or voluntary. Some types of programmes make good use of competent local specialists - farmers, craftsmen, traditional birth attendants, village leaders, etc. - as teacher demonstrators in lieu of costly full-time professional extension agents.

He notes that rural health services are turning increasingly to the use of modestly trained, but effectively back-stopped, local health workers (barefoot doctors) who serve in their own

community; promote preventive health measures; care for those having common diseases and illnesses, and refer more complicated cases to the nearest clinic or professional nurse or doctor. It has been realised that social change can be brought about by moving away from urban-centred approaches. Rural-centred approaches are sensitive to the needs of poor countries. This has prompted the legal profession to adopt the paralegal approach or what others call "non-lawyer legal educators".

Agimba et al. (1994:8) argue in favour of demystifying the legal profession because there are few lawyers in African countries. Most lawyers tend to be located in major towns, where their services are accessible only to those who can afford them. The point is made that effective legal education requires a more continuous relationship with the participating community.

2.3.12 PARALEGAL TRAINING

This component of the literature review on paralegal training gave the researcher an in-depth understanding of how a good paralegal training programme should be managed. It clearly demonstrates difficulties associated with ignoring practical problems of running such a programme. Women in Law and Development in Africa (WILDAF) material focuses on women as paralegals to address legal problems of women. It is mentioned in *WILDAF news*, issue No. 8 (1994:21) that the Ministry of Women in Development, Culture and Youth in Uganda published a series of booklets on various legal issues. It further mentions that "booklets are used as back-up materials by paralegals who were trained by WILDAF in the Kamuli District". This has been a useful input since legal matters in Lesotho have traditionally been of interest to men. This is demonstrated by the fact that CLRAC has trained many male paralegals. FIDA, in contrast, has trained women because their original focus was on redressing legal problems of women.

Lind & Johnson (1990:114) endorse the fact that prejudice against women exists, not only in legal matters but in other spheres. They note that men's attitudes are discouraging. The teacher in the classroom, husbands and guardians sometimes forbid women to take part in literacy

classes. Lind & Johnson believe that men are afraid that if women learn more than men know, it may expose their own ignorance and, above all, it may challenge their power position in the family. They further note that women were in effect powerless and lacked any means to have a positive impact upon forces that constrained them. A Tanzanian experience in which, through literacy activities, a group of women discovered their reality and rose above oppressive muslim laws showed that women could participate equally with men in a literacy programme. There is therefore hope that disadvantaged people can change their own reality if an 'animator' can facilitate a process of growth and development for them.

Coombs (1976:288) is quite aware of problems inherent in this approach. He claims that in voluntary, non-formal education there are no 'captive audiences'. People stay in such programmes if they feel that the programme has something to offer. Programme managers should always be ready to offer relevant, interesting and productive programmes in the eyes of the programme user. Community participation is very important in designing and planning legal programmes.

Butegwa & Nduna (1995:46-98) speak of community mobilising and engaging workshop participants in suggesting who should be a paralegal worker and what skills they need and what role they should play in the community. Community needs assessment, an important element in programme planning, should also involve the community.

Tsanga & Olatokunbo (1994) in the *ICJ Paralegal Trainer's Manual for Africa* discuss participatory training and the different methods that should be used. They also list the different types and levels of training that a paralegal should go through - basic training, specialised training, in-service training and refresher training.

2.3.13 TRAINING OF PARAMEDICS

The researcher referred to literature on training paramedics to draw lessons for the training of paralegals. The use of community health workers has a longer history which could be used as a

basis for training paralegals. Cabral et al. (1992) have outlined assumptions to bear in mind when training traditional birth attendants (TBAs). They suggest that the trainer must start training activities with the following assumptions:

- The TBAs can be trained.
- Confidence that the trainer is capable of acquiring the necessary skills to train TBAs.
- Conviction that training TBAs will improve maternal and child health.
- Understanding that the training of TBAs, although not easy, is challenging and definitely possible. They have found that experience has proved that TBAs can learn new concepts and skills.
- Expectation that if the teaching and learning activities are planned for specific objectives and well spelt out tasks and are conducted in simplified ways, the TBAs will demonstrate positive changes in their knowledge, attitudes and practices.

The general training approach recommended for training TBAs is:

- Through discussion groups rather than the lecture method because few TBAs have attended school and most have no experience in learning through the lecture method.
- Involving the learner in each activity as a basis for all teaching.
- Models, pictures or role-plays being used as alternatives in the initial practice sessions.
- Training sessions should last a maximum of forty-five minutes.
- A considerable amount of time being spent in practical work, that is, examining pregnant women or health education for non-pregnant women.

From a discussion on the role of health worker instructors (Werner & Bower, 1983:1-6) the lesson that emerges is that those who instruct health workers must demonstrate the kind of behaviours the instructors expect from the health workers by actually demonstrating the activities

they desire to see the health workers using in their teaching approach. If an instructor wishes the health worker to use puppets as a method of teaching, the instructor should use puppets as a teaching method. Eight guiding principles are suggested on which the instructor should base his/her work. The instructor should:

- Treat health workers as equals and friends.
- Respect their ideas and build on their experiences.
- Invite co-operation, encourage helping those who are behind.
- Make it clear that no-one has all the answers.
- Welcome criticism, questioning, initiative and trust.
- Defend the interests of those in greatest need.
- Live and work in the community.
- Learn together with the people and share their dreams.

In trying to apply this guide to the instructors of paralegals, it is noted that it is not possible to fulfil all the above principles. The trainers of the two organisations which train paralegals live in Maseru and not in the villages where the clients live. The trainers visit the rural areas only occasionally. It is not clear to what extent this affects the quality of training they offer. The suggested ideas for selecting health workers pose a dilemma. It is encouraged that a village worker (in our case, we could say a 'paralegal') should be selected from within the community. According to Werner & Bower (1983:2-1) this approach encourages villagers to be independent whereas expert input from outside leaves the villagers dependent on the outsiders. It is interesting to note that the saying that 'no-one is a prophet in his own land' is mentioned by the writers. The researcher was invited to convene a public meeting in the villages where she did some interviews. The reason given was that the villagers did not take the paralegal seriously because he is one of them. They thought that people would be more willing to act on information given by an outsider than by an insider.

This attitude could be linked to the fact that it is difficult to trust the knowledge and skills of someone who was just like another villager until he or she went for a week's training. Two

villagers actually referred to the belief that a prophet is not normally acknowledged in his or her village. Lessons learned from training community health workers, which could be applied to the training of paralegals, are that use of the printed word should be discouraged. Spoken word, visual impressions, emotional experiences and supervised practice should be adopted. This approach will greatly enhance the training of paralegals, since current practice is based on lecturing and the use of printed materials which are not used effectively. Another important lesson is that in planning and conducting training, the following criteria for selecting topics should be followed:

- Government policy regarding training and utilisation of TBAs. In the situation of training paralegals, it is interesting to note that no official policy exists. This reality could be a drawback but it could also be an opportunity as the organisations involved in paralegal training could influence policy formulation.
- Availability of support structures to be utilised by TBAs after training is another important consideration.
- In discussing evaluation of the teaching and learning experience, an important lesson emerged, the number of TBAs being trained in any one class should be limited so that the trainer can give adequate supervision to the trainees. This aspect is also important when training paralegals. Organisations involved in paralegal training should ensure that they train only a few learners at a time who they will be able to monitor closely. The capacity of the organisation in this respect must be assessed. The literature suggests that evaluation should not be done at the last minute as trainers usually do. It must be given allowing enough time to enable the trainer and trainee ample time to correct any weaknesses. This means that the usual questionnaires given at the end of workshops should be questioned. Are they adequate as an evaluation mechanism?

2.3.14 PROGRAMME EVALUATION

Feuerstein's (1986) book *Partners in Evaluation - Evaluating Development and Community Programmes* with participants is relevant to the study to the extent that it raises important considerations in evaluating a programme. It does not however meet the specific need of evaluation in legal issues. Feuerstein (1986:23) raises important issues which have to be taken care of in evaluation. Indicators are a road marker in the project process. They are bench marks to assess how the programme is doing. The process that led to changes is very important in as far as the indicators for the change are concerned. An observation is made that non-formal education is not easy to evaluate by traditionally accepted methods. The reasons it is not easy are that participants are erratic and do not participate constantly. Another reason for the difficulty to evaluate human rights related educational activities is their reactive nature. No specific and measurable objectives were, in the first place, developed. Without such objectives it is difficult to determine what has been achieved. In a training activity there is a need to have baseline information before the activity is carried out. One piece of baseline information is Learner Determined Priorities.

The suggestion is made that high participation is achieved when the programme is developed on the basis of learner determined priorities. It is further suggested that individual needs are hierarchical and integrated. Therefore, adult education activities should take into consideration the hierarchical nature of human needs. They must, however, help communities to meet those needs which are most urgent. Hope and Timmel (1984:65) encourage adult educators to base their programmes on Maslow's "ladder of human needs".

Werner & Bower (1983:14-1) present useful ideas on using role-play as a teaching and learning approach. According to them, for each role-play it is important to make a list of the following: Learning objectives, actors, materials and preparations needed; manner of presentation and questions for group discussion. A fresh and educative aspect of the use of role-play for teaching was the manner of structuring the role-play. A component referred to as the "diagnosis game" is one aspect of the role-play method in which different problems are presented and the learners

are expected to identify problems reflected. This approach can be related to teaching paralegals about legal problems presented to them.

Werner & Bower (1983:14-1) have further explored the use of role-plays to motivate community action. This is one area in which paralegals need to be trained to be effective in their work. Mention is made of how a cultural group was used to teach villagers how to solve their problems. Food and palm wine were served to entertain guests who had come to watch the cultural group. This is one way in which learning, entertainment and culture were linked to enhance educational activities. Small groups were later used to discuss a particular problem and possible solutions. The use of stories in teaching is one method of teaching and learning that is highly recommended by Werner & Bower (1983:13-7 to 13-9) in teaching village people. It was an approach that the legal field could use. A critical analysis is made of the traditional approach to teaching in which the goal is always to change habits and attitudes of the learners.

Werner & Bower (1983:13-7 to 13-9) claim that this approach is paternalistic. It points a finger at what people do wrongly. The researcher was perplexed by this approach because, traditionally, the goal of education and training is to change attitudes.

Mention is made of three other guidelines which researchers should take into consideration.

The first principle relates to informed consent. Anyone who participates in social research should do so freely. They should not be coerced (Groenewald, 1989:94-97). An important point related to the individual's rights to privacy is brought up and the right to withdraw his consent at any time is brought up.

The second principle concerns confidentiality. All information should be treated confidentially to protect the respondent's privacy. Groenewald further mentions that even in reporting, the report should not be such that it is easy to identify the respondents. This is one principle that is difficult to satisfy when presenting a case study of small organisations, such as CLRAC and FIDA. It actually becomes very difficult to discuss certain major issues of mismanagement without exposing individuals.

The third principle is what he calls the risk-benefits ratio. The researcher is asked to weigh up the risks likely to be experienced by those being interviewed as against the benefits.

Feuerstein (1986:86) gives a guide on how to design a programme of evaluation. Ideas are given about pre-testing, to enable programme managers to select learners. Pre-testing is important and may call for changes in interview schedules. It is further mentioned that it is not easy to know where the programme is at the end, if we did not know where it was in the beginning. This could be a problem for the programme. On what basis would the present situation be judged if what prevailed before the programme's intervention is not known? How would people know where they are today if they did not know where they were yesterday? One is cautioned that pre-tests cannot be appropriate at all times, for example, when the researcher does not want to influence attitudes and when the programme is already in place.

Chapter two discussed different approaches to paralegal training in some developing countries in Asia, Africa and the Southern African Development Community (SADC) countries. The discussions looked at the broad philosophical values that guided the formation of the programmes, and at the design and performance of these programmes.

The differences and similarities of these programmes in relation to Lesotho's approach will be dealt with in chapter seven, whilst the summary, conclusions and recommendations of the research are discussed in chapter eight.

CHAPTER THREE

RESEARCH DESIGN

Chapter three is aimed at describing how the research was designed and carried out. The research design table, which is presented as Table 2, indicates the process which the researcher went through in designing the study on paralegal training. The steps taken to obtain information for the study are outlined and how field work was done are the focal points of the chapter. Chapter three also discusses in detail the qualitative research within which the case study itself falls and the manner in which the analysis was done.

3.1 HOW THE STUDY WAS PLANNED

In selecting a topic, the researcher decided to choose one which would contribute not only to academic achievement but also directly to the functions of the organisations involved in paralegal training. The topic and objectives of the study were discussed in tutorial sessions in which the facilitators and students in the MEd programme made comments.

In deciding on the population size for the study, the researcher initially planned to interview all two hundred and twenty paralegals who had been trained by both CLRAC and FIDA. The researcher felt it was important to reach both those paralegals who were active and those who were no longer active. The researcher decided to use the case study approach to discuss what CLRAC and FIDA do in paralegal training and paralegal work. The researcher soon realised that she did not have the capacity to interview all paralegals. She therefore discussed the idea of using a small sample of paralegals with her colleagues in the office and the paralegals themselves.

The co-ordinator of FIDA was consulted in the early stages of the planning process. The researcher needed assurance that FIDA would be co-operative during the study.

3.1.1 HOW THE STUDY WAS DESIGNED

The researcher listed questions which are pertinent to paralegal training. She thought of sources of information for the six research questions presented in the research design. During the design stage, methods of data collection, presentation and analysis of data were thought of. The study is descriptive but also analytical. Summaries of responses to questions asked through a questionnaire and interview schedules are therefore the main means of analysing the data. In designing the study, the researcher was conscious of the fact that her role in the study could be problematic. Her role as director of CLRAC could give wrong perceptions about her intentions with the study. The position of the paralegal could be threatened. To overcome this problem, the researcher incorporated adult education theories and a participatory approach to the study. This enabled the paralegals to be supportive to the study.

Table 2, Research Design Table below, shows the different people who were interviewed, local leaders, paralegals, clients and trainers. Appendices 1,2,3,4 and 5 were developed in such a way that they would derive responses for the research questions.

The research questions focus on how paralegals are identified and recruited; how paralegal training is designed, and the training methods used. There are questions on the performance of the paralegals and what additional knowledge and skills paralegals need to perform their tasks. Sources of information were trainers/programme managers from CLRAC and FIDA. Reference was made to minutes, policy documents and reports. The paralegal programme has a community focus so the paralegals, clients and village leaders were asked to provide information. Interviews and visits to some villages and paralegal offices were conducted.

Table 2: Research Design Table - Paralegal Training in Lesotho

Research Questions	Source of Information	Data Gathering Methods	Reliability and Validity	Methods of Analysing Data	Methods of Presenting Data
How are paralegals identified and recruited?	1 CLRAC and 1 FIDA trainer	51 Interviews reports on training	"Pre-test" questions. Information given cross-checked	Summaries	Descriptive
How was the paralegal training designed?	Programme managers Literature reports e.g. minutes	51 Interviews - an interview schedule administered Documentary review	Written and verbal reports compared	Summaries of Reports	Descriptive
What training methods were used?	Trainers reports 51 Paralegals	Interviews - an interview schedule	Information given cross-checked	Summaries	Descriptive
What do paralegals in Lesotho do?	51 paralegals 5 village leaders Literature Client case book	Visits to paralegal offices. Interviews Literature review	Cross-referencing of ideas. Triangulation	Broken down into different components. Components	Mainly descriptive. Illustrations and summaries presented
What do paralegals generally do?	Literature	Literature Review		Comparisons of literature	Summaries
What additional knowledge and skills do they need to perform their work?	Paralegals Clients Village leaders Programme staff	Interviews	Cross-check information	Categorise knowledge and skill inputs	Descriptive

3.2 HOW THE RESEARCH WAS CARRIED OUT

A brief discussion on the case study method of acquiring information and its advantages and disadvantages is made since the researcher chose the case study method for her study. She opted for a qualitative study because, as observed by Leedy (1993:141), qualitative studies are more field focussed. In education, those conducting qualitative research visit schools, and classrooms and observe teachers in action. Leedy further notes that another feature which makes a study qualitative is its interpretive character. This means that those who are making the enquiry try to account for what they have given an account of. This is the richness which the researcher hopes to incorporate in her study on paralegal training. The researcher drew parallels with what is done in education with what happens in adult education. She went out into the field to talk to the clients and paralegals. Villagers have a wealth of knowledge which they can share with the researcher.

Adult education encourages democratic engagement between teachers and learners. The researcher and the research assistants approached the study in a participatory manner in which people were treated as equals. The basic adult education principles were observed. Lind & Johnson (1990:27) note that participatory research

"has been a frequently used research method from the beginning of the 1970s, with the studies conducted essentially by activists working in the field. The participatory research approach owes much to the ideas of the Brazilian literacy pedagogue, Paulo Freire".

Participatory research in this context means that the researcher involved ten research assistants in improving upon the interview schedule used to gather data from CLRAC's paralegals. The researcher feels that the study is participatory because, before submitting the final version of the research report to her supervisor, she gave chapters four, five and six to FIDA's executive and chapter six to two trade unionists who were trained as paralegals by FIDA. The purpose was to allow them to check for distortions in facts. Their comments were incorporated into the report.

Leedy (1993:128) raises the issue that research which deals with human behaviour demands that the researcher takes into consideration ethical issues. Considerations of fairness, honesty, disclosure of methods, the ends for which the research is executed, and respect for the integrity of the individual should be considered. The thoughts of Leedy were applied by the researcher in carrying out the study.

The researcher was honest in informing the authorities in CLRAC and FIDA and the respondents of the purpose for carrying out the study. She even highlighted the possibility that the study could raise sensitive issues because it looked at people's performance.

The aim of the study was to provide input towards modifying the paralegal programme in Lesotho, therefore the researcher had to base her study on critical adult education principles which link research to transformation. This link is important because the paralegal programme was introduced to help disadvantaged people to be assertive so that they can change their circumstances. The researcher allowed interviewees to criticise CLRAC and FIDA. The Chief of Khoiting freely questioned why poor clients were expected to pay M 50 to receive services from CLRAC. On another level the interviewees asked questions to increase their knowledge on how they could solve their legal problems. The research also served as a tool for providing information.

Once the researcher had decided on who would be interviewed, she wrote a letter to the co-ordinator of FIDA and the village leaders she had chosen. Accessibility and distance were some of the considerations looked into in deciding on the leaders to interview. The researcher spoke to leaders in the Mafeteng and Mohale's Hoek districts, to the programme managers and a visit to the Mohale's Hoek paralegal office, verbal appointments were made.

3.3 THE AIM OF THE STUDY

The aim of this study is to contribute knowledge towards improving the paralegal training programme in Lesotho.

3.4 THE OBJECTIVES OF THE STUDY

The objectives of the study and the research questions are re-visited in this chapter. These are to:

- assess the training the paralegals in Lesotho receive and how they utilise their training.
- assess the strengths and weaknesses of the paralegal training programmes in Lesotho.
- consolidate and document insights made into the paralegal training programmes of CLRAC and FIDA.
- make recommendations for the improvement (if necessary) of the paralegal training programmes of CLRAC and FIDA.

3.5 SPECIFIC RESEARCH QUESTIONS

The following research questions guided the study:

- How are paralegals identified and recruited?
- How was the paralegal training programme designed?
- What training methods were used?
- What do paralegals in Lesotho do?
- What do paralegals generally do?
- What additional knowledge and skills do paralegals need to perform their work?

The above questions emphasise Table 2 which is the research design table.

The research questions were generated from the literature review and particularly from the office records of both CLRAC and FIDA. The researcher had observed that though her organisation was running a paralegal training programme, there was no information on the above mentioned research question.. There was no concrete information on paralegals and their functions. Literature review particularly training manuals were also referred to in developing the research questions.

The following questions are not research design questions but they are important for the study. They were developed to strengthen the main research questions and to enable the researcher to corroborate information through the literature and through the interview schedule.

- What is the content of the paralegal training curriculum?
- What methods were used to assess learning?
- Were the objectives of the paralegal training achieved?
- What is their role in the provision of legal services and legal aid as perceived by them and by others?
- What cases can a paralegal handle confidently?
- How many cases on average come to the attention of the paralegal during the course of one month / one year?
- Is the training offered to the paralegals appropriate for the tasks the paralegals perform?
- How well do existing programmes meet the training needs of paralegals?
- What is the basic minimum educational requirement to be a paralegal?
- What were the original objectives of the paralegal training programme?

3.6 DISCUSSION OF THE CASE STUDY AS A RESEARCH METHOD

The case study approach is used to identify a specific instance and observes, questions and studies that instance. It looks at the unique features of an organisation or a programme. Feuerstein (1986:48) claims that:

"Case studies can be used for evaluation in several ways. For example, one or two case studies can be made of national training centres in order to provide good information that can help to give a comprehensive picture of the entire national training programme".

It is because of the unique strength of the case study that it was used to analyse the paralegal

training programmes of CLRAC and FIDA. What are its components? The case study of paralegal training in Lesotho will give a comprehensive picture of Lesotho's paralegal training programme. It is emphasised that the focus of the study is on paralegal training as handled by two organisations through two case studies of CLRAC and FIDA. The study will refer to the paralegals and the tasks they perform in the field.

The great strength of the case study method is that it allows the researcher to concentrate on a specific instance or situation and to identify or attempt to identify the various interactive processes at work (Bell, 1993:8).

Another strength of the case study is that it allows the researcher to use more than one method. Groenewald (1989:44) defines a case study as a thorough study of the unit. This is based on the mental construction of the researcher and his / her sociological approach.

The nature of the case study, as a thorough exercise, opens many methods to the researcher. These include observations, interviews, questionnaires, and the analysis of official and unofficial documents.

This method has been chosen in spite of the criticism that its findings cannot be generalised and that it poses a danger for distortion because information cannot be cross-checked. Because of the detailed analysis that the researcher wanted to make of the programmes, the case study was ideal because it allows for more than one method of data collection to be used.

The methods of data collection used were mostly interactive and in line with adult education principles. Interview schedules as presented in appendices 1, 2, 3, 4 and 5 were developed which were used to collect information from those who were interviewed. Each research assistant carried one copy of the interview schedule and wrote responses in a note book. The researcher herself also wrote responses in a note book. The researcher felt that the information would be kept safely in note books because loose sheets of paper could easily be lost.

Documents were important since they covered minutes and reports on the histories of the two

organisations. In-house reports were most useful in discussing CLRAC and FIDA and their programmes. The methods of data collection also contributed towards a critical reflection by the paralegals and programme managers so that the research could contribute towards problem-solving. Files were reviewed to learn about the histories of CLRAC and FIDA. It is important to know the vision and mission of each of the organisations to place paralegal training within the broad framework of the original values of the organisations discussed in this study. The information received from files and reports was cross-checked with the information received from interviews. The researcher felt it was important to receive information from different sources to ensure reliability and validity of the results. Correspondence in the files gave information on which organisations were consulted to give advice on curriculum issues.

The case study offered the researcher scope to work alone after the data collection stage. The many different interactive processes would make it difficult for a team of researchers to work together. Time management and organisation of the work itself could be a problem. The researcher, in this instance, was in a position of privilege. The researcher, who was the Director of CLRAC, did not have to ask for permission to carry out the research task. She only had to consult her colleagues. She carried out field work in the course of doing normal office work. Personal costs were saved.

The relationship between the Director of CLRAC and the Co-ordinator of FIDA was sound so this enabled the researcher to have access to the paralegals and to the documents belonging to FIDA.

The nature of the study calls for an evaluative component of the training programmes themselves, but also off the performance of the paralegals after their training. According to Byrne (1995):65

"Many development projects have been established and have been operating over a long period of time. Perhaps these projects need certain changes to make them more useful for the people.If a project is not producing results, then the diocese should not continue to operate it. The question is how can we find out whether an existing project is useful or not?"

Feuerstein (1986:48-49) gives examples of how case studies can be used for evaluation purposes. Feuerstein mentions that a case study can be made of a national training centre to provide substantial information that will give a comprehensive picture of the national training programme. A case study allows for values and attitudes of teachers and learners to be seen more clearly than if quantitative methods are used. It is on the basis of the abovementioned advantages that the case study was chosen to express the values and attitudes of those involved in the paralegal training programme in Lesotho. The case study was the preferred method because of its flexibility and ability to re-direct its attention to new and important information as it emerges.

The fact that the study could later strengthen the programmes of CLRAC and FIDA enabled the researcher to carry out work related to the study without feeling guilty that she was using official time for personal gain. The researcher was able to link tasks related to the study to official business. Paralegals attended meetings and educational activities where the researcher found them captive audiences. While this approach was convenient because it saved the researcher's time, it created a problem of the management of data gathering itself. The FIDA group that was interviewed was attending their annual general meeting.

Interviews took place in an hotel room. There was no specific, appropriate time in which the interviews could occur. During the day, the paralegals were engaged in the business of the annual general meeting. In the evening when the researcher carried out the interviews, the interviewees were glued to the television as they wanted to watch a popular "soap opera", "The bold and the beautiful". This problem had not been foreseen by the researcher.

The paralegals were asked about their functions, the problems people bring to them and problems in their villages in general.

Though the case study is the main research method used, the researcher integrated other methods which enriched the interviews. The "action research" approach was relevant as a method of research within the case study because, in carrying out the study, problem-solving was already taking place. The action research approach was important because it acknowledged potential in

people to exercise greater control over their affairs and to become responsible for their destiny if assisted.

Leedy (1993:123-130) suggests points which should be considered in conducting research to maintain scientific objectivity. The researcher and the research assistants who did the interviews were guided by each of these points.

- Researchers should recognise the limitations of their competence and not attempt to engage in research beyond such competence.
- Every person is entitled to the right of privacy and dignity of treatment.
- All research should avoid causing personal harm to subjects used in the research.
- Confidential information provided by a research subject must be held in strict confidentiality by the researcher.
- Research findings should be presented without distortion.
- The researcher must not use the prerogative of a researcher to obtain information other than for professional purposes.
- The researcher must acknowledge all assistance, collaboration of or sources from which information was borrowed from others.

Information on problems which were brought to the paralegals was handled with sensitivity. The researcher and the research assistants learned that they should not laugh at or frown upon what was perceived as a funny problem.

The research assistants were advised to dress modestly and to wear casual clothes that would be acceptable to the respondents and other villagers. A suit would not have been proper attire for the male interviewers. Jeans would not have been proper attire for female interviewers. The interviewers were advised to be friendly, but also to keep their distance because the villagers could be offended. The research report is written in a manner that it does not expose the identities of the individuals referred to in the study.

3.7 VILLAGE DEVELOPMENT COMMITTEES' WORKSHOP

The researcher was aware that there would be a workshop for Village Development Committees (VDCs) at Khoiting at the time she was collecting data. This was not a planned activity but the researcher felt that it would strengthen her data collection. Without knowing where the workshop was being held in the village, the researcher went to Khoiting to talk to the participants. Khoiting is one of the villages from which a paralegal was recruited. Once in the village, it was not difficult to obtain directions to the venue. The paralegal who was running the workshop was already in the area, so the task of introducing the researcher to the chief was easy. The researcher introduced herself to the workshop participants and explained that she was there as an observer and that she wished to interview some of the participants during tea and lunch breaks. It is the norm that any visitor in the village should report his/her presence to the chief because he represents local authority. He was the first person to be interviewed because it is a traditional norm to recognise the authority of the chief

The first interviewee was the clerk of the chief of Khoiting. In the discussions he wondered if it was correct for the paralegal to ask a client who was referred to him to pay M 50 (Lesotho currency, the equivalent of S A Rands 50) for advising the client. The researcher had created such a good rapport with the interviewee that he felt free to question the action of the paralegal. This was an indication of how ready he was to challenge the paralegal or possibly to expose corrupt practices by the paralegal if there were any. The researcher explained that it was the policy of CLRAC to charge a token fee for services rendered. In the 'action research' approach the researcher and the subjects work collaboratively in problem-solving.

The researcher developed different interview schedules which in essence captured the information needed in the key research questions as follows:

**Appendix 1 - Paralegal Training in Lesotho - Paralegal Training Assessment
Interview Schedule for CLRAC Paralegals**

**Appendix 2 - Paralegal Training in Lesotho - Interview Schedule for FIDA/CLRAC
Trainer**

**Appendix 3 - Paralegal Training in Lesotho - Interview Schedule for FIDA
Paralegals**

**Appendix 4 - Paralegal Training in Lesotho - Interview Schedule for Chiefs / Local
Leadership**

**Appendix 5 - Paralegal Training in Lesotho - Interview Schedule for Trade Unionists
Trained as Paralegals.**

It should be noted that CLRAC has categorised its paralegals into two groups. One category is made up of eight paralegals who, after the initial one week of paralegal training, received more exposure and more skills. The researcher believed that adult education and research in adult education should be empowering. This belief motivated the researcher to take the risk of deciding to use the eight paralegals as research assistants. Using the eight paralegals to collect information would, in the opinion of the researcher, facilitate coverage of a greater number of paralegals and gave paralegals basic research skills.

The researcher opted for this approach out of the conviction that if paralegals are given more knowledge, skills and exposure, they could develop and grow to employable opportunities. Currently they do paralegal work for a nominal monthly allowance of M 400 (that is, S A Rands 400). The first step in deciding on how the study would be carried out was for the researcher to identify those paralegals that had the potential to be research assistants and to write letters to them explaining her intentions. When they had indicated their willingness to participate, logistic arrangements were made for a one-day workshop organised for the eight paralegals in which they were taught basic interviewing skills. The time-table for this one-day workshop is attached as **Appendix 6**. Of the eight senior paralegals, six came to the one-day training.

3.8 A WORKSHOP FOR RESEARCH ASSISTANTS

The researcher was a facilitator in the workshop along with a fellow colleague in CLRAC. In line with participatory learning theories, the participants were asked to spend a few minutes talking about their expectations on the workshop. This approach was important in stressing education

as a co-operative art (Houle, 1978:72). Though their training needs had not been assessed earlier, the session on expectations would give the trainers the opportunity to modify the activities of the day if need had arisen. The training was held in Maseru.

The following expectations were listed:

- to learn interviewing skills
- to discuss the questionnaire
- to increase knowledge to be able to implement CLRAC's mission
- to learn how to administer the questionnaire
- to discuss how to implement CLRAC's action plan
- to learn how to run the office.

The researcher indicated that the purpose of the workshop was to give the participants skills that would enable them to assess the status of the one hundred and thirty village-based paralegals. This would determine how many paralegals have dropped out and how many were still active, and find out what those who were active were doing. Another purpose was to help the researcher with data gathering for her studies, which she hoped would feed back into the paralegal training programme and provide information that would help to improve upon the programme.

Houle (1978:171) suggests that it is important for an educator to explain the objectives of an educational activity. He notes that this observation is violated frequently. The result is that the learners wander in the dark and become frustrated. The facilitators did not want to leave the learners in the dark so they explained what the objectives of the workshop was and indicated what it was they could realistically cover and achieve in one day.

It should be noted that, as is the norm in learning encounters, there were expectations that did not relate directly to what the planners of the workshop intended to be the focus of the workshop. In

the workshop there were three such expectations:

- to increase knowledge to be able to carry out CLRAC's mission
- to discuss how to implement CLRAC's action plan and
- to learn how to run the office.

Other comments by the group included the following:

- there should be a refresher course for paralegals
- there was need to define the responsibilities of paralegals and to discuss the concept of voluntarism.

The facilitators had indicated that these expectations could not be met in a one-day workshop. They were good indications for future educational activities.

The researcher presented the interview schedule (Appendix 1) to the group and asked them to respond. This would serve two purposes, to provide information for the study and also to be used as a pre-test mechanism for the schedule itself.

The learners suggested that the interview schedule referred to above should be made shorter and that the questions should be numbered. There was a discussion on whether or not the names and age of the interviewees should be given.

There were fears that traditionally Basotho do not like to disclose their age. The facilitators indicated that it is important to build trust with the interviewee, to probe further into responses that are not clear and to respect confidentiality. The interview schedule was adopted with a few modifications.

Another session was meant to help the learners focus on the village situation and to list obstacles they might encounter in their own districts when carrying out the interviews. The session was meant to pre-empt some of the possible field work problems by helping the learners to be well prepared. The obstacles were listed as follows:

- The village-based paralegal could resent a visit by an urban based paralegal. The village paralegals could feel that their work is not valued. It was possible that they could influence the villagers against the study.
- The interviewee might not tell the truth.
- Lack of transport could be a problem because for paralegals living in remote areas, reaching other villages could be a problem. This applied particularly to Thaba-Tseka district, one of the mountain districts served by CLRAC, with a very difficult terrain.
- Chiefs could be a problem if they did not approve what the interviewer was going to discuss.
- Jealousy by husbands could be a problem if the paralegal to be interviewed was a woman and the interviewer was a man.
- Individual safety could be at stake. It is unsafe to walk alone in remote villages.

It was indicated that some of the anticipated problems could be dealt with by making proper arrangements for the interviews.

- The interviewer was advised to make an appointment, indicating the time for the visit. It was, however, noted that in rural areas some of these suggestions were merely good ideas that could never be implemented because communication in rural areas was very difficult.
- People in rural villages were familiar with messages that were communicated through shouting by a man who goes to the centre of the village or to the top of a hill to shout, usually in the evenings to inform the people about what would happen on the following day. The interviewer was advised to organise materials she / he needed for the interviews, for example, pens, note book, transport budget and the interview schedule itself.
- There must be a plan of how many individuals to interview per day, their names and locations.

(continued)

- The interviewer should report his/her presence to the chief of the village.
 - Permission should be sought from the head of the family, for example husband or mother-in-law if the person to be interviewed was a woman.
- It was noted earlier in this report that, according to Lesotho law, a married woman is legally a minor.

The next session dealt with interviewing skills. A paper on communication skills and listening techniques was presented and later given as a hand-out to which paralegals could refer. The techniques that were important when carrying out an interview were shared with the participants. The group was then asked to actually simulate a village situation and to carry out an interview. It must be noted that it was not easy. The task had to be repeated many times before learners actually understood what a role-play is in a learning situation. Everyone had a turn and they all participated with a lot of enthusiasm. The feedback on how the role-plays were being carried out came from all group members and not only the facilitators. Every attendee became both a learner and a facilitator at the same time.

The last session was on guiding the interviewers on how to make plans for each interviewer to interview ten participants.

One day was not long enough to prepare research assistants for their research tasks. The researcher learned that, if in future she were to undertake a similar exercise, two days would be needed.

The workshop ended in the evening, leaving no time for the session on evaluation. Through this attempt the researcher was trying to use the skills she acquired in the adult education course to enhance her research work. It was an interesting but risky undertaking for her to test her abilities as a facilitator of learning processes linked to research. It was risky because if the paralegals had not learned anything in the one-day training session, the whole research process would have been spoiled. The researcher, however, had the courage to trust the process and it worked.

The six paralegals, who for the purposes of this research report are referred to as senior paralegals, went out into the thirty-five villages in the districts of Buttha-Buthe, Mafeteng and Thaba-Tseka. The senior paralegals are different because, after basic training, they were given additional training that would enable them to manage four district paralegal offices. The senior paralegals were also sent for additional training to the Community Law Centre (CLC) in Durban. According to the researcher, though the paralegals have not been trained in research methods, they have had sufficient practical experience to enable them to acquire adequate basic skills in interviewing. The list of villages is attached as appendix 7.

3.9 HOW THE RESEARCH ASSISTANTS CARRIED OUT THE FIELD WORK

Pratt & Loizos (1992:54) noted that a researcher has to be sensitive to cultural or traditional practices when seeking information from villagers. Any form of asking questions should be tailored to cultural perceptions. They suggest that carrying a clipboard may be inhibiting to the villager since statement-taking is, in most cases, associated with police work. This observation was respected by the researcher who asked the research assistants to be aware of practices which could scare away the villagers, such as carrying a clipboard. Male interviewers were advised against carrying traditional weapons ("melamu"). This is a stick which is carried by men but it can also be used for fights, so carrying one can be seen as being provocative. Male hosts could be resentful while female hosts could feel that their personal safety was in danger.

3.10 OBSERVATION OF A PARALEGAL AT WORK

A careful analysis of the advantages of participant observation was made. This method has been used traditionally by rural sociologists and anthropologists. The researcher decided to use it in the study to observe a paralegal offering legal aid services. It is recommended that the researcher lives in the community she is serving for the method to be effective, and to be involved in their activities over a length of time, even for as long as a year. The research assistants who carried

out the field work received a list of all the paralegals who were trained in each of the following districts: Mafeteng, Mohale's Hoek and Thaba-Tseka. It should be noted that those who participated in this exercise were CLRAC's paralegals. The researcher felt that it was better to deal with paralegals whose abilities and commitment she knew.

It must be noted that the information management system within CLRAC is weak. It was difficult to establish who had been trained. In the one-day training session, the research assistants were made aware that it is important to observe customary and cultural practices as a way of facilitating their entry into the villages and as a way of gaining acceptance by the local authorities.

Each research assistant was given the name of a village paralegal who would be the contact person for him or her. The assistant and the village paralegal went to the chief to announce his/her mission and to seek protection. This is a requirement and is traditional practice in a rural village setting. The research assistants then met ten paralegals in the village in which he/she was placed. Because of the problem of information management systems mentioned earlier, there was no consolidated information on the personal data of the village paralegals, and it was necessary to include their personal data in the interview schedule.

In the one-day training session it became clear that some of the paralegals could not be research assistants as they were not able to acquire the necessary new skills. They were not told that they would not be selected to undertake the interview task but the researcher had already decided on who would make good research assistants and who would not. There was the dilemma of how to encourage potential and also acknowledge lack of ability without destroying their egos. The researcher, who was the Director for CLRAC, did not want to do anything that could affect future relationships with the paralegals. This could have a negative effect on the day-to-day functioning of the paralegals after the study was completed.

The researcher's colleagues at the Head Office regarded the involvement of the paralegals in interviewing others as part and parcel of their work so two of them decided to monitor the task. The monitoring was useful in that if there were any doubts as to whether the research assistants

had carried out the interviews, or if they had decided to cheat, then the paralegals who were visited and interviewed would bear witness to the exercise. The researcher did sometimes wonder whether she had made the right decision by using the paralegals to collect data for her. The results could be totally disappointing, so there was genuine anxiety. Using assistants to gather research data also meant the questionnaires had to be composed very carefully to ensure that the correct understanding was imparted for every question asked of each interviewee. There was little room for latitude.

In one village, Ha Mofoka, the monitoring team met the wife of a paralegal who confirmed that somebody came to her house and said he wanted to interview her husband. In another village, Thaba-Phechela, they found out that a village paralegal had provided accommodation to the research assistant for six days. The host paralegal was supportive.

When information came to the researcher for analysis, it became obvious that the researcher had to be selective. Was all the information presented credible? Could it be relied upon?

Information gathered by two assistants was discarded because it was irrelevant.

The officers responsible for the design and management of the paralegal training programme of the two organisations were also interviewed.

In selecting methods of analysing and presenting data, the researcher decided to summarise responses collected through the interview schedule. Some of the information was put onto tables, for example the content for the training programmes of CLRA^C and FIDA. A lot of description was given for the qualitative data as in the information received from village leaders. Figures and illustrations were used to support the descriptive data.

It was important to include information from the villagers in which paralegals operate. The researcher went to two villages in the Mafeteng district, Makokotoaneng and Ha Rabolilana. The approach was to simply arrive at the village and identify a few houses where she would find adults. The first point of contact was a small village café where the researcher spoke to the

shopkeeper who was sitting outside. The multiplier effect of being at a café was that three more people who were passing by came to join the discussion. This spontaneous development was accommodated as it gave the researcher an opportunistic group discussion. At Ha Rabolilana the paralegal was part of the group discussion in the first visit. In the second visit the researcher undertook the home visits alone. This approach could have affected the quality of the discussion. The analysis of the information collected from the interviews done by the paralegals has been summarised according to how each question was asked. The information collected from the discussions with villagers and their leaders will also be summarised.

The researcher also used the observation method and visited the Mohale's Hoek paralegal office. The Paralegal Officer, who runs the office, had been informed that this would happen. This information was important so that the paralegal did not feel that his performance was being scrutinised, as this could affect the relationship between the paralegal and the researcher. The researcher went through the register. It is a notebook in which paralegal offices should record the details of cases that are brought to the office. Early in the study the researcher had asked the four paralegals who run the district offices to keep a diary of all the activities that occur in their offices or activities in which they are engaged outside the office. This diary was not kept so the researcher decided to drop the diary contents.

CHAPTER FOUR

CASE STUDY OF CLRAC

Chapter four presents a case study of CLRAC based on Coombs' (1994) model for case studies. It discusses CLRAC in a holistic manner. The structure of the discussion is centred around the following categories:

- History
- Form and management
- Original objectives and intended clientele
- Paralegal training.

Summaries of reports, minutes and other documents were made to find information relevant to the above issues.

It was necessary to deal with the CLRAC and FIDA separately since it would not be easy to analyse the information equitably. There is no equity in the numbers of paralegals interviewed. A larger number of paralegals was interviewed from CLRAC, because CLRAC's paralegals did not move away from the areas in which they resided. The paralegals trained by FIDA were mainly government employees and moved around. The researcher did not use similar research processes for the two types of paralegals, so they had to be handled differently. CLRAC's paralegals were content to be interviewed individually, whereas those of FIDA wished to be interviewed as a group.

4.1 THE COMMUNITY LEGAL RESOURCE AND ADVICE CENTRE AS A CASE

4.1.1 BRIEF HISTORY OF CLRAC

In April 1989 individuals and NGOs involved in development work in Lesotho initiated discussions on the need for a legal advice centre. CLRAC became operational in 1991 after lengthy consultations and organising.¹ It was registered legally in 1990 under the 1966 Societies Act.² The existence of a legal aid office run by the government was acknowledged but it was felt that, as a government office, it would not be in a position to handle complaints on human rights abuses by the government itself. This was important as during the period of military rule human rights violations were on the increase. There was further justification for the establishment of CLRAC because the government legal aid did not use paralegals.

It should be noted that the International Federation of Women Lawyers (FIDA) was already in existence at this time but it was perceived to be dealing specifically with the rights of women.

Other organisations emerged around the same time. The Human Rights Alert Group (HRAG) is one example. This could be an indication that people felt the need to have many organisations that could deal with human rights issues. It was in June 1991 that CLRAC opened its office in Maseru, the capital city of Lesotho. The first employee was employed at the same time.

The first executive committee was made up of a mixture of individuals who represented their NGOs. Their backgrounds and qualifications were diverse and possibly not well known. The presidents of three previous committees were lawyers. The current president is not a lawyer.³ It is not clear yet what impact this shift will bring to the core values of the organisation. The researcher realises from carrying out this study that there is the need to develop a system in which the qualifications and backgrounds of members and committees are well documented to

¹CLRAC brochure - "What is CLRAC?" (n.d.)

²CLRAC Constitution 1991

³A paper written in 1996 by L Mokhothu on the management of CLRAC

provide a clear profile of CLRAC's membership.

The first director of the centre was an ex-high school teacher who had become disillusioned with the teaching profession. She was a member of a trade union and felt that there was discrimination against union members at the school where she worked. The secretariat expanded with the employment of a secretary and a driver towards the end of 1992.

CLRAC's structure consists of members who pay an annual subscription. Every two years the members elect a board which should be representative of the four districts in which CLRAC operates. The board employs the members of the secretariat which consists of a director, trainer, litigation officer, finance controller and a secretary.⁴

Awareness creation activities were carried out through public meetings and workshops. The services expanded to four other districts in 1993: Butha-Buthe, Mafeteng, Mohale's Hoek and Thaba-Tseka. Substantial funding was received from the Danish Centre for Human Rights (DCHR) in Denmark.

4.2 ORIGINAL OBJECTIVES

The objectives of CLRAC, as outlined in its constitution, include:⁵

- Providing legal aid, whether it be advice, referral services, financial aid⁶ or legal representation to the needy, whenever the circumstances and means allow.
- Promoting community empowerment and self-sufficiency through community identification of legal needs, legal education and training.
- Collecting and disseminating knowledge concerning human rights issues

⁴CLRAC Policy Hand book - August 1998

⁵CLRAC Paralegal Training Report, 1993

as enshrined in the Universal Declaration of Human Rights.

- Advocating the setting up of alternative dispute resolution mechanisms such as arbitration, mediation and specialised tribunal services.

The 1993 CLRAC paralegal training report mentioned that the above objectives are silent on paralegal training because it was entrenched in the objectives on community empowerment and self-sufficiency. The paralegal approach was introduced as the second phase of the resource centre's work.

4.3 FORM AND MANAGEMENT STYLE OF CLRAC

A brief description of the form and management of CLRAC is necessary to place paralegal training in the broad area of organisational philosophies and management. CLRAC was formed by a few urban-based individuals and groups who later sold the organisation to a wider audience. CLRAC is a membership organisation in which policy-making is in the hands of elected committees. Implementation of activities is the responsibility of paid staff and paralegals. Harris (1996:157) defines this arrangement as a membership model in which the link between consumers and its guardians is clear. She says that the governing body appoints staff to deliver services so the beneficiaries are the guardians. The researcher's experience is that this kind of relationship can easily lead to conflict between the board and the staff, since roles become unclear between who is the policy maker and the implementor. Very early in the life of the organisation, it became clear that the executive committee was failing to fulfil its responsibility of holding meetings. This was the time when everybody's input was needed to plan and fund-raise for the under-resourced organisation. An administration commission was put in place to complement the executive committee.⁶

The internal conflict is further indicated in circumstances which led to the director being

⁶CLRAC Progress Report, 13 January 1992

suspended in 1995.⁷ Lines of authority between the executive committee and the director were unclear. There were no sound management policies. The director was seen to fail to take lawful instructions from the committee. The leadership instability affected programme implementation. Relatively new models of management in an educational setting, as suggested by Hope & Timmel (1984:122) require a commitment to high participation, self-motivation, self-management, decreasing dependency and self-reliance of people. Representatives of all members of CLRAC meet once a year to formulate policy on future programme activities, thus CLRAC qualifies as an organisation that uses participatory and consultative management styles. A critical review will be made in a later section of this report to discuss to what extent the new model of management is applied in the paralegal training programme. CLRAC is by nature an activist movement which fights for the rights of the marginalised. This nature demands a consultative and participatory management approach in which the membership feels that through their representatives they decide on policy for the organisation.

The question of participatory management and accountability always creates tension. The Executive Committee of CLRAC, which was also attended by two representatives of the Community Law Centre (CLC) in Durban, mentioned their concern that when CLRAC was launched, the rural communities who would receive CLRAC's services were not represented.⁸ The services of the organisation were meant to reach people at village level. CLRAC was advised to start pilot projects as it was going to serve a broad spectrum of needs. The reader should note that CLC played a mentoring role during the formative years of CLRAC. The discussion on the training of paralegals will indicate that this advice was not taken because paralegal training activity expanded so fast without making an allowance to learn from failures and successes from the pilot effort. In 1995 CLRAC outlined its written mission statement for the first time and printed it on its letterhead and the Policy Handbook of 1998. This was a way of ensuring that the mission of CLRAC is understood in the same way internally but that it is also publicised to all those who receive correspondence from CLRAC. The mission statement is stated as follows:

⁷A letter written by the Director to donors in 1995

⁸Executive committee minutes of June 1991

"To provide legal aid and services to the poor in five districts and to give legal advice and education in democracy, human rights and legal issues to the wider audience in accordance with critical adult education theories".

4.4 INTENDED CLIENTELE

CLRAC was the first organisation to conduct paralegal training workshops. The first workshop was held in Maseru from 11 to 23 October 1993. The clientele for the workshops were key individuals and representatives of community-based groups, such as farmers' associations in the following districts: Mafeteng, Mohale's Hoek and Thaba-Tseka.

Gender equity was not emphasised since the participants were mainly male. The question of youth was also not considered seriously.

4.5 CLRAC'S PARALEGAL TRAINING PROGRAMME

CLRAC had in mind two approaches for fulfilling its basic principle of educating the marginalised; protecting human rights, and bringing about legal awareness among the people, to enable them to take part in the law-making process. The first approach is the ordinary solicitor/client model which is referred to as a "legal aid" programme. The second approach is the community-based empowerment model which is manifested through the paralegal system. The latter is the focus of this study.

In 1993 twelve community-based individuals were identified and trained as paralegals in Maseru. Ten came from Butha-Buthe and two came from Matsieng and Thaba-Bosiu in the Maseru district. Though the focus of the training was on people from Butha-Buthe, it was convenient to include two people from the Maseru district, though no reason is given why they were invited to the course. This was the approach through which the community-based empowerment model was going to be realised. Their role in the advancement of justice was to give advice on legal

matters and to refer cases they could not handle to lawyers. There were fears in the legal field that the legal profession was being undermined. There was no understanding of why an NGO would wish to do legal aid work.

During the formative years of CLRAC it sought support through training from the Community Law Centre (CLC) in Durban. Logically this is an organisation that the researcher could have delved more into as it is the foundation for CLRAC's paralegal programme. However, over the years CLC changed its approach to paralegal work so their lessons were not directly relevant to CLRAC's needs. CLC was set within a university so it was different from CLRAC in terms of structure and organisation. Reference has however been made to the content of the initial paralegal training syllabus of the CLC. The researcher felt that linkages should be made between paralegal training programmes in Lesotho and South Africa because a South African NGO was instrumental in the formation of CLRAC and in supporting the early stages of the paralegal training programme of FIDA. The Legal Resources Centre in Johannesburg also played a mentoring role to both organisations. In September 1991 CLC sent a suggested paralegal training programme which indicated that their training ran for two years through a cycle of nine conferences, as presented in Figure 2.

The records do not show clearly how CLRAC responded to this suggested paralegal programme. An analysis of CLRAC's approach to paralegal training indicates that it was a great departure from what was offered or suggested by CLC.

CLRAC initiated a paralegal training programme in June 1993 when it received core funding from the Danish Centre for Human Rights. This was before FIDA started its paralegal programme. Before the programme was launched, an attempt was made by CLRAC to do a training needs assessment.

4.5.1 ASSESSMENT OF CLRAC'S INITIAL TRAINING

In June 1993 a survey was carried out by CLRAC in Butha-Buthe.⁹ The purpose of the survey, as stipulated in the CLRAC Paralegal Training Course Report dated 11 to 23 October 1993, was:

- To identify administrative structures that existed in the district.
- To identify which community groups existed within the district.
- To identify legal issues that needed attention within the communities.
- Liaising with administrative structures - chiefs and their communities - the centre asked the communities to attend the training course that would be conducted.

4.6 THE PURPOSE OF CLRAC'S PARALEGAL TRAINING

Paralegal training was a way in which community agents would teach the communities about laws which affected them. The communities could then use the law to protect their rights through courts of law. The paralegal programme would facilitate provision of legal aid services to the poor. The trained paralegals would also educate their communities on human rights.

⁹CLRAC Paralegal Training Course Report - 11-23 October 1993

Figure 2: CLC's Suggested Paralegal Training Programme for CLRAC

CONFERENCE 1	CONFERENCE 2	CONFERENCE 3	CONFERENCE 4	CONFERENCE 5	CONFERENCE 6	CONFERENCE 7	CONFERENCE 8	CONFERENCE 9
Courts	Paralegal conduct	Typing	Consumer law	Review: Consumer law	Practical English	Conflict of laws	Review all topics	Examination
Divisions of the law	Typing	State and private pensions	Credit agreements	Review credit agreements	Human rights	Practical English	Universal Declaration of Human Rights	
Prescription	Practical English	Client interviews	Negotiations		Street law	Labour law		
Civil procedures	State and private pensions	Letter writing	Library skills	Office administration	Jurisdiction of traditional authorities	Administrative law		
Legal aid clinics	Affidavits	Negotiation skills	Practical English	Professional liability of paralegals	Administrative law	Insurance		
Customary law	Negotiation skills: Client interviews, letter writing and telephone expertise	Traditional authorities and customary laws	Police powers	Criminal law	Maintenance	Negotiation		
Paralegal office administration		Unemployment Insurance Fund	Wills	Mock trial	Dependant's benefits	Mediation		
Client interviews			Office administration	Custody Issues		Unemployment		
Affidavits	AIDS as a social problem	Interviews	Community empowerment		Alcohol education	Income tax		
Pensions	Social problems in rural communities	Social problems in rural communities	Customary law		Motor Vehicle Insurance Act	Migrancy		
Street law						Refugees		
Conflict resolution								
Practical English								
Telephone etiquette								

Source: Community Law Centre Curriculum outline of September 1991

4.7 THE DESIGN OF CLRAC'S PARALEGAL TRAINING

In September 1991 CLC sent CLRAC a suggested paralegal training programme which indicated that their training ran for two years through a cycle of nine conferences as reflected in Figure 2. In designing the first paralegal training workshop, CLRAC covered fifteen topics, including different topics from each of the nine conference topics suggested by CLC.

4.7.1 CONTENT OF CLRAC'S PARALEGAL TRAINING PROGRAMME

The first paralegal training organised by CLRAC was conducted in October 1993 in the district of Maseru. The training brought together twelve participants. Two of them were from Matsieng and Thaba-Bosiu in the Maseru district.

The content of the training course covered three broad areas:

4.7.1.1 *Legal issues*

The Legal Advisor who was the main facilitator, felt that the following areas needed immediate attention:

- customary law,
- consumer law,
- labour law,
- law of evidence,
- criminal procedure,
- parliamentary procedure,
- administrative law,
- insurance law,
- law of delict,
- civil procedure,
- human rights and the constitution,
- co-operative laws.

4.7.1.2 Social skills and Administrative skills

This course covered issues such as:

- communication skills,
- interviewing skills,
- mediation skills,
- letter writing skills.

4.7.1.3 The role of paralegals

The session on the role of paralegals was meant to caution trainees when doing their work. It was noted that a two-week training course would not make them lawyers. They were being given simple skills to work "like" lawyers and should refer problems they could not deal with to lawyers. The session on the role of paralegals did not, in the researcher's opinion, deal with the basic issues of what it means to be a paralegal: what role should a paralegal play in providing paralegal services / assisting the community?

The second paralegal training course took place from 26 June to 01 July 1994 and attracted eight participants from Butha-Buthe. The report does not give details on the content nor on the teaching methods used in the workshop. Lessons from the first training course were incorporated and resulted in including a topic on small-scale projects. The aim of including this topic was to initiate a process which would lead to sustainability of the project.

The report is sketchy and does not indicate how the training was evaluated.

4.8 MONITORING AND EVALUATION

Like many other training activities, CLRAC was faced with the issue of how to monitor the activities of paralegals. The following issues were seen as obvious obstacles to monitoring the

work of the paralegals after their training:

- Paralegals were not the employees of CLRAC. They were chosen by their communities, so the question of accountability became an issue. Were they accountable to CLRAC or to the communities that sent them for training?
- Paralegals had no offices from where they would operate. It is not clear why they needed an office. What kind of service were they expected to give that would need office space? It does not seem as if this was clear, even in the minds of those who planned the programme.
- Paralegals had no working materials, such as stationery, pamphlets and booklets.

The facilitators were drawn from the legal field - lawyers and magistrates. Since the interest of the researcher is in the area of adult education and its relationship to paralegal training, an obvious weakness in the team of trainers was that there was no adult educator or educationist in the training team. This observation will be picked up again in chapter eight when comments are made on the design of the training itself.

The reports on the training activities of CLRAC said little on how the training was evaluated. The researcher found evaluation questionnaires which she summarised to find out what the learners had said about the courses. One observation was that the third training took one week, but the content remained the same as in the previous courses. This means that the third training session was very intense, possibly making objective achievement impossible. Previous training had taken longer. The report on a fourth training activity held for a second group from Mafeteng shows that there was a session on expectations. This was an improvement on the part of the trainers. The expectations were as follows:

- To know basic laws to help people to avoid being cheated.
- To find ways of preventing people from operating unlawfully.

(continued)

- To gain knowledge on how to approach people with problems.
- To be awarded a certificate from the course.
- To gain skills to resolve disputes through peaceful means.
- To know about the Constitution of Lesotho.

The basic principle of CLRAC of empowering marginalised people to know the law and to use it to protect human rights assumes a philosophy of critical thinking. The criticism on the manner in which the paralegal training courses were conducted is that practice did not subscribe to the underlying philosophy. Learning was not based on the experiences of the adult learners.

4.8.1 TEACHING METHODS

The third paralegal training course report at Buthe-Buthe¹⁰ indicates that about thirty hours were allocated for the study of basic law. It is not clear which methods of teaching were used, since reports were silent on this matter. Eight booklets were produced (Appendix 8) by the CLRAC Trainer for CLRAC since at this time CLRAC and FIDA had not started talking about working together. These booklets served as reference material for the participants. For the component of social skills, interactive methods were used for example, listening pairs, role-play and practical exercises. The use of teaching methods that are appropriate to adult education, such as small discussion groups, is increasingly taking place.

Over and above the staff of CLRAC and the lawyers from other agencies who served as trainers, evening sessions were organised in which the paralegals were addressed by representatives of institutions which in one way or another would affect the work of paralegals. The institutions were Parliament, the Ministry of Justice, the Law Society and the Law Faculty of the National University of Lesotho.

¹⁰CLRAC Third Paralegal Training Course Report of 31 July - 5th August, 1994

4.9 LESSONS FROM THE BUTHA-BUTHE TRAINING EXPERIENCE

The Butha-Buthe community survey served both as a planning tool for the initial training and also for subsequent training activities. It also served as an evaluation tool for the initial training. In holding the third paralegal training course at Mafeteng in August 1994 note was taken that people asked if CLRAC supported organisations financially. The trainers learned that people had not come to the course because of a direct interest in learning about the law. They had come because they hoped that through participating in the course, they would have access to funds.

When the initial course was held in Butha-Buthe, thought had not gone into who would bear the travelling expenses of the participants. In subsequent workshops, the issues of what operational radius each paralegal would cover was discussed. If a paralegal covered his/her village, there would not be any need to cover travelling expenses.

The reports written on the paralegal training workshop in Butha-Buthe did not indicate who or what kind of persons were recruited as paralegals. The only indication seems to have been that trainees should have been nominated by their communities. Another lesson drawn from this initial training was that in future educational activities, paralegals should be drawn from organised groups, for example, burial societies, trade unions and civic groups.

Subsequent training activities by CLRAC were carried out in 1994 and in 1995. By the end of 1995 CLRAC and FIDA had trained two hundred and thirty paralegals, of whom CLRAC had trained one hundred and thirty. The people who were trained by CLRAC as paralegals came from the districts of Butha-Buthe, Mafeteng, Thaba-Tseka, Mphahlele's Hoek and Maseru. It was decided to carry out an external evaluation of CLRAC. Such an evaluation was done in 1996. The evaluation was a basis on which future activities would be carried out. In 1997 and 1998 CLRAC focussed on voter education to prepare the electorate for the 1998 elections. Paralegal training was therefore suspended in 1996, 1997 and 1998. Paralegal training resumed in 1999.

4.9.1 EVALUATION OF THE TRAINING WORKSHOPS

Each workshop was evaluated. Written questionnaires were handed out and filled in by the participants. At the time of writing this report, CLRAC had not destroyed the questionnaires. A few of the responses are cited below:

On the workshop itself:

"I liked the workshop but it should be held over a longer period" and
"I shall help my community with advice".

Benefits derived:

"My knowledge about law increased" and "I can stand for myself in court".

Problems encountered:

"Too much was covered in too short a time".

Where improvement is needed:

"Drafting legal papers, such as divorce papers" and "Procedure for getting people out of jail on bail".

The report written by the Trainer of CLRAC indicates that the following conclusions and recommendations were made at the first workshop held in Maseru during 1993:

- the course had fulfilled the objectives set by the centre and the participants
- there was a great motivation and high commitment from the participants throughout the course
- there was need for distributing information material to chiefs and local officials
- the participants agreed to organise public meetings in their villages and to be monitored once or twice a quarter
- the paralegals would also meet monthly and submit a report to CLRAC (CLRAC 1993 Paralegal Training Report).

In the quarterly report for April, May and June 1994, mention is made that the trainers concentrated on monitoring the paralegals recruited from Butha-Buthe since it was a pilot programme. It is mentioned that the paralegals expressed confidence in carrying out their tasks as paralegals. It is a pity that the report does not focus on the actual work done by the paralegals and whether it was effective and efficient. The paralegals had however felt overwhelmed by the many people who came to them for advice. They suggested that there was the need to open a paralegal office in Butha-Buthe.

CLRAC's case demonstrates foresight on the part of the authorities to establish working relationships with South African NGOs. Funders for development activities encourage countries and NGOs to address development needs on a regional basis. CLRAC has always looked beyond Lesotho for inspiration in its work. In 1996 CLRAC decided to up-grade the skills of two of its four paralegals, who by this time were managing paralegal offices. They send them to CLC in Durban for a week's training. There they learned office administration and client handling and interaction skills. A comment made by one of the paralegals who went to CLC is that he felt that they should undergo an eighteen months' training course like the CLC paralegals because it enables the paralegals to obtain a recognised diploma from the University of Natal.¹¹ (*Report on Community Law Centre Training*, Durban, 11-16 March, 1996)

The evaluation of the workshops held in 1993 and 1994 indicated that the participants found the courses useful. In 1997 when the researcher did interviews for this study, those interviewed were happy with the paralegal training they had received. The responses discussed in chapter six confirm the importance of paralegal work in Lesotho.

In completing a self-assessment, one paralegal respondent from Mafeteng said:

"ke fane ka mohlala oa boipheliso ka maleba-leba ao ke a nkileng setsing, 'me e mong le e mong ea nang le mahlo ho sheba, a ka kopitsa kapa a ithuta. Ntlheng ea molao ke butse ba bangata mahlo, ba tseba tokelo tsa bona. Boholo

¹¹CLRAC by paralegals who went to CLC - Durban on 11-16 March 1996

ha bo nthabele feel likeletso tsa ka li a ba thusa". Translated this means "I'm an example of how to survive because of strategies learned from CLRAC. It is up to each person to learn and copy. I've opened many eyes to legal issues, they know their rights. Many do not like me but they find my advice useful."

Chapter four has pulled together information on why CLRAC was formed and has analysed the paralegal training programme. It has shown that initially paralegals were recruited as representatives of their communities. It was later realised that it is better to recruit people who are members of a group or community since they will be accountable to their group. This approach guarantees sustainability for the programme. The inadequacies in the design of the paralegal training programme and in the use of adult education methods have been highlighted. CLRAC felt that it needed to sharpen its vision and developed a mission statement in 1998. The mission statement is "To provide legal aid and services to the poor in five districts and to give legal advice and education in democracy, human rights and legal issues to the wider audience in accordance with critical adult education theories". It is important to note that a conscious decision was taken to be alert to adult education methodologies in handling paralegal training.

In spite of the financial problems associated with donor fatigue and emerging needs in other areas such as the Eastern Bloc, paralegal training continues to receive support. In 1999 CLRAC received R37,380.00 from an NGO in Finland for paralegal training. In 1995 paralegal training had received R40,086.00. There is no doubt in the researchers mind that donors will reduce the level of funding to NGOs but that paralegal training will continue to receive sympathy. Paralegals play an important role in the promotion of human rights and democratic norms. Donors are increasingly appreciating that development will effectively take place in an environment of good governance and peace. Appendix 10 shows poor road infrastructure in the mountain areas. This is an area where 80% of the population lives. Reaching the inhabitants of the rural areas is a challenge to CLRAC and FIDA which they will meet through the use of paralegals.

CHAPTER FIVE

CASE STUDY OF FIDA

Chapters four and five present descriptive case studies of CLRAC and FIDA. As the research design in chapter three shows, the description is based on annual reports, minutes of committee meetings, brochures and discussions with programme managers. This chapter presents a case study of FIDA, based on the structure adopted in chapter four.

5.1 FIDA AS A CASE

5.1.1 BRIEF HISTORY OF FIDA

FIDA was formed and legally registered in 1988.¹² Two women lawyers borrowed the idea of FIDA-Lesotho from FIDA International. (FIDA stands for a French name which means International Federation of Women Lawyers). They called all women lawyers to a meeting to sell the idea which was well received.

5.2 ORIGINAL OBJECTIVES

The main objectives of FIDA as outlined in their constitution are:

- To enhance and promote the welfare of women and children,
- To work for the promotion of democracy in Lesotho and to do whatever shall be deemed necessary to ensure the promotion and protection of human rights.

There is a list of nine objectives in a programme document which was developed later.¹³ Four

¹²FIDA Newsletter, April 1994

¹³FIDA - Policy and Procedures Manual (n. d.)

of these are relevant to this study:

- To promote the legal status of Basotho women and to promote women's basic human rights.
- To educate women in Lesotho about the law, especially in the areas of family law, property, succession and employment.
- To lobby for law reform wherever the law is discriminatory against women or where it lags behind social, cultural and economic changes in society.
- To promote legal aid services to needy women at low cost.

Minutes of a meeting between programme managers of Women and Law in Southern Africa, FIDA and CLRAC indicate that "FIDA has not yet made any concrete plans of paralegal activities"¹⁴. This statement may mean that when FIDA was legally registered, it had not thought of instituting a paralegal programme. Therefore, its paralegal work component could not be reflected in the original objectives as outlined in their constitution.

5.3 FORM AND MANAGEMENT STYLE OF FIDA

FIDA is an NGO and a membership organisation that is made up of professional women lawyers. A decision was however made later to include non-legally trained individuals. The minutes of January 1993 report that FIDA was described as being mainly concerned with women as a social group.¹⁵ Their management style is consultative with policy-makers (an executive committee) elected at an annual general meeting. It has a secretariat made up of paid staff.

Once a year members come together in an annual general meeting to review past progress and to determine future policies. It is a not-for-profit organisation which survives mainly from

¹⁴Minutes of a meeting of Programme Managers of WLSA, FIDA & CLRAC -13 May 1993

¹⁵FIDA Executive Committee minutes of January 1993

foreign funding though small local income is generated through membership fees.

During the formative years, FIDA's founder members carried out the training function. In 1991 the first staff members were employed. The Legal Aid Officer was employed in 1995. Her functions included training of paralegals. In 1996 she facilitated nine of the different training activities organised by FIDA. The workshops were on paralegal training and on issues of law. For example, she facilitated a course on Lesotho labour law for a group of trade unions.

5.3.1 DECISION-MAKING IN FIDA

Policy is made at the annual general meeting of members. The executive committee, which is elected at the annual general meeting, is responsible for policy guidance in between election periods. It is responsible for all administrative matters. An undated policy document states:

"The executive committee brings the policy made by the general membership into reality. The executive committee is also part of the policy-making cadre in the structure. It is the governing body and it is therefore responsible and accountable for direction and management of the organisation".

5.4 INTENDED CLIENTELE

It should be noted that the women lawyers who started Lesotho-FIDA focussed on human rights in relation to women. This approach was necessitated because legally women were not protected. In Lesotho a married woman is a child forever in the eyes of the law because she is subject to the power of her husband. The situation has not changed much since 1988 when FIDA was created.

The activities of FIDA include:

- Legal and human rights education.
- Paralegal training.
- Legal aid services.

- Political and democratisation education.
- Production of materials to support the abovementioned activities.

The case study will deal with paralegal training only.

5.5 FIDA'S PARALEGAL TRAINING PROGRAMME

It is important to look at the historical development of FIDA to appreciate how it ended up with a paralegal training programme. In 1991 contact with the community through "pitsos" was made. In the Lesotho context the use of the word "pitso" has become acceptable in English text. It defines a particular kind of a meeting that is set in a cultural setting. This particular meeting is called by a chief of a village. Traditionally the chief carries a lot of authority so any activity in which he / she shows interest carries respect and weight.

The importance attached to a pitso is reflected in FIDA's newsletter of June 1996:

"1991 was a really big year for FIDA-Lesotho, because it was during that year that we had the first contact with the community, through pitsos".¹⁶

It would seem that going out into the villages created a demand for legal aid services. In 1992 a legal aid clinic was launched. In the same year a leadership training workshop was held in which women who were not in the legal profession participated. This was a great shift in focus for FIDA. It should be noted that though the focus of FIDA is now inclusive of women, men and children, the name has not changed: it is still Federation of Women Lawyers.

5.6 THE PURPOSE OF FIDA'S PARALEGAL TRAINING

In a review report dated August 1996 on FIDA's activities, it is stated that paralegal training is

¹⁶FIDA's Newsletter of June 1996

one way in which the objectives of FIDA can be achieved. The purpose of the paralegal training is to equip local communities with basic legal skills to give the means of addressing the lowest level of their communities. Another aim of training paralegals is to limit the influx of cases taken to court.

It should be noted that FIDA offers paralegal training as an integral part of a wider programme of civic and human rights education because it was started to address all forms of violation of women's rights. This is important to bear in mind as any discussion on the training of paralegals and the tasks they perform will refer to human rights education and civic education.

It is observed that around May 1994 CLRAC and FIDA realised the need to sit down together to discuss their paralegal programmes.¹⁷ A proposal for co-operation was written which discussed the need to undertake joint paralegal training programmes. It was envisaged that a common curriculum would be developed and that training activities would be done jointly by the two organisations.

The plan for developing a common curriculum and managing paralegal training together has not materialised, mainly because of the financial problems which FIDA faced in 1998. It should be noted that the discussions on working together are continuing. The researcher participated in some of the discussions and felt that there were subtle reservations about possible loss of control by both parties. Another observation by the researcher is that the discussions about working together never really addressed the crucial issues of the different target groups recruited for training. It is important to note that FIDA recruits people in service organisations for their paralegals. Such people would be in the caring professions such as nurses and prison warders. The different target audiences in the researcher's opinion could be the reason why in 1997 the two organisations failed to work together and the fact that they were both adequately resourced. Each organisation may have felt arrogant.

¹⁷CLRAC In-House meeting minutes - FIDA and CLRAC co-operation - 3rd May 1994

5.7 THE DESIGN OF FIDA'S PARALEGAL TRAINING

In its paralegal training courses FIDA covered the following topics:

- What FIDA is.
- Communication skills.
- The Legal system of Lesotho.
- Structure and procedures of Courts.
- Administration fora.
- Family law.
- Legal status of women.
- Labour law.
- Consumer law.
- Motor vehicle insurance.
- Cases of violence against women.
- Human rights.
- Legal assistance.

The following paralegal training activities were conducted by FIDA in 1996: the second phase of paralegal training for paralegals from the Lesotho Girl Guides' Association. Thirty Girl Guides participated. Two training workshops for civil servants and NGOs were held at Quthing in March and April for thirty people. A training session for twenty field-workers for the Lesotho Planned Parenthood Association was held in April. Twenty-two paralegals were trained in Leribe. In May, October and November twenty paralegals were trained each month at Teyateyaneng.¹⁸

In 1997 three workshops were held which brought together all FIDA's trained paralegals to assess their work. Two refresher courses were held in Leribe and Teyateyaneng. FIDA conducts paralegal training during week-ends so they have to bring the same group for training over two week-ends. This arrangement tends to inflate figures for the number of people trained.

¹⁸ FIDA Activity Report Summary

It was difficult to obtain individual training reports for each training session and information on training done before 1996. The reason given is that these training sessions were conducted by volunteer trainers who are members of FIDA. These volunteer trainers never had time to write reports as they held full-time jobs elsewhere. There was also no incentive for them to embark on additional paperwork.

The observation that FIDA's week-end approach to training is likely to inflate figures makes comparison with CLRAC's performance difficult. It should also be noted that in 1997 and 1998 CLRAC did not hold paralegal training because this research report was in the process of preparation and it was intended to inform future training efforts. The researcher felt that it was important to assess previous training efforts and develop a curriculum and manual based on information gathered from the study. The study unfortunately took much longer than initially anticipated so it has not informed the paralegal training which took place in 1999.

According to the 1996 report ninety paralegals were trained.¹⁹ In 1997 seventy-five paralegals participated in monitoring workshops. Eighty-two paralegals attended refresher courses.

5.8 MONITORING AND EVALUATION

In 1996 review meetings were held in Berea and in Quthing. The objectives of the meetings were to evaluate the work of the paralegals and to assess whether they needed more training. One hundred and seventy-six people participated. The report is very brief and does not indicate whether there was need for further training or in what areas. The report further noted that paralegals were given basic training on the legal system. Thereafter they were expected to give legal counselling to fellow members of the community. There was no other source of information on how the paralegal training programme was monitored or evaluated. The researcher decided to focus on the evaluation of a paralegal training workshop for trade unions. This is important because in its approach FIDA also identified other NGOs for which it could provide paralegal

¹⁹FIDA AGM report - 1996

training. The Lesotho Federation of Trade Unions (LFTU) was the first NGO to be trained in paralegalism by FIDA.

5.9 LESSONS FROM THE TRADE UNION TRAINING EXPERIENCE

5.9.1 AN EVALUATION OF THE TRADE UNION TRAINING WORKSHOP

In July 1997, a refresher course for members of the Lesotho Federation of Trade Unions (LFTUs) was organised. The trade union members of the federation had asked for skills in paralegalism so that they could represent their members in the labour court. Twenty-five participants attended the workshop.

At the end of the workshop the participants were asked to respond to the following:

- The importance of attending the workshop.
- Benefits derived.
- Problems encountered.
- What did you find easy? Give five examples.
- Do you feel a better equipped person after the workshop?
- In which areas do you need additional skills?

The researcher decided to choose a few responses to indicate how the participants felt about the workshop:

The importance of the workshop:

"To know about laws that govern us", "To know about the law", and
"I gained knowledge that there are laws that prevent criminal
behaviour".

"To learn about the law, to build a legal case on knowing life in
general".

"Gaining knowledge on a number of legal issues that I did not know".

Benefits derived:

"Knowledge about labour law".

"To be able to take a case to the labour court".

"Explanation/clarification on the labour code and presentation of cases to the labour court".

"Knowing about human rights".

"I was taught the structure of the courts of law".

"I learned about gender, maternity leave, being helped to deal with women's labour problems".

Problems encountered:

"I had problems writing responses in court".

"It is a problem that workers do not want to join labour unions".

"There are people who do not believe that the law works or that it can protect them".

"A problem of the dual nature of the law, what happens after the death of the husband?"

Where is improvement needed:

"More courses because legal matters are difficult".

"Drama should be used as a teaching method".

"Expand content of paralegal training to include third party claims".

Chapter five has looked at FIDA as an organisation. It has analysed its paralegal training programme. The chapter has shown that FIDA recruited its paralegals from officers serving in service delivery agencies. Though FIDA experienced financial problems, paralegal training continued to receive financial support. The need for human rights education and for paralegalism remains a constant challenge for FIDA. The researcher hopes that FIDA's paralegal training programme will continue to get financial support because donors are interested in women empowerment and human rights. The researcher also hopes that CLRAC and FIDA will jointly develop a training manual or paralegal curriculum to standardise their training.

CHAPTER SIX

PARALEGALS, THEIR TRAINING AND FUNCTION

Chapter six is an extension of chapters four and five in that it pulls together a description of who the paralegals are, how they were trained and what they do after training. This chapter presents a Lesotho case study which is captured in the presentation of CLRAC and FIDA in chapters four and five.

Chapter six presents the results of the different methods of collecting information. It summarises responses to each question asked of the paralegals through a questionnaire and an interview schedule suited for the different needs of CLRAC and FIDA. During the study, it became necessary to develop an interview schedule that would be used for FIDA paralegals while a questionnaire was used for CLRAC. The researcher had made an assumption that the similarities between the two organisations called for one questionnaire. The assumption was wrong. The researcher discovered that the levels of education and calibre of paralegals were different. The information presented in section 6.1 was collected on the basis of a questionnaire administered by the research assistants to the respondents who were CLRAC paralegals. The information on section 6.13 was collected on the basis of the questionnaire administered to CLRAC paralegals, but also to the respondents who were FIDA paralegals per the interview schedule reflected as Appendix 3. Observations made at a workshop organised for village leaders are also discussed.

The discussions held by the researcher and the training officer of FIDA are also discussed. The results will be further presented in a summarised report which will be shared with CLRAC and FIDA. It is hoped that the report will be used for policy making, programme improvement and for fundraising. The draft of chapters four, five and six were given to FIDA's Trainer while two trade union members were given the draft of chapter six to validate facts.

6.1 PROFILE OF THE VILLAGE PARALEGAL - CLRAC

Interviews were held with forty one village paralegals from CLRAC to whom the following

analysis relates.

6.1.1 AGE OF PARALEGALS INTERVIEWED

Table 3 indicates that thirty-two percent of the paralegals interviewed were in the age range 30 to 40 years old, twenty-four percent were in the age range 40 to 50 years old. Twenty-seven percent were in the age range 50 to 60 years old while those in the age group 20 to 30 years old and 60 to 70 years old were eight percent each. The figures could be related to the high unemployment levels that have been created by retrenchments in the mines.

Table 3: Age Distribution of Paralegals Interviewed

Percentage	Age Group (Years)
8%	20-30
32%	30-40
24%	45-50
27%	50-60
9%	60-70
100%	

6.1.2 HIGHEST LEVEL OF EDUCATION OF PARALEGALS INTERVIEWED

Most of the paralegals interviewed had completed standard four to seven (grades six to nine), yet nine respondents had progressed as far as JC level. Nine respondents had received COSC. This finding challenged the perception that literacy levels are so low in rural areas because the educated have moved to towns. Traditionally school leavers with COSC certificates got jobs in government departments. This trend has implications for future training. It should not be difficult to recruit paralegals with a minimum qualification of COSC. A decision on the basic minimum educational qualifications needed for an individual to become a paralegal will have to take this finding into consideration to improve the calibre of paralegals.

6.2 HOW PARALEGALS LEARNED ABOUT CLRAC'S PARALEGAL TRAINING WORKSHOPS

The manner in which CLRAC publicised its workshop activities was, initially, based on public meetings which were, *inter alia*, meant to introduce the organisation to the various communities. This initial awareness creation stage was followed by letters or personal visits to potential groups who would send a candidate.

6.3 WHAT MOTIVATED THE PARTICIPANTS TO ATTEND WORKSHOPS?

The motivation for participating in the workshops ranged from personal interest to community interest. One participant wanted to know if he could find ideas for how his or her association could become self-sustaining. Some respondents went to the workshop because they wanted to learn law for themselves. Others were chosen by their community to participate.

6.4 WHAT BENEFITS DID THE PARTICIPANTS EXPECT TO GAIN?

Some of the responses were close to the responses given for the question on why they participated in the training. The benefit they saw was to gain knowledge of law for themselves and for the benefit of the community. A significant number of the respondents thought that they would obtain jobs after training. This expectation possibly has an implication for the extent to which a paralegal does active voluntary work after training because the programme is voluntary.

6.5 WHICH TOPICS WERE COVERED IN THE WORKSHOPS?

The response to the question on the topics that were covered in the paralegal training workshops generated a long list. The observation is that some possible sub-themes of a particular theme were perceived as topics in themselves. This made it difficult for the researcher to categorise the information. A few examples of this are, some participants mentioned criminal law procedures

as a topic discussed. Confusion was evident in people mentioning knowledge of the police. Others referred to the same topic as police and community relations. Chiefs and law, chiefs and village development committees were also mentioned. The discussion in chapter on the training activities undertaken by CLRAC presented topics which were handled during the training activities. There is definitely a gap between what the trainers thought they taught and what the trainees thought they were taught. This could be a reflection of the different perceptions and interpretations that the participants had on the topics. The issue of whether the learners had gained knowledge will be discussed later in the assessment of the learning process.

In an analysis of the topics that were dealt with in the workshops (Forty one paralegals had responded to this question).

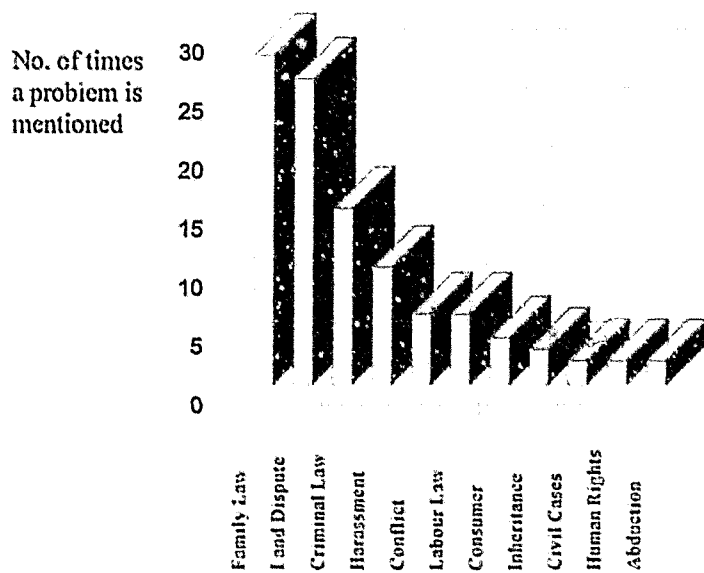
- Family law was mentioned thirty-one times.
- Land issues were mentioned twenty-two times.
- Criminal law procedures were mentioned twenty-one times.

It should be noted that this analysis merely reflects the number of times a topic was mentioned. It does not in any way reflect the number of people who mentioned it.

6.6 THE KIND OF PROBLEMS WHICH WERE BROUGHT TO THE PARALEGALS

The respondents were asked to mention the kind of problems brought to paralegals. The bar chart in Figure 3 represents the kind of problems brought by villagers to paralegals. The weakness observed by the researcher in the responses given is that the problems are defined according to the type of law that the paralegal was taught. It is possible that under family law, there could be specific problems brought to the paralegal. A problem could, for instance be a maintenance problem or a divorce problem but, in their response, they just mention family law problems.

Figure 3: Problems Brought to the Paralegals



The above bar chart indicates the number of times a problem was mentioned, showing that family law problems were mentioned twenty-nine times as having been brought to the thirty-nine paralegals who answered this question. There could be a relationship between the response to the question above in which family law was mentioned thirty-one times. It is possible that problems related to family law are the greatest worry in the villages so the paralegals decided to make a session of family law their priority in terms of learning needs. It should be noted that a number of other problems were brought to the paralegals, for example, one paralegal from Thaba-Tseka listed labour problems, land disputes and consumer law problems.

6.7 HOW MANY CASES OR PROBLEMS WERE BROUGHT TO YOU IN THE FOLLOWING MONTHS?

The above question was aimed at assessing the work-load of the paralegals by trying to find out how many cases are presented to them each month. The analysis was done per district. In Mphahle's Hoek, of the eleven respondents, four did not remember the number of cases they handled because they did not write down the information. One remembered that in August he / she handled one case. This kind of response is not reliable because the researcher is not sure how well details related to the case would be remembered.

All ten respondents from Thaba-Tseka presented clear numbers of the cases they handled between May and October 1997. The ten respondents from Mafeteng gave approximate figures that ranged between one case and ten cases per month.

Three of the ten Butha-Butha respondents suggested that they handled cases on a daily basis. One respondent is employed by the Lesotho Highlands Water Project. He mentioned that he advised the workers' committee on a daily basis.

This question was asked indirectly to find out if all the paralegals were active in paralegal work. Responses to this question would also give insight into how paralegals in Lesotho used their training. The responses indicate that not all paralegals have been active. Those who did not remember how many cases they had handled could have lacked the courage to mention frankly that they did not do any paralegal work. Those who answered the question, gave general responses because they did not keep thorough records. The question sought to obtain relevant information for three specific months in a year. The responses were not precise.

The issue on whether the training of the paralegals interviewed was effective will be taken up in the next chapter.

6.8 HOW DO YOU SEE YOUR FUTURE ROLE AS A PARALEGAL?

The above question was intended to establish whether there was still motivation to do paralegal work in the future. The responses were very general and did not indicate a clear understanding of the word "role". The reason for this is well understood by the researcher. There are technical words which cannot be translated adequately from English to Sesotho. "Role" is such a word. A phrase was used to explain what a role was, and those who asked the question were advised to elaborate on it but there was no luck. One response says "my role is promising and helpful to me and to my community". This is a clear example of failure to understand the concept. This kind of response came from the district of Thaba-Tseka. The responses from Thaba-Tseka and Mafeteng were similar in their failure to understand what a 'role' is. Probing could have also failed to elicit the correct response. Nine responses from Butha-Buthe were identical: the role is mentioned as giving advice and mediation. The responses were different in that they captured the essence of the question. One respondent gave the role as giving advice to the chief and co-ordinating the centre with the community. Selling more booklets on legal matters was also mentioned as a future paralegal role.

The future role was compared to the current role. A respondent from Mafeteng almost exaggerated the role he played in his area. He ascribed the decrease in the number of young people who go to initiation schools to his input. Another respondent claimed that criminal acts had decreased because of the legal advice he gave in his village. This sweeping statement overlooks the fact that other factors could have brought down the incidence of crime.

The responses by FIDA paralegals were also lacking in specificity. One response said "I chair meetings of the paralegals and use my office for such meetings". A few responses indicated that paralegals would work harder if they received support from the head office. One respondent was clear that she/he needed stationery from the head office. One respondent felt that she would contribute more if she had an identity card that shows that she is a paralegal. One paralegal would do more work if his travel expenses were covered by the head office.

Legal problems which people bring to the paralegals included the following:

- land disputes
- family law
- criminal cases
- police harassment
- children's rights
- chiefs' harassment
- abduction cases
- compensation problems

It is interesting to note that one respondent gave an example of a family problem that was brought to him. One man was married through a civil marriage to his first wife and through a customary marriage to the second wife. Though the actual problem is not mentioned, a link can be drawn from the opening section of this research report to the problem being raised here. Mention was made of the inherent conflict in the dual nature of the legal system. This problem endorses the general observation that people get into legal wrangles out of sheer ignorance of the complexity of the legal system. Some people find themselves in trouble from the belief that they are upholding their culture and customs, without realising that the received law has become superior to the customary law in certain respects.

According to Mamashela (1991:163)

"It is quite clear that in Lesotho the common law says that a man or a woman who enters into a customary law marriage during the subsistence of a civil rites marriage to another, commits adultery if the customary law marriage is consummated and that such adultery would be a ground for dissolving the civil rites marriage".

It should be noted that this conflict is a direct result of a substitution for the Basotho culture by

the foreign culture brought by the missionaries. Initially the missionaries wanted to do away with customary marriages.

6.9 AN INTERVIEW WITH A CHIEF AND VILLAGE MEMBERS

The researcher took the opportunity of accessing participants of an ongoing workshop organised for Village Development Committees (VDCs) by CLRAC. Chiefs and the VDCs are the village leadership that the researcher planned to include in the study to assess the relationship that the paralegals have established with the villagers that they are supposed to serve. Chiefs are members of the VDCs so the workshop provided an opportunistic audience to be interviewed.

The researcher spoke to the chieftainess of Khoiting in the Mphahlele district. The chieftainess did not feel confident to answer all the questions as she said she had a right hand man who ran her office. He will be referred to as the "office clerk". They both answered the questions though the office clerk provided most of the information. Both did not know who or what a paralegal is, either in English or in Sesotho. The Sesotho phrase for a paralegal is "Mothusi-Molao". It is the researcher's belief that this is terminology which was coined by CLRAC to find a Sesotho word for paralegal. It is not surprising that it was not known. The researcher herself had not heard this word before she worked for CLRAC. Somebody who was asked to edit this report offered a different phrase, "Mosebeleletsi oa tsa Molao Metseng" to define a paralegal. She adapted a definition used for a village health worker. Literal translation of the two phrases means "Mothusi-Molao or helper-in-law", "Mosebeleletsi oa tsa Molao Metseng" means "the one who works with law at the village". CLRAC and FIDA should consult a wider audience to come up with a phrase that will define a paralegal more clearly. The question of the inadequacy of the Sesotho language in translating legal words is evidenced again at this point.

The question was rephrased by mentioning the name of a paralegal, for example, Mareka, and asking if they knew him. They responded enthusiastically. The office clerk mentioned that his wife had brought some papers from the same paralegal whose name was mentioned by the researcher. A further question was asked on how many people from the village had attended a

course similar to the one in which paralegal Mareka had participated. They mentioned one gentleman who now lives in South Africa. They also mentioned two other names of individuals in neighbouring villages.

The researcher wanted to know if there was any mechanism for accountability to the villagers after the training. It was reported that the person who had been identified by the villagers to go for the paralegal training course went to the office of the chief to report on what took place. They were, however, no longer clear of when it was that their representatives attended the course. It was a long time ago. It was noted that the current village-based paralegal was very enthusiastic on his return from the course. However, later he became discouraged as conflict arose between himself and the other two paralegals from neighbouring villages. Their opinions differed in terms of the approach to take in fulfilling their role as paralegals.

It was not clear why conflict arose as each paralegal had his village within which to operate. Maybe this is an indication that the trainers had not helped the paralegal learners to make concrete plans on how they were going to operate after training.

It was observed by the chief's office that the village paralegal had already started visiting families, most probably talking about his paralegal training and work, though they could not commit themselves on this issue. They did not know what the paralegal said in the home visit. However, the broad issues covered in his message were probably - freedom, good relationships in the village, the Constitution of Lesotho and an introduction of CLRAC and its legal aid programme. The respondents could not remember if the paralegal ever spoke about what he had actually been trained in. They could have forgotten this. An attempt to elicit what could go into future training of the paralegals was unsuccessful.

In another village - Makokotoaneng, the researcher went into every fifth house. In the first household visited, the respondent did not know any thing about the paralegal in her village. She expressed her lack of knowledge on this matter in this manner:

"Ke qala ho utloa ke ntse ke le hona mona". (This is the first time I hear about this, yet I'm here in the village).

This means that she did not understand how the information failed to reach her. A church elder had bought booklets on "Family Law" and "Human Rights" from the paralegal. The booklets were useful. He passed on what he had learned from the booklets to his church clubs. An old man from the same village expressed his experience with injustice in this manner

'Mutla kotloa tsebe ha o bothe'.

This is a proverb which literally means that "a hare whose ear has been bitten does not lie down". The old man was expressing the opinion that he has had many problems which he solved with the help of the information he read from the booklets sold by paralegals.

On the second visit to Ha Rabolilana, the researcher met with a VDC member to find out what he knew about another VDC member in their village who had trained as a paralegal. The respondent did not know how the paralegal was chosen to go for paralegal training. He was, however, aware that when the paralegal came back from the training, he called a 'pitso' to explain to the villagers what he had learned.

According to him, the explanation given by the paralegal was inadequate: people did not understand the message he gave. The respondent felt disappointed that he did not go to the training course. He said

"banna 'na o mphositse, ke ee ke rate ho ea ikutloela". This means, "he has invited me, I prefer to go and hear it myself".

The paralegal showed booklets he had brought from the workshop which he would sell as another way of strengthening the message he would give relating to legal issues and human rights. The

respondent mentioned that he had found the booklet he bought useful, though he did not know where it was and had forgotten its contents.

The other source of information on how the paralegal training programmes of CLRAC and FIDA were designed and managed are the training officers of the two organisations and legal experts who were drawn in as facilitators at the workshops.

6.10 A DISCUSSION WITH FIDA'S LEGAL AID OFFICER AND PARALEGAL TRAINER

A discussion was held with the legal aid officer who also carries the responsibility for paralegal training for FIDA. She will be referred to as Ms R. When she joined FIDA, Ms R was told that FIDA's paralegal training programme began in 1994 when three members, who included the Director, went to Johannesburg to the Legal Resources Centre to learn about paralegal training and paralegal work. The Director needed the exposure since she came from a non-legal background. This exposure was important to the other people because paralegal training as a programme was new in FIDA.

Ms R mentioned that the paralegal training programme of FIDA targeted nurses, prison officers and other categories of people who work in agencies that provide services. It was a general criterion and requirement that those who are trained as paralegals should be in service-providing organisations.

In response to how the participants were identified, Ms R said that a workshop on family law was organised in which a discussion on FIDA and paralegal work took place. Those who participated in the workshop later asked to be trained as paralegals. The training that happened in Quthing conducted by FIDA was different. A group of women called "Le Sitoa Ke 'ng Basali" (literally translated means "what is it that you can't do, women?") participated in a course on human rights.

They later participated in workshops on family law and inheritance. They also asked FIDA to write a constitution for their group. After this relationship, they asked FIDA to train some of their members as paralegals.

It was noted that the Teyateyaneng group of paralegals is the oldest group of paralegals and that it has suffered the greatest loss of paralegals as many of them were government employees who have since been transferred to other districts.

The researcher asked about how many paralegal training courses FIDA has organised since 1994. Ms R explained that their courses were conducted in phases, meaning that one course is extended over four weekends. She was certain about two follow-up workshops that were organised in 1996 and a little uncertain about workshops that were held before she joined FIDA. The two 1996 workshops brought together the participants who were trained in different workshops. In 1996 three workshops were organised in each district per the paralegals request.

The broad aim of the paralegal training courses, according to Ms R, was:

"To be a middleman or arm of FIDA. For example, if an assault case presents to a nurse, a nurse who is a paralegal will handle the case differently from a nurse who does not have paralegal skills. S/he will advise the assaulted person on the procedures involved to lodge a case of assault against the assailant". She amplified this point by saying that "if a hawkers or a street vendor is trained as a paralegal, she can advise the many people who come to her to buy whatever she is selling".

The researcher finds it hard to believe that this approach works because it is difficult to see how a street vendor will concentrate on selling fat-cakes, for instance, while advising some other people on legal matters. Does this affect the quality of the services she gives because she cannot apply the knowledge she gained in a conducive atmosphere?

The content of the workshop according to Ms R was mainly legal but other topics were included. It covered the following areas:

- Knowing about FIDA
- Communication skills
- Statement-taking
- Family law including marriage, divorce, custody and maintenance of children and inheritance
- Labour law
- Motor vehicle insurance
- Consumer law
- Human rights

Some of the questions raised in the discussion focussed on how the training programme had been planned originally and how it was assessed. Ms R was not clear about how it was planned as she was new in the organisation. She was aware that there was need to make improvements on the design of the programme. Ms R and the researcher attended a workshop on human rights and the design of a paralegal training curriculum.

The interview was held immediately after this workshop. Ms R felt that CLRAC and FIDA needed to be more critical about the planning stage for their courses.

Ms R reflected on the identification and recruitment stage for paralegals and felt that FIDA could have been over-ambitious. The standard of education needed to be re-visited as experience showed that it was not easy to teach the Quthing group. The training approach itself needed to be changed. Four weekends were not adequate to give meaningful knowledge and skills.

On the question of assessment of the learning experience itself, it was noted that their learners were not given tests yet. They assess the effectiveness of the course by monitoring the work of the paralegals through monthly reports. In reality the reports do not come to the head office as expected. The head office is also unable to make follow-up visits because of lack of capacity. The

paralegals were expected to hold 'pitsos' to tell the public about their work and the advice service they give through their paralegal work. The paralegals are unable to do so. This is understandable as it could be expecting too much from somebody who is holding a full-time job to create time to go into the villages to hold a 'pitso'.

The paralegals telephone the head office to seek guidance on any issue that they cannot handle. This approach is already flawed with weaknesses that are beyond FIDA. The telecommunication system in Lesotho is very poor. When the telephone is out of order the paralegals do not get support from their head office. It may not be wrong to conclude that a client could be given inadequate or incorrect information or will be inconvenienced by being asked to go home and come back when the paralegal has consulted the head office. Reliance on the use of a telephone to give someone advice on technical issues could be costly to paralegals, so paralegals may not necessarily access the telephone as would be expected. These problems indicated that FIDA needs to find creative ways of giving post-course support to their trainees.

On a broader level, however, these problems raise a question that is increasingly being asked by donors. Do people who have been trained to pass on information to others really do so? If they do, is it done efficiently and effectively? Are the resources used to train such people, for example the paralegals justified? Is there value for money in the work done by paralegals? These are questions which CLRAC and FIDA should continuously ask.

Ms R noted that the programme has not been evaluated but she felt that two years is a good time frame within which to take stock of what has happened in order to build an improved and more appropriate programme.

6.11 INPUT BY A FACILITATOR AT FIDA'S WORKSHOP SESSIONS

The researcher felt that it was important to talk to one of the facilitators in FIDA's courses since, as indicated earlier, FIDA used external lawyers who were its members to facilitate sessions during the paralegal training courses. Mr B became involved in FIDA's training activities when

he did the second year of an LLB course. Mr B was a member of FIDA. When assignments were allocated to the different members, he would also have his share of responsibility. He was interested in labour law as it was the topic he had chosen for his thesis. Mr B was also interested in family law which included common and traditional law. He noted that in taking up responsibilities, they were careful to avoid areas that they were not competent to handle. Mr B mentioned that he never took 'consumer law' as a topic he could teach because there was one FIDA member who was an expert in that area. Consumer law was always handled by her.

Mr B saw the broad aim of the paralegal training programme as acquainting the paralegals with knowledge on a day-to-day basis with relevant laws, such as family law. He expected the paralegal to deal with the laws on a regular basis, particularly using them to settle disputes between partners to avoid taking so many cases to court.

Mr B mentioned that there were guidelines that enabled the group of facilitators to know what was going to be covered in the course. The following topics came to mind:

- Human rights, as provided for in the United Nations universal declaration and in the Constitution of Lesotho
- Family law
- Consumer law
- Insurance law.

Asked how he assessed the learning encounter, Mr B said he was guided by the level of participation by the participants which was usually high. There was no system, however, that directly linked acquisition of knowledge and skills to the performance of the paralegals. One other indicator that he used is to listen to the participants comments when they meet long after the course was over. When the participants ask for another course, he knows it was good.

Adult educators, however, know that it is not so easy to draw parallels as other factors could have come into play which make people want to attend more workshops. It could be to receive free

meals. It could be the attraction of going to a hotel since the courses were held at hotels or training centres. It could be getting away from demanding family or work routines.

Reflecting on the advantages and / or disadvantages of organising courses during the weekend, Mr B felt that experience has shown that it was difficult to find participants during the week. People were available during the weekend. The fact that the participants in the courses were employed elsewhere and not by FIDA and that facilitators had to be FIDA members, who were in court most of the week, made it logical to conduct training during the weekend.

6.12 THE RESEARCHER'S VISIT TO THE MOHALE'S HOEK PARALEGAL OFFICE

The researcher complemented the interview method by a visit to CLRAC's Mohale's Hoek office to look at the register book.²⁹ This approach would provide a comparative basis between what the paralegal said he did and what he has actually recorded in the register book. The information in the notebook was very scanty, forcing the researcher to review the whole book. There were six cases recorded in the notebook. One case on each of the following dates: on 13 May, 15 May, 20 May, 16 July, 06 August and 22 August 1997. The researcher confined the review to 1997 only. The researcher presents four cases to show the kind of cases brought to the paralegal office. Two will just be mentioned to indicate their nature while two will be discussed at length to show the role played by the paralegal in solving the problems presented to him.

- On 15 May 1997 Mpho (not her real name), who was a shop assistant, came to the office to report that she and another shop assistant were till operators at a shop. Mpho had been a till operator for just a month. The business owner informed them that there was a shortage of R4000 / M4000. This was discovered after stock-taking at the end of the month. He expected the till operators to pay back the shortage so

²⁹A register book is a note book kept at paralegal offices in which summaries of cases brought to the office are written

he was going to deduct half salary from each one of them until the shortage had been fully paid. The statement is not well taken because it does not indicate adequately what the complaint is, is it a labour matter or another matter?

Amongst the cases recorded in the notebook, the researcher chose a case around issues of maintenance to discuss in the study. For the purposes of the study the family shall be called the Sekotlo family (not their real name). It is an interesting case because it clearly depicts the role of networking, which a paralegal plays in his/her community. In this particular case, the paralegal also played a mediation role. A family matter related to maintenance of two minor children was brought by the father of the children to the office. This also made it an interesting case for the researcher since, traditionally, it is the wife who claims maintenance for herself and minor children from the husband. The man was complaining that his wife had failed to fulfil her promise of paying school fees for their children. The complainant brought a referral letter from the village development committee (VDC) of his village which asked CLRAC to intervene. The office had initially handled the matter which is why it was brought back to the office. Of note in this case is that the VDC recognised the role played by the office in this matter and acknowledged their own weakness.

- On the 20 May the paralegal met Mrs Sekotlo (not her real name), who explained that she did not pay school fees for a boy who was left in his father's care because Mr Sekotlo abused the child. It became clear in this discussion that the boy was left in Mr Sekotlo's care, while a girl was left in the care of Mrs Sekotlo's mother. The paralegal referred the matter to the police and called Mr Sekotlo to the office to make him aware that his problems should not affect the children's future. The police would call another meeting between the woman's and the man's families to help them to reach a common understanding about how the children should be cared for. The paralegal would attend this meeting.

- On the 16 July 1997 Mampe Setlhare (not her real name), brought a case to the paralegal office to complain that her husband, who was the youngest child in his family, was allowed to build their house on his parents' residential plot. This arrangement according to Sesotho culture is acceptable because it guarantees care for old people since in Lesotho there are no old-age homes. After the death of Mampe's husband, she found a "boyfriend". This made her father-in-law very hostile, as he did not approve of the relationship. He threatened that she would be expelled from the house. The woman was unhappy about the threats because the house was built by her husband though it was built on his parents' property. The paralegal asked Mampe to come to the paralegal office with her mother-in-law to discuss Mampe's complaint. The mother-in-law came to the meeting but explained that she had already involved the family of Mampe in the conflict between Mampe and her father-in-law.
- On the 6 August 1997 three people came to seek to be defended because they assaulted a police officer. The assault was the result of a quarrel over a bottle of beer at a village restaurant. The paralegal intended to refer the matter to CLRAC's Litigation Officer as the paralegal did not know in which cases the Litigation Officer could represent a client at local level. A lesson for the researcher in the manner in which the paralegal would deal with the matter indicated a knowledge or skill gap in the paralegal.

The kind of action he would take clearly indicates that he was not confident in the manner in which he handled the case. In the questionnaire which the paralegals responded to, a question was included that specifically asked the paralegals in which areas they felt less confident. This question is important because the responses to it will help the trainers of paralegals to strengthen weak areas in future training activities.

Another case involved Lironts'o (not her real name) who was accused by her mother-in-law of having had an affair with her late husband (the mother-in-law's husband). This conflict led to the split between Lironts'o and her husband so she came to the paralegal office to seek maintenance for herself and their children.

The general observations made by the researcher on this visit were that the case book was not well kept. Record-keeping was not accurate. For example, twelve people were assisted whose details were not written down. Comments, such as 'eight people served', were common. If this particular paralegal were to go for training, record-keeping and case book management would be priorities for him. The observation of Mohale's Hoek paralegal office showed that a paralegal office offered services which are needed. The cases are diverse, yet the paralegal was able to serve most complainants adequately.

6.13 RESULTS - FIDA

It has already been indicated that FIDA's paralegals are not stable since many of them are government employees who were transferred frequently. This affected the number of paralegals to whom the researcher could speak. Ten paralegals were interviewed. Four represented a group in Quthing, five represented trade unions while one represented Teyateyaneng and was one of the first paralegals to be trained by FIDA. The discussions will be presented according to the different groupings described earlier.

6.13.1 THE VIEWS OF THE TRADE UNIONS

The trade union group was trained by FIDA in 1997, though they were not clear of the month and dates. The training ran over a number of weekends.

The first interviewee, Ms M, described the content of the training as follows:

"It concentrated on labour matters. The trainers asked the trainees to mention their areas of weakness in terms of handling labour matters. The major weakness was in the manner in which the trade unionists drew papers of arguments; the manner in which they took and wrote statements and their inadequate knowledge about court structure and court procedures."

The focus of the workshop was then on the labour code (law which governs labour matters in Lesotho) with special reference to the role of the labour court. Ms M appreciated for the first time that the labour department, which is a government unit, could only chair meetings of the employees and the employer and could only advise the parties who are in dispute. Her earlier perception was that the department had absolute power to tell the employer what to do. Ms M left the workshop with a better understanding of what a criminal case is, as against a labour case. Gender issues were covered in the workshop. This was helpful because union members were naïve about relations between men and women at the workplace. She mentioned that as a direct result of this workshop one local hotel now gives two days' paternity leave to their employees. This is a sign of improving working conditions. The structures of her union were also becoming gender sensitive. Ms M felt that this is the reason she holds a position of leadership in her union.

Ms M suggested the following improvements for future workshops: Role-plays should be used more as a teaching methodology. She felt that she did not fully grasp the session on court procedures because it was theoretical. More practice should be accommodated in future. The trainees should be given tests after three months to assess how effectively they have applied the knowledge gained. She stressed the importance of following up on trainees after every training.

The second interviewee outlined the content of the workshop he attended as follows:

- Family law
- human rights
- laws related to courts
- methods of statement-taking for labour matters

consumer law.

He learned for the first time that it was illegal for furniture shops to repossess goods bought on hire purchase for failure to pay one or two monthly instalments. He was asked to indicate how he has used the training. He said he is able to write good statements for cases which have to go to the labour court. He has been able to mediate in family disputes. He suggested that future workshops should include health safety and first aid. He endorsed the importance of following up the trainees after every training programme but went further to say that the individuals served by the paralegal should also be interviewed to assess the effectiveness of the paralegal.

The third interviewee said that after the training he was able to understand the difference between civil and criminal law. He was also able to train his colleagues in gender issues. As a member of the Lesotho Consumer Association (LCA) he benefited a lot from a session on consumer law.

He felt that future workshops should include drafting. Copies of the relevant statutes should be available to the trainees. Teaching methods in future should be a mixture of lectures and interactive methods. Documents relevant to what is being taught should be provided to trainees as reference material. Follow-up of the trainees was stressed and the suggestion made that the trainers should go with the learners to the labour court to observe how they perform when they argue cases. He felt that organisations which give paralegal training should also facilitate networking amongst trade unions in Lesotho and in neighbouring countries. He was particularly keen that his union should be linked to the CCMA in South Africa.

The fourth trade union interviewee said his initial reaction to the training was that he was going to be taught about women's rights but he discovered that the content was much broader. He also endorsed the content as outlined above by the other respondents. He felt that there is the need to train paralegals in stress management because workers are confronted with many problems, including being killed by the police when they strike. This need emerged after the police shot and killed a worker from the textile industry.

The fifth interviewee was one of the first paralegals of FIDA. Unlike the other paralegals, she was sent to an organisation in South Africa to learn about paralegalism. She felt that she learned adequately about the role of paralegals, which is to create public awareness about human rights.

They should be accessible and accountable to their communities. She mentioned that she has not been able to put her training to use because her organisation did not give her full support. She has observed the following weaknesses in their training: the training is mainly on law and she would like to see FIDA focussing on problem-related training which should also be relevant to rural issues.

6.14 WHAT PARALEGALS DO

Paralegals from Leribe (FIDA) reported that they handled forty-eight cases in a year. They dealt with the following legal issues: marriage problems, third party claims, labour issues, issues and questions surrounding pregnancies out of wedlock, theft, and damage to property by animals. Paralegals in Quthing have focussed on fundraising for their income-generating activities. The group members are involved in stone cutting, sale of sausages and buns and embroidery. They run a 'stokvel' system in which they buy one another groceries for Christmas. This is a scheme in which members contribute an agreed upon amount of money every month thus pooling their resources. Sometimes the money collected is kept at a bank. Sometimes it rotates amongst the members as a loan.

This approach is reported as an incentive for individuals to become paralegals. This is indicated by the fact that in 1993 there were twelve paralegals. The number increased to forty by 1996. In 1997 the number of paralegals had grown to two hundred and forty.

One of the CLRAC paralegals based at Mantsonyane in the Thaba-Tseka district used a proverb to express the level of acceptance he received in his community:

"Ngoana phakoe senna u ipolela, motho o motle a beleloa ke batho"
(Self-praise is not good, let other people praise you).

He further said:

"Me, ke morena motseng oa heso, morena oa ka ose a lumela ho 'memela pitso, ha mehleng ea pele ho ne ho le thata"

Figuratively, he meant that he has become a great person (recognised by authority), he is a chief (being a chief is great at the village level). The chief was comfortable about calling public meetings for the paralegal to talk about his work.

6.15 THE NATURE OF CLRAC AND FIDA AS NGOS

It is important to discuss briefly what NGOs are generally known to offer in relation to the wider context of development in Lesotho. How do CLRAC and FIDA relate or match up to these commonly held views? In an article on Latin American NGOs in the 1990s Pearce (1997:259) notes that "it has become common to distinguish membership from non-membership organisations". She further says

"I share Carroll's definition focus on organisations committed to grassroots social activism, but my own definitional concerns have been to distinguish between intermediary development organisations and popular organisations or movements, and I would not put a membership organisation such as a labour union within the same category as a support organisation. My distinctions are based on differences in social composition, institutionalisation and accountability".

As indicated previously, FIDA is a membership organisation. The nature of its business is that of helping people to fight for their rights. Therefore it has an activist orientation like CLRAC. It is also correct to say that its formation was influenced by a few intellectuals based in Maseru. Ordinary people were later encouraged to join the organisation. The dilemma that this arrangement poses has been referred to in discussing the membership of CLRAC. For FIDA, bringing non-professionals into the structures of the organisation has made it more complex because the organisation is, by definition, a professional one.

The perception of villagers is that they should pay a membership levy to receive legal and other services. The issues of responsibility that go hand-in-hand with being elected to a committee are not what they want.

This relationship is in itself troublesome. Leat (1996:64) brings in a dimension of accountability and notes that in organisations which employ professional people, the issue of employee-employer accountability emerges. The role of a committee who is less educated than the employees is questioned by the employees who, in their own right, have professional autonomy and authority.

Some writers have attempted to provide definitions for NGOs. Pearce (1996:259) sees the kind of organisations such as CLRAC and FIDA as

"typically composed of middle class, educated and professional people who have opted for political or humanitarian reasons to work with (or on behalf of) the poor and the marginalised."

An interesting point is made that NGOs are, by their very nature, politicised. This perspective helped me to appreciate why organisations such as CLRAC are perceived to be political parties or arms of political parties though they are not.

The researcher felt that it was important to look beyond Lesotho in order to have a broader view of how a paralegal training programme in another country was designed. She decided to review the training programme of a South African organisation – the Gauteng Black Sash – to obtain their approaches to paralegal training. This organisation was chosen because the researcher could visit the Johannesburg office to talk to the national director and to look at reports. This review was meant to contribute a model against which the Lesotho paralegal training experience could be measured. It is important that organisations do not re-invent the wheel. They should learn from existing experience. Black Sash got involved in paralegal training before CLRAC and FIDA so their experience was important. The researcher learned that the content of the paralegal

training programme offered by Black Sash was broader than that of CLRAC and FIDA. The training course therefore ran for three and a half months. It is presented as Appendix 9.

The organisation for which the researcher works has an existing working relationship with the Black Sash. The relationship therefore facilitated access to the needed literature. Reports written by the training office and Black Sash newsletters are the basis for the presentation.

The findings of the study show that the two organisations ran their training activities differently and that their audiences are different. CLRAC ran its training during the week while FIDA ran their training during the week-ends. The content of the training is however similar. The teaching methods were not in line with adult education theories. This weakness does not however undermine the needed services of a paralegal. The essence of paralegalism is that where there is no lawyer, there should be a paralegal. A comparison with the health services tells us that where there is no doctor, a village health worker can save lives.

The link between the topics which were mentioned by many participants and the kind of advice they gave after training shows that the most common problems brought to the paralegals are around family law which covers divorce and maintenance. Land issues are also very important in an economy based on agriculture. There are also many quarrels around land because it is a symbol of wealth.

A visit to one paralegal office showed different cases handled by a paralegal, these were labour disputes, maintenance, land and property issues, assault cases by police and family conflicts in which mediation was necessary. Trade unionists trained by FIDA negotiated better employment conditions for their members after they were trained. They wrote professional court papers. On the basis of chapter six, the researcher made the conclusion that the contribution of paralegals and that of CLRAC and FIDA as organisations in Lesotho's development cannot be underestimated. They contribute meaningfully to the improvement of the lives of Basotho.

CHAPTER SEVEN

DIFFERENCES, SIMILARITIES AND TRENDS IN PARALEGAL TRAINING

In this chapter a discussion of differences and similarities between CLRAC and FIDA is presented. Strengths and limitations of each organisation will be analysed. It pulls together chapters four and five in which CLRAC and FIDA were discussed. It also brings into the picture the findings of the study itself as discussed in chapter six. A SWOT (strengths, weaknesses, opportunities and threats) analysis is used to highlight the positive aspects of the programme and the negative aspects. Though the study is not comparative, the researcher feels that this analysis will enable the two organisations to streamline their activities in order to complement one another in their expansion efforts. The analysis also allows for the achievement of the main aim of this research: to present a country case study of paralegal training in Lesotho.

7.1 HISTORY

CLRAC and FIDA are both legally registered under the 1966 Societies Act and were started as voluntary organisations. Both were started to deal with the rights of the disadvantaged sectors of the community. Both organisations are membership-based and were started by volunteers. It is a normal growth path for organisations of this nature to start off using their volunteers as policy makers and as implementers. They later employ staff when the office expands. Marshall (1996:47) defines the voluntary sector by what it is not, that is, it is not a private company and it is not statutory. This gives voluntary organisations the ability to be closer to the people they serve and also to be less bureaucratic. As the organisation expands, the need to employ full-time staff emerges, so a secretariat develops. In some sense this development leads to professionalising an organisation. An in-built conflict of roles cannot be avoided in this arrangement. The boards are normally policy-makers while the secretariats are operational. Boards are elected from the membership at an annual general meeting. Board members hold office on the average for two years.

The differences in the formation of these organisations are that FIDA did not take the usual

growth path. It began as a professional body, intended only for lawyers. It was only later when FIDA realised that it could not reach the community without including representatives of the community that they included everybody in the organisation. CLRAC started as a mass-based organisation.

From the Black Sash and LRC experiences it came to light that in a trust it is easier to have professionally qualified people for the kind of responsibilities expected of board members. In an association this can only be achieved if the criteria for membership was strict enough to exclude a certain level or calibre of people. One however wonders whether this approach would be morally right for advocates of human rights. FIDA started with a clear focus on women's issues whereas CLRAC addressed all disadvantaged people through paralegals and implemented its paralegal training programme one year after it was formed. FIDA, in contrast, became involved in paralegal training after five years of operation.

The analysis of the paralegal training provided by the two organisations will be according to the following categories: justification, the design of the curriculum, identification of needs, teaching and learning methodology, training materials, and evaluation.

7.2 JUSTIFICATION OF THE NEED FOR PARALEGAL TRAINING

CLRAC had a clear goal from its inception that it was going to train paralegals. FIDA became involved in paralegal training five years after inception. Discussions within CLRAC revealed that the best way of addressing community and legal problems was for the community to solve its own problems. Hence the need to train paralegals. FIDA, in a similar way, noted that equipping rural communities with legal skills would promote the objectives of FIDA and would reduce the number of cases taken to court. The justification for CLRAC and FIDA becoming involved in paralegal training is the desire to address community problems at village level. The

two organisations realised that their objectives would be achieved through a paralegal training programme since the number of cases taken to court would be reduced.

7.3 CURRICULUM DESIGN

Neither organisation seems to have been vigilant when designing a curriculum for their training activities. The approach does not seem to have taken into consideration "standard" norms of developing a curriculum as is done in the field of education. An arrangement was made as to which topics would be handled in the training activities. The researcher failed to find a curriculum which indicates what overall objectives the training activity would achieve; the objective to be achieved by each session; which teaching methods would be used; and how each session and each learning encounter would be evaluated.

In a report on one paralegal training course, it is mentioned that the training session syllabus was drawn up to cater for legal issues, social skills and the role of paralegals. Under legal issues the following areas were handled: customary law, consumer law, labour law, law of evidence, criminal procedure, parliamentary procedure, administrative law, insurance law, law of delict, civil procedure, human rights, the Constitution of Lesotho and co-operative laws.

Within the theme of social skills, the following areas were handled: communication skills, interview skills, mediation skills and letter writing skills. Based on the responses of the interviewees, it is reasonable to conclude that in the training activities of both organisations, the same topics were handled. Mention was made that FIDA had a problem obtaining written reports from the workshop facilitators.

Figure 4 contains a SWOT analysis of the CLRAC and FIDA's training programmes.

7.4 IDENTIFICATION OF NEEDS

For both organisations, identification of training needs was weak. CLRAC made a good effort with the needs assessment exercise undertaken at Butha-Buthe. However CLRAC should have undertaken a needs assessment at all their training workshops. Training needs assessments are important for each workshop because the target groups and other conditions under which training takes place are different. There are differences in the manner in which the paralegal training activities of the two organisations commenced. There is documentation to the effect that CLRAC carried out an assessment before their paralegal training began. It is however not clear how the information gathered was used to develop the training. It has been difficult to find an indication that a needs assessment was established by FIDA before they embarked on paralegal training.

Figure 4: SWOT Analysis of CLRAC and FIDA'S Training Programmes

STRENGTHS	WEAKNESSES	OPPORTUNITIES	THREATS
Identification and recruitment of paralegals is from amongst organised groups. The two organisations have a common objective of increasing knowledge on legal issues and human rights in the rural areas Paralegals are effective in handling family law cases which are the problems most frequently brought to paralegals	Training needs assessment is done haphazardly The basic minimum educational requirement is not adhered to by the two organisations There is a high drop-out rate amongst the paralegals The knowledge and skills which paralegals are given in one week or two weeks is inadequate to equip them for the broad scope of paralegal work The objectives of paralegal training were not fully achieved because of the high drop-out rate The lecture method is the commonly used teaching method	The two organisations see themselves as leaders in paralegal training and are willing to carry out paralegal training jointly There is experience in the SADC region on which Lesotho can base its paralegal training	Rising unemployment levels and increasing poverty make it difficult for individuals to engage in development work as volunteers. This undermines the nature of the programme

7.5 TEACHING METHODOLOGY

In the discussions with the Legal Aid Officer of FIDA, she indicated that their training approach has to be changed as it was difficult to teach their Quthing paralegals. This observation can be interpreted to mean that FIDA trainers do not have the right skills for teaching people who are not legal experts. The teaching approach mostly used has been the "lecture" method. This observation is true of CLRAC as well. In their report on a paralegal training course, no mention is made of which teaching methods were used. Throughout the report, it is indicated that participants were told about different topics, so the telling method was the predominant method of teaching.

7.6 TRAINING MATERIALS

Neither organisation produced paralegal training materials. CLRAC produced a booklet on the role of paralegals. It was not clear if FIDA used it in training its paralegals. CLRAC produced booklets, which are simplified and summarised translations of different laws. FIDA produced a booklet on registering of associations. If the booklets had been used as teaching aids, they could have enhanced the teaching methodology. In 1995 CLRAC and FIDA held a meeting in which they agreed that there was a need to have a common curriculum. To date this has not been implemented.

7.7 DURATION OF TRAINING ACTIVITIES

FIDA cannot organise training activities during the week because their trainers are individuals engaged in full-time employment elsewhere. The number of days spent on each training course differed within each organisation. For the training provided by CLRAC, one week was mentioned for Thaba-Tseka, but two weeks were mentioned for Mafeteng. FIDA spent a weekend in a single training session but also held a series of weekend activities for the same

group. It was difficult to have a clear picture of how many weekends constitute a complete training session. The aspect of the length of the workshops presents a fundamental difference in the approaches of CLRAC and FIDA.

7.8 COOPER AND HEENAN'S SUGGESTED TRAINING MODEL

In analysing CLRAC's and FIDA's design for paralegal training, reference was made to a model suggested by Cooper & Heenan (1980) which suggests that a good workshop design should have eleven elements:

- Gathering information about participants
- Fun
- Time
- Appropriate sequencing - natural flow
- Simplicity
- Variety
- Sharing expectations
- Climate
- Pacing
- Flexibility
- Evaluation

Reference was also made to Mager's (1984) instructional objective setting which spells out the following characteristics of an objective:

- What should the learner be able to do?
- Under what conditions should they be able to do it?
- How well must it be done?

An assessment of CLRAC's and FIDA's design on the basis of the above model indicates a lot

of deficiency. Course objectives are outlined but they do not have the three components indicated above. For example, one objective for a training course organised in Maseru reads that Paralegals were expected to be able to: "Provide first legal aid in their community".

The conditions under which legal aid should be provided and how well this has to be done are not addressed. It is not clear how the design elements were incorporated in the courses. It is likely that they were not thought through adequately. Mager (1984:11) notes that when clearly defined objectives are lacking, there is no sound basis for the selection or designing of instructional materials, content or methods. CLRAC and FIDA should engage adult educators in their future training activities to incorporate ideas from educationists such as Cooper and Heenan and Mager.

7.9 EVALUATION OF TRAINING PROGRAMMES

Both organisations distributed questionnaires at the end of their workshops. For FIDA, there is a special challenge because the questionnaire is filled in at the end of the fourth weekend because their workshops run over four weekends. It is possible that the learners would have forgotten what they learnt during the previous weekends. Is the assessment they make of their learning accurate and relevant? CLRAC and FIDA had not introduced tests and examinations as a way of evaluating the acquisition of knowledge by learners when this study was made. In 1999 CLRAC introduced an assessment system in which each participant answered questions which assessed the level of knowledge the participants had gained. The responses were however written in a notebook which participants went away with. There are no records in the office to refer to for the assessment of the performance of the paralegals. CLRAC has kept all evaluation sheets from each of the workshops held. An analysis of the information was included in the training reports. Unfortunately, FIDA has moved offices and the researcher has had a problem establishing whether there were indeed evaluation sheets and accessing their documents.

7.10 FUNDING OF CLRAC AND FIDA

Both organisations are dependent on external funding. Their sustainability is shaky. CLRAC

obtained core funding that covered three years, from 1995 to 1997. Similarly FIDA was given core funding for five years. Both organisations began 1998 with uncertainty which forced FIDA to renege on some employees.

CHAPTER EIGHT

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

In chapter seven, chapters four, five and six were drawn together to highlight similarities, differences and trends in paralegal training and practice. It will be remembered that in these chapters discussions covered the paralegal training programmes of CLRAC and FIDA and the work done by their trained paralegals. The discussions for chapters four and five were based on written information, while chapter six was based on interviews with the different actors in paralegal work.

In chapter eight a summary of research results on paralegal training and paralegal work in Lesotho is given. Conclusions are drawn and summarised on the basis of responses to the research questions, the aim and the objectives of the study.

The strengths and weaknesses of paralegal training and paralegal work itself have been presented in Figure 4. The weaknesses observed call for recommendations towards improvements. Recommendations have been made which, hopefully, will be implemented by CLRAC and FIDA. The dual role of the researcher as a researcher and director of CLRAC could add value during the post-study phase because, in her capacity as the director, the researcher would be responsible for implementing some of the recommendations. She would also be in a position to influence the FIDA management to implement some of the recommendations co-operatively with CLRAC.

Table 4: Content of CLRAC and FIDA's Paralegal Training Programmes

CLRAC	FIDA
<i>LEGAL ISSUES</i>	
1. Customary Law 2. Consumer Law 3. Labour Law 4. Law of Evidence 5. Criminal Procedure 6. Parliamentary Procedure 7. Administrative Law 8. Insurance Law 9. Law of Delict 10. Civil Procedure 11. Co-operative Laws 12. Human Rights and the Constitution	1. What is FIDA 2. Communication Skills 3. Legal System of Lesotho 4. Courts Structure and Procedures 5. Administrative Fora 6. Family Law 7. Legal Status of Women 8. Labour Law 9. Consumer Law 10. Motor Vehicle insurance 11. Cases of Violence against Women 12. Human Rights 13. Legal Assistance
<i>Other issues:</i>	
13. Communication skills • Interviewing • Mediation • Letter writing 14. The role of Paralegals	

It should be noted that it has not been easy to assess the impact of Lesotho's paralegal work because during the design of the paralegal training programme an evaluation component was not built into the programme. In 1996 an evaluation of the organisation and programme of CLRAC was carried out by an external consultant. Klaassen & Mathibeli (1996) note that "the selection and training of approximately 130 paralegal officers is a considerable achievement". This indicated that though there has been a high drop-out rate, training of paralegals was a worthwhile undertaking.

In 1996 FIDA's programme was reviewed by one of its donors. It was noted that paralegals play an important role in the work of FIDA. Paralegals are commented for their participation in organising FIDA's activities in the villages. They also attend to clients in their villages, thus relieving the overflow of clients who go to FIDA headquarters in Maseru.

The objective of documenting insights made into the paralegal training programme in Lesotho has been achieved through the finalisation of this research report. The researcher will later write a summarised and simple report which will be distributed to paralegals in Lesotho and to similar NGOs in the SADC region.

Chapter eight reminds the reader about the key questions of the study and a summary of responses to each question. The summary and conclusions are based on the responses to the following six research questions and other relevant questions:

- How are paralegals identified and recruited?
- What do paralegals in Lesotho do?
- How was the paralegal training programme designed?
- What training methods were used?
- What do paralegals in Lesotho do?
- What do paralegals generally do?
- What additional knowledge and skills do they need to perform better?
- Were the objectives of the training achieved?
- How do the paralegals in Lesotho use the training?
- What were the original objectives of the paralegal training programmes?

A summary of responses to each question was given, with reference to the literature and the experiences from other NGOs. It is not possible to obtain a complete summary since each organisation was handled individually. The approach taken in this summary has left room for making summaries that are relevant to each organisation but has also combined the two organisations where it is feasible.

8.1 HOW PARALEGALS ARE IDENTIFIED AND RECRUITED

The literature review indicates that paralegals or barefoot lawyers may be compared to community health workers. It further says that they must be equipped with basic skills in law. The literature on training health workers indicates that health workers identified by their communities feel responsible towards the community. The lesson from Zimbabwe is that choosing individuals already operating in organisations to be trained as paralegals, gives the advantage of maximising limited funds and that such people bring some skill gained through involvement in other groups into their paralegal work. In a discussion with one chief as reflected in chapter six, mention is made that some paralegals were identified by villagers with the knowledge of the chiefs, but not necessarily with the involvement of the community.

In discussing CLRAC and FIDA and how their paralegal training is handled, it was indicated that the two organisations adopted a similar publicity approach to recruit people to be trained as paralegals. Both organisations went to the villages to hold "pitso". This approach was not necessarily chosen because it was the best. It was probably used because traditionally it is a method that was used to convey important messages related to village administration. In modern times a 'pitso' is used mostly by development agents to introduce new ways of doing things. CLRAC used the "pitso" to ask the villagers to identify a person who would attend paralegal training.

The analysis of the discussions of the responses of the villagers in previous pages shows that some people were identified by the chiefs alone; some were identified by their community-based organisations, while others were identified by the villagers at a pitso. It seems that there was no consistency in CLRAC's approach. This approach created problems for CLRAC because they ended up with some paralegals who were active politicians undermining the basic requirement that NGOs should be neutral.

FIDA on the other hand initially recruited people who provide social services to others, such as nurses and prison warders. It will be remembered that in chapter five note was made that they

later recruited paralegals from members of CBOs. The different experiences show that paralegals are recruited in different ways.

The two organisations, CLRAC and FIDA, have a diverse audience. Training people with different educational backgrounds and educational levels can affect learning negatively. FIDA spoke to or wrote to responsible officers of organisations and government agencies which are service providers and asked them to identify individuals or to seek out those who are willing to be trained as paralegals. FIDA's approach to identifying paralegals seems to have been more focussed.

An observation has been made that CLRAC attracted male paralegals while FIDA attracted female paralegals. It is important for both organisations to recruit paralegals with gender balance in mind.

The findings related to paralegal training will be discussed under the following sub-headings: training design, content, methodology, teaching aids and assessment.

8.2 HOW PARALEGALS ARE TRAINED IN LESOTHO AND ELSEWHERE AND THE CONTENT OF THE TRAINING PROGRAMME

Literature indicates that generally there should be different levels of training. Basic and specialised training should be given, followed by in-service and refresher training. Experience from organisations such as Black Sash (Appendix 19) shows that their basic training ran for a continuous period of three months. The CLC's training took two years and was accredited by the University of Natal unlike the one- to two-week workshops offered by CLRAC and FIDA. The teaching methodology employed included video shows, discussions of articles in newspapers and practical case work undertaken by the learners.

Though the themes covered in paralegal training activities are similar as reflected in figure 4. It

is clear that each organisation has its own approach to training. CLRAC trained its paralegals for a week or two weeks. FIDA trained its paralegals during week-ends. Their training was staggered over a number of week-ends. Both organisations use their staff and private lawyers as trainers. The underlying understanding is that training should address local needs. The researcher has participated in a number of meetings organised in the SADC region for organisations which do paralegal training. It has never been easy to agree on basic regional guidelines for such training. The duration of the training itself is different from one organisation to another. CLRAC's and FIDA's programmes are not certificated yet some programmes in SADC countries are certificated because they are attached to universities. The training methods used in CLRAC and FIDA's programmes are biased towards traditionally -based, classroom methods because educationists have not been used adequately in the legal profession. Each organisation covered fourteen topics, the following were common areas to both: consumer law, labour law, insurance law, human rights and communication skills. This content is limited compared to the content of organisations which have developed a paralegal training curriculum.

8.3 THE DESIGN OF PARALEGAL TRAINING COURSES IN LESOTHO

The practice within legal and human rights organisations has been to engage lawyers as training officers. CLRAC and FIDA are not different. Legal professionals are not exposed to curriculum design studies or to the management of adult education encounters, hence a weakness is seen in the way they design training activities. The paralegal training workshops of CLRAC and FIDA did not have specific educational objectives. From the beginning it was not established what the learning outcomes will be. In Lesotho there is no local paralegal training manual which could be a basis for management of the paralegal programme. The researcher is, however, aware that as a process of development for individual organisations, those organisations that have been doing paralegal training for more than ten years have developed an objectives-based curriculum. The Legal Resource Foundation in Zimbabwe is one such organisation. It has not been easy to assess the outcome of Lesotho's training programmes nor the impact of paralegal work itself because of inadequate baseline information.

As indicated in the text, a lot of effort should go into designing a curriculum on paralegal training since this is one of the main weaknesses in the paralegal training programmes discussed in this study. It is important that clear guidelines are established for the kind of people who should be trained as paralegals and the minimum educational standard they should have.

The researcher noted the serious inadequacy of literature on paralegalism in Africa which makes it a priority that more scholars should carry out additional studies in this area and that different organisations document their varied experiences to enrich the paralegal movement.

Another observation is that it has been a general trend for organisations involved in paralegal training to react to situations which prevailed when these organisations were begun. The reactive nature of the programmes meant that the design process for training activities was weak. It has also been noted that in designing such programmes, the philosophical base for such programmes was not articulated widely. This is true of the Lesotho organisations discussed in this study. An organisation which operates without a philosophy can be compared to a ship whose sailors do not have a compass. They simply steer the ship into the unknown. CLRAC and FIDA seem to have operated in this manner.

8.4 WHAT DO PARALEGALS IN LESOTHO DO AND WHAT DO THEY GENERALLY DO?

Paralegals are used in many different ways, depending on the circumstances, but generally in Lesotho and in the region they give legal advice. They mediate, they help underprivileged persons to protect their rights and they support their clients in courts. The general nature of their work has led to different terminology for paralegal workers.

The first observation is that there is clearly a need for paralegals in the advancement of human rights and justice in Lesotho and in the SADC region. This need is justified by the value which both the paralegals and their clients see in the work of paralegals. It is further justified by the different functions that paralegals perform which are acknowledged by the communities they serve.

The main function of paralegals in Lesotho is to give legal advice on the different problems brought to them by the villagers. Some paralegals are involved in conflict management at the family level and the village level. Paralegals in Lesotho carry out the function of facilitating educational activities e.g. when they get involved in voter education. One other important task of paralegals is to promote their organisations through distribution of pamphlets and brochures to publicise the activities of the organisations. Paralegals who are in the trade union movement have a special task of educating their members on worker rights and to help the workers to take cases to the Labour Court. Paralegals have also played an important role in community surveys and crisis management.

The conclusion is that paralegals fulfil a needed function in their societies but they need to be adequately trained to be able to respond to the problems brought to them. The two Lesotho-based organisations researched are aware that there is a high drop-out rate amongst the paralegals and that this trend cannot be allowed to continue because it is a waste of resources if they train people who do not put the training to use.

The analysis of the training programmes of both CLRAC and FIDA demonstrate a clear need to design training programmes which will be conducted over a longer period of time. It is important to cover each area of training in depth, taking into consideration the level of education of paralegals.

It is appropriate to build in adult learning approaches when designing training programmes. It is also important to develop mechanisms which will make it possible for trainers to help the learners to apply knowledge gained under close and constant supervision.

There has been a problem with whether or not the learners should be given tests and examinations. There must be a way through which standards of achievement will be assessed, based on their minimum levels of qualification and the criteria for selection of paralegals which should be standardised.

8.5 RECOMMENDATIONS

- 8.5.1 It is clear that benefits are derived when the person who is recruited represents a group. CLRAC and FIDA should recruit their paralegals from groups because there will be accountability, better community support and possibly better programme sustainability.
- 8.5.2 Development of a paralegal training manual is a priority for both organisations. It will give a model for best practice for paralegal training in Lesotho. It will give guidance on the criteria for recruitment of paralegals, their training, code of conduct and a clear system for the assessment of the training and the work of paralegals.
- 8.5.3 CLRAC and FIDA should standardise their training content so that the level of knowledge and skills acquired by the paralegals is the same. This will facilitate standardised assessment of their performance.
- 8.5.4 Both organisations have experienced a high drop-out rate amongst the paralegals. Though the reasons are different, it will be important in future to identify individuals who are deeply committed to community service. They will do paralegal work out of conviction, not for material gain. If the paralegals are unemployed individuals, efforts should be made to give incentives which will compensate paralegals for doing work for which they are not paid. They could be allowed to charge a small fee for the advice they give in their villages. It is suggested that the concept of voluntarism as traditionally understood seems not to work where those who are expected to volunteer are struggling with poverty. FIDA should ensure that the government officers they train as paralegals continue to do paralegal work wherever they are transferred to.
- 8.5.5 Through undertaking this research, the researcher realises that CLRAC and FIDA have not seriously considered testing or examining their paralegal learners. It is recommended that tests or examinations be given to paralegals to establish their competence in the field and to improve the standard of their work. Systematic evaluation of the impact of paralegal work should also be done at intervals of at least three years.

The current paralegal training is a solid base for the future. It offers lessons for consolidating the

programme. CLRAC and FIDA should take advantage of the experience gained by themselves and other NGOs to improve the Lesotho programme.

In conclusion it should be indicated that the researcher did not carry out the plan for the study as she had anticipated. Out of the total number of two hundred and thirty nine trained paralegals, only fifty one were interviewed. Twenty interviews were discarded because of poor quality. She had planned to use eight data gatherers but six did the work of data collection, this affected the number of interviews.

The researcher had also hoped that the paralegals would keep diaries of what services they offered during the data collection stage, but this was a method that was too complicated for the four paralegals who ran the four CLRAC paralegal offices so it was abandoned. The researcher however feels that the aim of contributing knowledge towards improving the paralegal training programme in Lesotho has been achieved. The four objectives of the study have also been achieved. These were:

1. Assessment of the training the paralegals received and how they utilise their training.
2. Assessment of the strengths and weaknesses of the paralegal training programme in Lesotho.
3. Consolidation and documentation of insights made into the paralegal training programmes of CLRAC and FIDA, and
4. Making recommendations for improvements to the paralegal training programmes currently given in Lesotho.

APPENDIX 1

PARALEGAL TRAINING ASSESSMENT INTERVIEW SCHEDULE FOR CLRAC PARALEGALS

NAME OF INTERVIEWEE:

VILLAGE:

CHIEF:

AGE IN YEARS: PLEASE TICK [✓] ONE:

20 to 30	30 to 40	40 to 50	50 to 60	60 to 70	> 70

EDUCATION: PLEASE TICK [✓] ONE:

Std 1 - 3	Std 4 - 7	JC	COSC

OCCUPATION: WHICH OF THE FOLLOWING OCCUPATIONS DESCRIBES
WHAT YOU DO? PLEASE TICK [✓] ONE:

FARMER		HOUSEWIFE	
--------	--	-----------	--

WHEN WERE YOU TRAINED AS A PARALEGAL?:

WHEN DID YOU BECOME A PARALEGAL? PLEASE TICK [✓] ONE:

1992	1993	1994	1995

HOW DID YOU HEAR ABOUT PARALEGAL TRAINING?:

.....
.....

WHY DID YOU AGREE TO PARTICIPATE IN A PARALEGAL TRAINING COURSE?:

.....
.....

PARALEGAL TRAINING ASSESSMENT INTERVIEW SCHEDULE FOR CLRAC
PARALEGALS (continued)

WHAT BENEFIT DID YOU EXPECT TO RECEIVE AFTER THE TRAINING?:

.....

WHICH TOPICS WERE YOU TAUGHT ON THE PARALEGAL TRAINING COURSE?:

.....

HOW LONG WAS THE PARALEGAL TRAINING COURSE? PLEASE TICK [✓] ONE:

ONE WEEK	TWO WEEKS	THREE WEEKS	ONE MONTH

WHICH TOPICS WERE RELEVANT TO THE PROBLEMS OF YOUR AREA?:

.....

WHICH LEGAL PROBLEMS HAVE PEOPLE IN YOUR AREA BEEN BRINGING TO YOU? PLEASE TICK [✓] WHERE APPLICABLE :

- ☐ LAND DISPUTES
- ☐ FAMILY LAW PROBLEMS
- ☐ CRIMINAL CASES
- ☐ PHYSICAL HARASSMENT BY AUTHORITIES, FOR EXAMPLE,
POLICE AND CHIEFS
- ☐ OTHERS, PLEASE EXPLAIN:

.....

IN WHICH CASES WERE YOU CONFIDENT TO ADVISE AND IN WHICH CASES WERE YOU LESS CONFIDENT?:

.....

PARALEGAL TRAINING ASSESSMENT INTERVIEW SCHEDULE FOR CLRAC
PARALEGALS (continued)

IN WHICH ASPECTS OF LAW DO YOU NEED TRAINING TO IMPROVE UPON
YOUR WORK?:

.....
.....

WHAT ROLE DO YOU SEE YOURSELF PLAYING IN THE PROVISION OF LEGAL
SERVICES (LEGAL AID)?:

.....
.....

HOW MANY CASES DO YOU HANDLE PER MONTH?:

.....

HOW DO OTHER PEOPLE SEE YOUR ROLE IN THE PROVISION OF LEGAL
SERVICES?:

.....
.....

WHAT PROBLEMS HAVE YOU ENCOUNTERED THAT HAVE PREVENTED YOU
FROM BEING ACTIVE AS A PARALEGAL?:

.....
.....

HOW DO YOU SEE YOUR INVOLVEMENT IN THE FUTURE AS A PARALEGAL?:

.....
.....

HOW WOULD YOU LIKE CLRAC DISTRICT OFFICES AND THE HEAD OFFICE TO
SUPPORT YOU IN YOUR WORK AS A PARALEGAL?:

.....
.....

APPENDIX 2

INTERVIEW SCHEDULE FOR FIDA /CLRAC TRAINER

1. When were you involved with training of FIDA/CLRAC paralegals for the first time?
2. How did you become involved in FIDA/CLRAC paralegal training? How were you recruited?
3. How many groups of paralegals have you trained?
4. What was the broad aim of the paralegal training programme of FIDA/CLRAC?
5. What were the objectives of the paralegal training programme?
6. What was the content of the paralegal training programme?
7. Which topics did you handle in the paralegal training programme?
8. How did you evaluate the training sessions that you facilitated?
9. How many paralegal training courses were you involved in?
10. If you were asked to improve FIDA/CLRAC's paralegal training programme, what would you improve?

APPENDIX 3

INTERVIEW SCHEDULE FOR FIDA PARALEGALS

1. When did the paralegal training programme in your organisation begin?
2. How many trainees participated in your paralegal training workshop?
3. What kind/type of people were recruited as trainees in the paralegal training workshop?
4. How were the participants identified?
5. How many paralegal training workshops has your organisation run since 1994?
6. What is the broad aim of the paralegal training programme?
7. What were the objectives of the paralegal training programme?
8. What is the content of the paralegal training programme?
9. How did you plan the paralegal training programme?
10. How did you assess whether the learners had learnt anything?
11. How did you evaluate the paralegal training programme?
12. What will you change in future paralegal training?

APPENDIX 4

PARALEGAL TRAINING IN LESOTHO INTERVIEW SCHEDULE FOR CHIEFS / LOCAL LEADERSHIP

1. How many paralegals are there in your village?
2. Mention their names.
3. Who identified the individuals to be trained as paralegals?
4. When did you hear about a paralegal for the first time?
5. When was the first time that a paralegal made contact with you?
6. Explain what the paralegals did after training. Did they come back to report to the village?
7. What did they tell you about the training they received?
8. What were they trained in?
9. What would you like a paralegal to be trained in, in future?
10. What work does a paralegal do in your village?

APPENDIX 5

INTERVIEW SCHEDULE FOR TRADE UNIONISTS TRAINED AS PARALEGALS

1. When were you trained as a paralegal?
2. Which topics were handled in your training?
3. Which topics did you find relevant in your work?
4. How have you used your training since you were trained?
5. If you were asked to suggest improvements for future paralegal training courses, what would you suggest?

APPENDIX 6

ONE-DAY WORKSHOP ON QUESTIONNAIRE ADMINISTRATION AND INTERVIEWING SKILLS

Date of Workshop: 31 January 1997

08.00 - 08:30	Welcome, introductions, expectations
08:30 - 09:00	Purpose of workshop
09:00 - 09:45	Presentation of questionnaires
09:45 - 10:00	TEA BREAK
10:00 - 10:20	How to carry out the task of interviews in your own district
10:20 - 10:45	Arrangements for interviews
10:45 - 11:30	Interviewing skills
11:30 - 13:00	Role-play
13:00 - 14:00	LUNCH
14:00 - 15:15	Plan for field visits and budget
15:15 - 15:30	TEA BREAK
15:30 - 16:30	Any other business and evaluation

APPENDIX 7

VILLAGES VISITED BY PARALEGALS FOR INTERVIEWS

DISTRICT: BUTHA-BUTHE

Lipelaneng, Phaphama, Tsikoane, Ha Khabo, Palehong, Tsime, Lisemeng, Ha Chaba.

DISTRICT: MAFETENG

Ha Mopeli, Setlakalleng, Ts'akholo Ha Phechela, Lits'oeneng Ha Ranko, Ha Maime, Ts'akholo Ha Mojela, Ha Fokase Lits'oeneng, Thabanag Ts'upane, Makokotoaneng, Ha Molise, Mathebe Ha Rabolilana, Tajane Ha Mahapela, Mafeteng, Makoabating, Mount Tabor, Thabana-Morena Ha Turupu, Ha Khobotle Majakaneng, Ha Konote.

DISTRICT: THABA-TSEKA

Ha Leuta, Ha Ntsokoane, Ha Ramokoatsi, Bokong LHDA office, Lits'oeneng Ha Thabo Mahao, Ha Mokhorro, Tholang, Ha Makopoi, Khothonts'o, Ha Seshote.

APPENDIX 8

DOCUMENTS AVAILABLE IN LESOTHO TO MEMBERS OF THE PUBLIC

- Know your Constitution
- Children's Protection Act
- Family Law
- Good Choice of Member of Parliament
- Land and Environment Protection Act
- Registration of Societies
- Labour Law and Workers' Rights
- Consumer's Protection Law
- Police Work and Human Rights

APPENDIX 9

BLACK SASH PARALEGAL TRAINING PROGRAMME

1995 TRAINING

A) TRAINEES

In 1995 the Gauteng office organised a paralegal training course from 01 September 1995 to 15 December, 1995. Two participants came from the Chris HaniVille Advice Office, Soshanguve; two came from the Community Resource Centre, Daveyton; two came from the SA National Civic Organisation, Sebokeng; one came from the Violence Monitoring Centre, Sebokeng and one came from the Ukuthula Advice Office, Sunnyside, Pretoria. The educational standard of the participants ranged from Standard 8 (now Grade 10) and Standard 10 (now Grade 12).

B) PROBLEMS WHICH CONFRONTED TRAINEES IN THEIR COMMUNITIES

One session in the workshop dealt with a discussion of problems which the participants were confronted with in their communities and problems which were possibly presented to the different organisations represented in the workshop.

The main problems encountered were:

- Unemployment
- Unfair dismissal
- Housing
- Homelessness and squatting
- Government pension
- Child abuse - rape
- Crime
- Law-blind society
- Illiteracy
- Maintenance from non-paying fathers
- UIF

The trainees hoped that after completing the paralegal course they would be able to help their communities solve some of the problems indicated above.

C) THE CURRICULUM

LEAP / Black Sash produced a manual on paralegal training, which should be the basis for a well-defined content for their training. It included the following:

- Structure of government, focus on provincial government
- Local government and local elections
- Communication skills
- Private pension / bank / insurance
- Conflict resolution and mediation
- Consumer law and protection of consumers
- Bill of rights - the Constitution of Lesotho
- Labour law
- Compensation for injuries on duty
- Bill of rights - focus on right to fair administrative procedure
- AIDS education
- Women and the law (counselling aspects, rape, child abuse, family violence)
- Women and the law (marriage and legal aspects)
- Sources of legal assistance / Legal Aid Board
- Human Rights Commission / Public Protector / Gender Equality Commission / Truth Commission
- Homelessness
- Small claims court
- Housing / bond / first-time owner subsidy
- The RDP and how it will work / Masakhane which means "let us help one another"
- Role of unions in the new South Africa and the relation to advice offices
- Illegal immigrants / identity documents and birth certificates / Home Affairs and population register
- Tax

(continued)

- Prescription and limitation of action
- Local government election and results, analysis and prospects
- First aid training
- The Gauteng paralegal movement
- The draft of a permanent constitution
- Review of the current situation
- National budgeting and how it works
- Pension, disability grants, maintenance
- New legislation / developments

D) THE TRAINERS

Tsanga & Olatokunbo (1994) recognise that a pre-requisite for curriculum development is a community needs assessment and that a curriculum team should be established, made up of educators and subject specialists who will bring into it learning theories. A curriculum should also have well-defined aims and objectives.

Though the Black Sash developed a comprehensive paralegal training manual, it does not have its own training team. They engage trainers from other NGOs such as the Legal Resources Centre, Housing Consumer Protection Trust, Centre for Applied Legal Studies, Community Dispute Resolution Trust, POWA, Campus Law Clinic, Industrial Aid, and the Gauteng Health Department.

E) TEACHING AND LEARNING METHODOLOGY ENGAGED

Interesting cases or articles from newspapers were discussed by the group to help the less confident learners to overcome their shyness. Video shows were presented, followed by discussion. Booklets on some of the topics were discussed. Practical case work was undertaken which was supervised by the trainers.

F) ASSESSMENT OF THE LEARNING EXPERIENCE

After eight weeks an assessment of the mood and the feelings of the participants was made. A few comments are presented to show the appreciation the learners had for the

course. One said "I thought paralegal is just a small thing and did not realise it includes so much. I thought I knew many things but I realised my knowledge was not deep enough. We can deal now with the challenges presented in life because we have life skills".

1996 TRAINING

A) TRAINEES

Eleven trainees were involved in the 1996 course. They came from North-West Province and Northern Cape. Two came from the Thuso Advice and Development Centre, Pampierstad (Vryburg); two came from the Ganyesa Advice and Development Centre, Ganyesa; two came from the Tlabologang Legal Education Centre, Cologny; two came from the Boitshoko Legal Education and Development Centre, Lichtenburg; one came from the Kuruman Legal Advice and Development Centre, and one from the Leeudoringstad Advice and Development Centre (District Wolmaransstad).

B) PROBLEMS WHICH CONFRONTED THE TRAINEES

The list of problems identified and discussed by the trainees was almost identical to the list of problems raised in the 1995 course so the list will not be repeated.

C) THE CURRICULUM

The 1996 report clearly indicates that there was a discussion on trainees' expectations. This was not reflected in the 1995 report. There was another discussion on why the trainees came to the Black Sash training course which indicated the different skills the participants expected to gain.

The 1996 training curriculum seems to have been enhanced in terms of adding new topics; in the manner in which the course was structured; in the training environment itself, and the assessment methods. There is a comment by the trainer in one report in which the improvements are acknowledged. The course was well structured. Courses were presented in a new training room with movable equipment, such as flip-charts and new tables.

D) THE TRAINERS

The trainers, who were used in previous years, were used though the course itself was re-organised. The trainers were from within the Black Sash and from other organisations, such as the Legal Resources Centre (LRC).

E) TRAINING ASSESSMENT

For the first time an assessment was carried out every two weeks and a test was given to the learners. A session on "from a day out of my life as a Black Sash Trainee" brings out a picture of what the trainees felt went well or what needs to be improved.

It was not possible to access the test scripts since the training officer was on sick leave. A subsequent visit to the Black Sash offices some six months later, early in April 1999, still failed to yield access to the scripts as they, seemingly, do not exist.

1997 TRAINING

A) THE TRAINEES

In 1997 the paralegal training course was run between March and June. Eight people, who came from the following organisations, participated in the course. Two came from Chris HaniVille Advice Office; two came from Hopetown Advice Office; two came from Petrusville Advice Office; one from Ubuhle Besizwe Development Centre, Villiers; and one from St Charles Lwanga Advice Centre, Orange Farm.

B) THE CURRICULUM

The content remained the same as in 1996, with the addition of new topics, such as protection of the environment. New topics were the forming of co-operatives; how to raise development money and networking with existing co-operatives in South Africa.

C) TEACHING AND LEARNING METHODS

Learning methods included field trips and the application of practical skills, for

example, attending the children's hearing by the Truth Commission. Video shows on different subject matters were also presented.

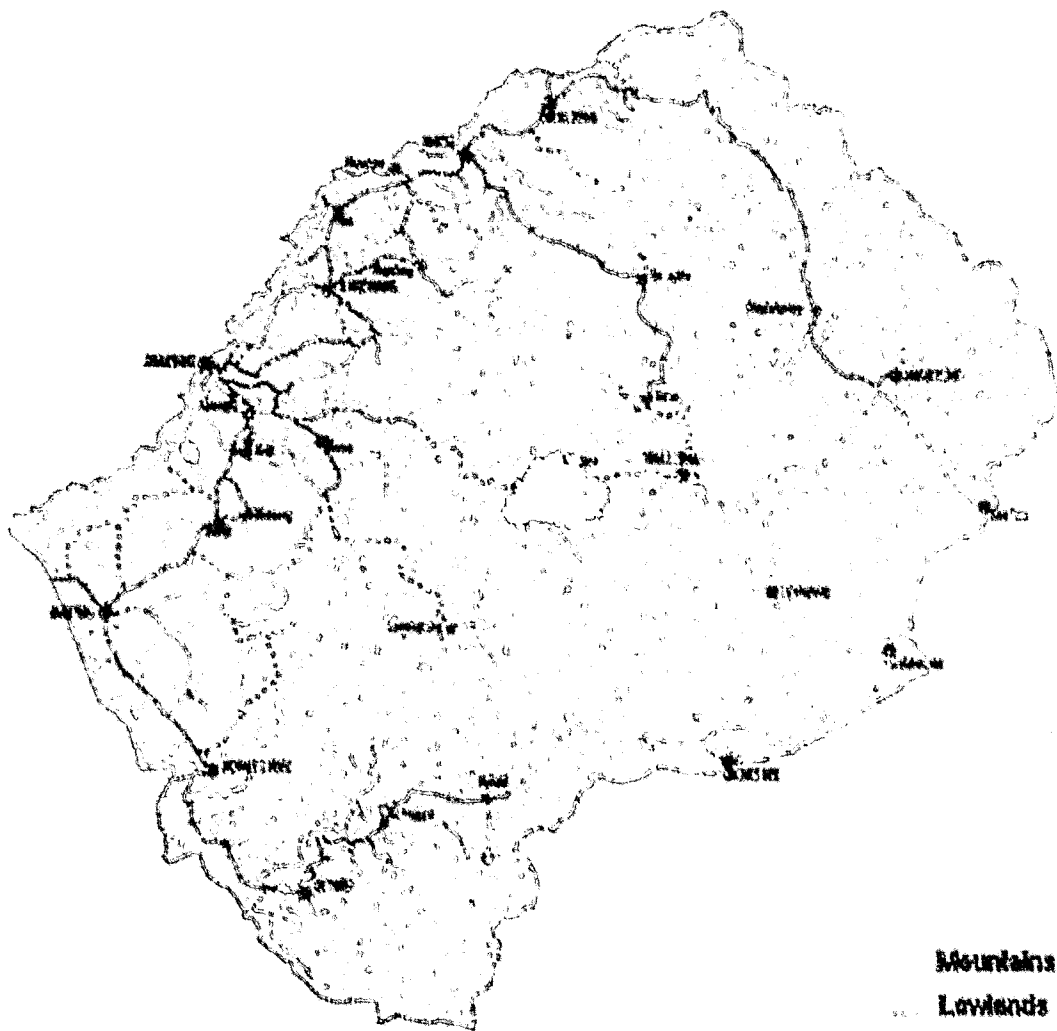
D) ASSESSMENT AND EVALUATION

A written and verbal test were given. An evaluation was made of the content, the trainers and materials. General comments from the participants included "I would suggest that the Black Sash must become the only institution to train paralegals". Certificates of attendance were given to participants.

The researcher is concerned that reports by Black Sash do not mention anything about the outcomes of the analysis of the tests.

Though tests cannot be used as a measure for success for the paralegal training of Black Sash, the thoroughness with which their curriculum is planned, is a sound basis for trusting that Black Sash is doing a good job.

Road network of Lesotho



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