

Third World Legal Studies

Volume 4

Article 13

1-13-1985

Legal Resources Foundation — Zimbabwe: Report

E. M. Sawyer

Follow this and additional works at: <http://scholar.valpo.edu/twls>

Recommended Citation

Sawyer, E. M. (1985) "Legal Resources Foundation — Zimbabwe: Report," *Third World Legal Studies*: Vol. 4, Article 13.
Available at: <http://scholar.valpo.edu/twls/vol4/iss1/13>

This Article is brought to you for free and open access by the Valparaiso University Law School at ValpoScholar. It has been accepted for inclusion in Third World Legal Studies by an authorized administrator of ValpoScholar. For more information, please contact a ValpoScholar staff member at scholar@valpo.edu.

LEGAL RESOURCES FOUNDATION - ZIMBABWE: REPORT

E.M. Sawyer*

I. Introduction

The Legal Resources Foundation (LRF) in Zimbabwe is a charitable and educational trust set up to promote the development of legal resources in that country. It was established by Trust Deed in July 1984 following a workshop on legal aid which was held at the University of Zimbabwe in February 1984. The workshop recommended "the improvement of the delivery of legal and information services to rural areas, . . . [the taking of] urgent steps to seek funds for the establishment of legal resource centres to operate in addition to the proposed Government scheme, . . . the training and use of paralegals to ensure effective coverage and communication. . . [and] the development of a public interest law group associated with such centres." The trustees of the LRF reflect the support which it receives from the legal profession and the University as well as other important areas in the community. They are, in alphabetical order:

Professor R.H.F. Austin - Professor of Law, University of Zimbabwe

Mrs. S.R.N. Dangarembga - Public Services Commissioner

Mr. I.A. Donovan - Lawyer

Mr. Justice E. Dumbutshena - Chief Justice of Zimbabwe

Mr. Justice A. Ebrahim - Judge of the High Court

Professor W.J. Kamba - Vice-Chancellor, University of Zimbabwe

Mr. P. Machaya - Lawyer

Mrs. J. May - Senior Research Fellow, Centre for Applied Social-
Sciences

Bishop P. Mutume - President, Catholic Commission on Justice and
Peace

Mrs. E.M. Sawyer - Social Worker

Mr. K. Sibanda - Lawyer

*Trustee of the Legal Resources Foundation and Administrator of the Harare Legal Projects Center, Harare, Zimbabwe.

II. Objectives

The objectives of the LRF are:

- (a) to initiate and support projects which promote the development of legal resources in Zimbabwe;
- (b) to train paralegal personnel and provide them with a supporting service;
- (c) to establish a law library to which individuals and organizations will have access;
- (d) to promote public legal education;
- (e) to contribute to legal research and legal publications;
- (f) to assist in the training of law students, persons holding judicial office, court staff and administrators;
- (g) to support organizations which provide legal advice and assistance to the public.

III. Establishment Of Projects Centres

The LRF intends to set up a series of Legal Projects Centres to implement the various projects which it will finance and guide. The first Centre was established in Harare in April 1985 because of the resources available in this area. However, the trustees of the Foundation are extremely keen to establish centres in other areas when funding permits, and discussions are taking place to set up the next Legal Projects Centre in Bulawayo, Matabeleland.

Premises for the Harare Legal Projects Centre were secured at 142 Victoria Street, in close proximity to the Magistrates Court and to the Citizens Advice Bureau through which a Legal Aid Clinic is operated by the students of the Law Department of the University of Zimbabwe. Mrs. E.M. Sawyer, formerly employed as Organizing Secretary in the Citizens' Advice Bureau and Information Officer with VOICE (Voluntary Organizations in Community Enterprise) was engaged as an administrator in April 1985. Mrs. S.V. Sibanda, formerly Administrative Officer and Administrative Secretary at Kushinga Phikelela Institute, a rehabilitation college for ex-combatants, was employed as the second administrator in May 1985. Two legal practitioners were appointed from July 1985, namely Miss K. O'Meara and Mr. W. Manase. Both had been in private practice and Mr. Manase had also worked with the Ministry of Justice, Legal and Parliamentary Affairs as a public prosecutor. Mr. I. A. Donovan, who was appointed as part-time director of the Centre in April, continues to fulfill this role.

During the formative days of the Centre, Mrs. Sibanda had the

opportunity to attend a course on Human Rights at the Institute of Social Studies in The Hague, Netherlands and made some important ongoing contacts as well as receiving substantial benefit from her attendance at the course itself.

IV. Projects Being Undertaken

All of the projects being undertaken by the Centre are designed specifically to benefit disadvantaged members of society and to improve the quality of legal services in Zimbabwe by making full use of the legal resources in the country. Each project is separately funded and the Foundation is seeking additional finance to carry out its innovative projects.

The projects being undertaken by the Harare Legal Projects Centre are:

4.1 *Pilot Paralegal Scheme*

The Centre has effected the implementation of a *paralegal scheme* through which problems having legal remedies are identified by persons with very limited legal training and referred to an appropriate agency. The pilot paralegal scheme hopes to demonstrate that accessibility of legal remedies, particularly to rural dwellers and disadvantaged members of our society, can be significantly improved by training suitable persons to identify problems which have a legal remedy and by equipping them to refer aggrieved persons to agencies which are able to address these problems effectively.

The Centre has engaged in the production of a *manual for paralegals* to assist paralegal personnel in identifying problems and referring aggrieved persons to appropriate agencies.

Also undertaken is the establishment of the *basic law library* to support the paralegal scheme.

Inaccessibility of legal remedies is sometimes attributable to a lack of awareness that a particular problem is one for which the legal system provides a remedy. In some instances the aggrieved person knows that a legal remedy exists but does not know how to go about securing that remedy. In other instances the aggrieved person simply cannot afford to pursue his or her legal remedy. Zimbabwe needs an innovative, resource-effective and economical means of overcoming these causes of inaccessibility of legal remedies and the paralegal scheme is proposed as one such means. Although Zimbabwe does enjoy a relatively

sophisticated legal system, legal resources in the form of qualified lawyers and law books are extremely limited. The entire population of Zimbabwe, approximately 8 million persons, is served by some 400 qualified lawyers, which figure includes Government lawyers, lawyers in private practice, judges and other presiding officers. The majority of these lawyers are engaged upon the provision of legal services in urban areas, to large organizations and more privileged sectors of our community. Very few lawyers are engaged in the delivery of effective legal services to the 74.27% of the population which lives in the rural areas or to the less privileged members of our society whether rural or urban.

As a developing country which gained its independence a mere five and one-half years ago after a protracted liberation war, Zimbabwe has neither the financial nor legal resources to provide every accused person with a lawyer to defend himself or herself or every aggrieved person with a lawyer to pursue the available legal remedies on his or her behalf.

As a first step in the pilot paralegal project, a discussion paper was prepared and was presented in December 1985 at a workshop of interested individuals and organizations including selected representatives from the Ministry of Justice, Legal and Parliamentary Affairs, the profession, the Law Department of the University, the Centre for Applied Social Studies at the University and the Community Court. The discussion paper dealt with the method of establishing the pilot paralegal scheme, the identification of persons to whom legal remedies are most inaccessible and the problems which are being faced by the target group. Considerable information was obtained by the lawyer who prepared the paralegal manual from records kept in the Community Courts of cases which have been tried by these courts over the period July to December 1984. (In criminal matters, the Community Courts deal with theft and malicious injury to property and their jurisdiction is Z\$200. In civil matters they deal with divorce, the limit of their jurisdiction being if the parties are married by a customary union.) Comparable information relating to problems being faced over the same period has also been obtained from the University Legal Aid Clinic.

The paper also dealt with identifying suitable persons to train and their training, agencies to which problems should be

referred, the paralegal manual, duties of paralegals including codes of behaviour and ethics, accurate identification of problems and efficient referral methods, the relationship with the legal profession and other agencies, problem areas which might be encountered in operating the scheme including the implications of giving incorrect information/advice and comparison with schemes in other areas where this information can be obtained.

One of the recommendations of the workshop was that a paralegal scheme would be of greater benefit to people who are facing a transition between rural and urban living rather than completely rural communities who generally have traditional and effective means of settling disputes through customary law. It was decided on this recommendation to look at a transitional area and we are currently investigating the feasibility of undertaking this scheme in the Seke Rural Area. It is an area comprising some 300 square kilometres and extends from the borders of Chitungwiza (a satellite town 30 kilometres from Harare). The pilot scheme is being initiated in this area as logistically it must be supervised from the Harare Legal Projects Centre.

4.2 *Magistrates' and Prosecutors' Workshops*

Another project of the Centre is the conducting of *magistrates' and prosecutors' workshops*, addressing topical problems facing the courts and in particular the delays experienced in the completion of criminal and civil litigation; these are to be followed by appropriate supplementary training programmes over a two year period.

Since Independence in 1980 the personnel in the courts has changed considerably. In 1978, two years before Independence, all magistrates (save one) were white Rhodesians; in 1985, 90% of magistrates are black Zimbabweans. A similar situation exists with the prosecutors, 90% of whom were black Zimbabweans in 1985; 100% of whom were white Rhodesians in 1976. The picture is repeated in the Zimbabwe National Police Force where all senior posts were held by white Rhodesians until the time of Independence. The first black Patrol Officer was appointed in 1976. All ranks above that were held by white personnel. Currently there are a handful of white Zimbabweans in the Police Force and almost all senior positions are held by black Zimbabweans.

Since Independence a massive burden has been placed on Government to provide training for all the new officers in the courts. The inexperience of some of the magistrates and prosecutors has in itself created problems, compounded by the fact that for a variety of reasons, crime is on the increase in Zimbabwe.

The ability to deal fairly and with reasonable speed with cases comes from experience and training; the present shortage of judicial officers, coupled with their relative inexperience, is a contributing factor for the delays being experienced in the courts. This is compounded by the vast majority of accused being unrepresented, which makes the magistrate's job more difficult. Some magistrates, themselves, have expressed a need for training in specific areas which will enhance their ability to deal with their cases effectively and expeditiously. The delay in the finalisation of criminal cases in which a plea of not guilty is entered is often six months or longer. In complex cases this can extend to two years.

The Ministry of Justice, Legal and Parliamentary Affairs has given its support to the proposed training programme. The Chief Magistrate supports the project enthusiastically and has agreed to chair the workshops, which will be held over weekends to avoid unnecessary wasting of court time.

4.3 The revision of the specimen indictment book and the prosecutors' handbook.

The delays experienced in processing criminal cases through the courts in Zimbabwe is a serious problem which has been the subject of critical comment by High Court judges recently. One of the factors contributing to the delays is the lack of experience among prosecutors, which in turn means there is insufficient supervision of newly recruited prosecutors. This is compounded by the fact that two of the basic tools of an efficient prosecutor, the specimen indictment book and the prosecutor's handbook, are now out of date and are not available in sufficient numbers. The availability of revised and updated copies of these books will reduce delays in processing criminal cases through the courts.

4.4 The preparation of cumulative indices to the Zimbabwe law reports for the period 1899-1985.

Reports of decisions of the superior courts of Zimbabwe have been produced on an annual basis since 1911, although

the first report was produced in 1899. The reports are a basic resource of the legal service, used on a daily basis by judges, magistrates, lawyers employed by the State and those in private practice, academic lawyers and many others. They are also distributed to institutions in many other countries. Comprehensive, cumulative and up-to-date indices are indispensable to the effective use of these reports and it is of great concern, therefore, that the only comprehensive index to the law reports was published in 1964 covering the period 1956 to 1963. No index exists for the years prior to 1956 and no cumulative index has been published since 1964. A comprehensive index is being compiled to achieve an immediate and significant improvement in the quality of legal services provided in Zimbabwe and in the quality of justice dispensed by our courts.

V. Proposed Projects

When resources are available other projects will be undertaken including:

- (a) support for Legal Aid Clinics;
- (b) fellowship programmes for recent law graduates;
- (c) scholarship programmes for Zimbabwean law students;
- (d) public legal education, including the production of books and pamphlets explaining people's rights;
- (e) a practitioners' library, particularly for newly-graduated practitioners;
- (f) reprinting early Zimbabwean law reports; and
- (g) providing legal personnel for training courses being run for members of co-operatives.

The projects being undertaken and those envisaged give some indication of the wide area of interest with which the Harare Legal Projects Centre is concerned.

VI. Relationship With Zimbabwe Promotion Council

The Zimbabwe Promotion Council suggests that the Legal Resources Foundation "may become the key institution in (the) process" whereby "a number of development programmes supported by both the public and private sectors are now beginning to be implemented in Zimbabwe and all of which have important elements of public interest definition incorporated in their activities." The Chief Executive of the Promotion Council envisages a role for the Legal Resources Foundation in the establishment

of a rural market society in the provision of legal services in a periodic market system.

The Promotion Council has just staged a Conference on a Strategy for Conservation in Zimbabwe and the preparation of a paper on the Role of Lawyers as a Strategy for the Conservation of Legal Resources was arranged by the Harare Legal Projects Centre.

VII. Local Support For Foundation

The Law Society and the Bar Council are supportive and individual members of the profession are assisting on a voluntary basis with the supervision of some of the projects. The Minister of Justice, Legal and Parliamentary Affairs has given his approval to the concept of the Legal Resources Foundation and has indicated through his Permanent Secretary that he is pleased with the progress being made. The Deputy Director of Social Welfare feels that the Foundation, through its paralegal project particularly, can render an important public service to rural residents. The Director of the Urban Department of the Ministry of Community Development and Women's Affairs sees a number of areas where his Ministry and the LRF, through HLPC, can operate towards the achievement of joint aims.

VIII. International Linkages

Internationally, the Harare Legal Projects Centre has started to build up contacts from which information sharing, funding and general advice should emerge. These include the Commonwealth Secretariat and appropriate agencies in Australia, Canada, Federal Republic of Germany, Holland, India, Indonesia, Kenya, South Africa, United Kingdom and the United States.

IX. Finance

The success of the Legal Resources Foundation in Zimbabwe and its projects centres will hinge on a variety of factors, not the least of which is finance. Interest in and support for the projects being undertaken by the first Centre in Harare is encouraging. There are expressed and observed needs to support the concept and indications of financial support from various sources. Finance to establish the first Legal Projects Centre in Harare and to initiate the pilot paralegal scheme has come from the Ford Foundation; the Joseph Rowntree Charitable Trust (UK) has contributed towards the salary of the lawyer preparing the paralegal manual. Several Zimbabwean companies have contributed funds to the projects being

undertaken. Applications have been made to other potential sources of finance both local and international for the other projects being undertaken by the Centre. The voluntary contribution of some members of the legal profession in Zimbabwe, is more than significant. The Foundation can never become entirely self-supporting as it is an organization dedicated to the provision of service to the wider community in Zimbabwe by promoting the development of legal resources in this new country. It therefore seeks sympathetic consideration from agencies with the vision to appreciate the impact it can make on society in Zimbabwe and the important new and exciting role it can fulfill.

