

## CHAPTER 1

# Introduction to Community-based Paralegal Programs

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Billions of people have difficulty accessing justice. In communities throughout the world, people struggle with legal issues related to housing, family, debt, crime, property, and other matters that affect their well-being. Those who are poor, geographically isolated, or otherwise vulnerable often cannot obtain assistance in solving their justice problems. They may suffer under discriminatory laws or lack the legal means to enforce norms that should protect them.

Community-based paralegal programs can help communities that lack access to the legal system resolve their justice issues. Particularly in post-conflict or developing countries, lawyers—who are typically concentrated in population centers and commercial hubs—often cannot meet the demand for justice services. Community-based paralegals<sup>2</sup> represent a paradigmatic shift in the delivery of legal services, similar to the

2. For the purposes of this publication, the term “community-based paralegal” is used to refer to a paralegal who has formal training, uses an array of tools—both legal and non-legal—to provide justice services, either lives in or has a deep knowledge of the community in which he works, and receives technical support and general supervision from a lawyer. The shorter term “paralegal,” as used in this publication, refers to a community-based paralegal.

proliferation of rural public health workers in response to the formal medical profession's inability to meet community health needs.

Although community-based paralegals perform some of the same tasks as lawyers, they offer many distinct advantages, including:

- Community-based paralegals can focus on the justice needs of an entire community, not just the client who hires them.
- They can often resolve the issue much faster than lawyers and judges can.
- Entry barriers are low: It is much easier and less expensive to train and deploy paralegals than lawyers.
- Paralegals are low cost in comparison to lawyers.
- Community-based paralegals often know the community they serve and its needs better than a lawyer would.
- Paralegals can be paid by an NGO to represent the broad needs of the community, while lawyers take cases based on the client's ability to pay.

This chapter presents an overview of the origins of paralegal programs and describes the specific roles that a community-based paralegal can play in helping the program reach clients and provide services. The chapter also describes the various organizational models that have emerged for community-based paralegal programs. There is an array of institutional arrangements that can support a new program. These include NGOs, law schools, and other institutions that may be privately or publicly funded

The work of community-based paralegals is rooted in a framework of access to justice and human rights. This is because community-based paralegal programs:

- Work to meet the unmet needs of vulnerable populations
- Recognize and attempt to address illegalities that reflect widespread injustices or human rights violations
- Strengthen the capacities of communities and community members to understand and act on their rights
- Promote advocacy from within communities, while taking leadership in policy and legal reform, as necessary

## 1.1 Origins of Community-based Paralegal Programs

Community-based paralegal programs emerged in response to the demands of marginalized communities that saw the law as an essential tool to improving their situation and stimulating lasting reform and development, but that were otherwise unable to access lawyers and the formal justice system, due to financial, geographic, and cultural barriers.

The use of paralegals first developed in countries such as England, the United States, and the Netherlands, where they are used as assistants to lawyers. Like community-based paralegals, they work as legal advisors but are not licensed to practice law. For example, in the Netherlands, reform of the Legal Aid System in 2003 established Legal Service Counters, funded by government supported Legal Aid Boards, where paralegals work alongside lawyers to provide legal assistance. At no cost, clients can receive general information, have a legal problem clarified, be informed of their legal options, and receive referrals to lawyers or other service agencies. A similar paralegal model exists in Poland through its network of Citizen Advice Bureaus. This counseling network operates primarily with voluntary staff but in cooperation with government agencies such as the Ministry of Social Policy and the Polish Ombudsman's Bureau. There are many other excellent examples of legal aid agencies in countries such as the United Kingdom and the United States.

In places such as South Africa and the Philippines, paralegal schemes incorporate a community-driven and human rights-based approach, taking a more holistic view of access to justice. This approach, often referred to as legal empowerment, is grounded in grassroots needs and activities but has the additional element of organizing around community-level legal needs to advocate for reform of government policies, legislation, and public institutions. It emphasizes the unique ability of civil society groups to understand local needs and dynamics and their effectiveness at stimulating local input to inform reform efforts.

Viewed through the human rights framework, access to justice means that: (a) individuals and their communities need to be educated and informed about their rights; (b) these individuals and their communities need to develop the capacity for demanding such rights; and (c) widespread violations of human rights within a community should be addressed through long-term strategic solutions rather than solutions only for individual cases.

Using community-based paralegals is one of a variety of approaches that embraces these principles and applies them within the broader human rights framework. Community-based paralegals usually live among the people they work with—often in rural or

### **The Unpaid Worker: A Paralegal Success Story in Malawi**

Eighteen-year-old Sydney Banda left his home in Mulanje, Malawi, to take his first job as a domestic worker in Mzuzu, a day's bus ride away. Promised a good wage plus room and board, he hoped to send home money to help support his family and save for school. He was never paid. After seven months he tried appealing to the District Labor Court, which wrote to his employer. But his boss ignored the notices. Finally, Banda found help at the Malawi Center for Advice, Research and Education on Rights (CARER). A neighbor had heard about CARER's reputation for resolving legal disputes in the community. A paralegal advisor met with Banda, and they discussed his rights under the new Employment Act of 2000. Banda again brought a letter of summons to his employer—this time, the employer responded and came to CARER for negotiation. The employer then agreed to pay the back-wages at a reduced rate.

*Source: United States Agency for International Development, 2003.*

marginalized areas—and offer a holistic set of strategies for addressing client problems without necessarily involving the formal legal system. The community-based paralegal approach is also related to the “legal resources approach,” which focuses on the development of legal knowledge and skills within communities, and “developmental legal advocacy,” which focuses on structural causes of injustice and the empowerment of communities to address them.

Paralegals who deliver justice services have a repertoire of tools including mediation, negotiation, education, legal advice, and advocacy. Based on his analysis of a given situation, the paralegal applies the remedy or set of remedies best suited to the situation. For example, paralegals may assist in documentation and administrative work related to legal proceedings. The paralegal is often involved in sharing information with individuals about relevant laws and administrative actions, their rights, and options they have for accessing services with other agencies or lawyers. Programs that have lawyers on staff can become directly involved in litigation.

Alternately, when parties are in dispute with one another, paralegals can assist by carrying out mediation, negotiation, or even arbitration. In practice, paralegals handle a substantial number of cases through some form of alternative dispute resolution.

Handling problems without going to court can not only produce successful results but also save considerable time and resources for all parties involved. This is particularly true of paralegal services in developing countries where there are few lawyers and no effective state-funded legal aid agencies.

Community-based paralegals are also positioned to undertake a community-wide approach in solving justice problems. Paralegals can become directly involved in community education, empowering people to develop self-reliance with respect to their legal problems. They can help communities learn about their basic human rights, alternative mechanisms for protecting and promoting these rights, and the skills necessary for realizing them. Outreach can be carried out through seminars, forums, the distribution of materials, and the mass media, such as radio.

In situations where systemic problems are best solved through community-wide action, community-based paralegals may encourage community advocacy. The paralegal role in this situation is to encourage leadership and action among community members so that they can collectively seek justice. Paralegal organizations can also become involved in advocating collective demands with institutions and commenting on legislation and policy. A paralegal program, through its own lawyers or those affiliated with other organizations, may also engage in strategic litigation. In these ways, paralegal programs can effectively promote accountability and transparency within government institutions.

Each of these roles is treated in greater detail in section 1.2, “The Roles of Paralegals” and Chapter 6, “Solving Justice Problems.” Across this range of roles, paralegals are committed to advancing justice, human rights, and good governance. Community-based paralegals are unique in their ability to work in pluralist legal systems, such as those found in isolated and indigenous communities throughout the developing world. In Sierra Leone, for example, paralegals are confronted with a formal legal system of courts and lawyers based on the English model, and a customary legal system based on traditional approaches to justice. In this context, paralegals must apply their knowledge of formal law and their familiarity with local customs to navigate between the two systems.

When necessary, several actions can be undertaken by paralegals and their organizations, especially in cases where there are systemic problems requiring changes in policies and practice. Paralegals focusing on access to justice will offer integrated services that include education and advocacy, as well as mediation and negotiation and legal advice. Community-based paralegals may, in addition to offering services to individual clients, empower communities to help change conditions so that there are fewer individual injustices in the future.

Community-based paralegal programs have been initiated by a range of actors, including community development groups, human rights organizations, and legal clinics at law schools. Examples of well-established programs include the Alternative Law Group in the Philippines, the Community Law and Rural Development Centre in South Africa, the Paralegal Advisory Service in Malawi, and the Legal Resources Foundation in Zimbabwe.

Paralegals focusing on access to justice usually work with underprivileged and marginalized communities. This leads paralegal programs in some countries to specialize in engaging specific client populations or addressing specific issues. For example, Kasama, a community-based paralegal organization for Filipino farmers, focuses on land use issues that are of high importance to farmers. The Paralegal Advisory Service of Malawi focuses on prisoners and the criminal justice system. In Bangladesh, the Madaripur Legal Aid Association specializes in alternative dispute resolution. Understanding the key needs of the communities that you work with and the best constellation of services for meeting these needs is one of the most important decisions you will make in the early stages of developing your paralegal program.

## 1.2 The Roles of Paralegals

A community-based paralegal is a person who:

- Has basic knowledge of the law, the legal system and its procedures, and has basic legal skills
- Is a member of the community or part of an organization that works in the community and has basic knowledge of the ways community members access justice services (including through traditional or informal justice mechanisms)
- Has skills and knowledge on alternative dispute resolution mechanisms, including mediation, conflict resolution, and negotiation
- Is able to communicate ideas and information to community members using interactive teaching methods
- Can have working relationships with local authorities and service delivery agencies
- Has community organizing skills that can be used to empower communities to address systematic problems on their own in the future

Paralegals may be compensated as full- or part-time employees, or may work as volunteers. This depends upon the ways in which the sponsoring organization uses personnel, the overall culture of volunteerism in a given country, the amount of time required of paralegals versus their discretionary time, and wage levels. If the paralegals work as volunteers, the program will ideally compensate them for transportation costs and other direct expenses. Trainings can be seen as a benefit to the paralegal because they contribute to the paralegal's personal and professional development. In more developed community-based programs, such as in South Africa, paralegals are lobbying to be formally accredited. (See Chapter 8 for details on standard-setting for paralegal diplomas.)

Paralegals can be based in different kinds of organizations. They may be placed in “advice offices”—service organizations run by paralegals exclusively for the purpose of offering basic counsel, community education, and referrals. Paralegals can also work in community-based or multi-service organizations where paralegal services are one of a series of services available to clients. They can also be based in law firms, law offices, and legal resource centers. In these settings, paralegals remove some of the workload from lawyers by dealing with smaller cases and by doing much of the initial groundwork for interviewing, taking statements, and evidence gathering. They also do follow-up work and report back to clients.

It is important to bear in mind that a paralegal is not a lawyer. A paralegal cannot assist people in court and other tribunals until he or she acquires the relevant qualification and accreditation. However, paralegals also offer skills that lawyers rarely possess, and can extend the knowledge and expertise of the lawyers with whom they work. Paralegals can add complementary skills that are finely tuned to local contexts, such as speaking local languages, knowledge of local forms of justice, and community acceptance.

Common activities of community-based paralegal programs include:

- *Legal and general advice.* Advise people on how to handle legal or administrative problems. Refer people to organizations that provide social and health services. The program will have a network of contacts with other paralegals, resources, and organizations that can help the community. Depending upon the local context, the paralegal might work with both formal and customary law institutions.
- *Counseling and mediation.* Help community members solve problems through techniques that encourage resolution without going to court. Informal legal mechanisms can include personal counseling, alternative dispute resolution (negotiation and mediation), and arbitration.
- *Community education.* Hold workshops to raise public awareness and build the capacity of individuals and groups, including civil society organizations, civil servants, government officials, and community councils. Distribute educational pamphlets, booklets, and other resources. Community-based paralegal programming initially involves the training of paralegals and these same paralegals in turn can become involved in community education programming.
- *Litigation activities.* Investigate cases, sometimes involving legal research and writing that are then passed on to lawyers, or work as a link between a community and lawyers. Paralegals can help with taking statements, interpreting, and following up on cases. In some jurisdictions, paralegals can appear in lower level courts in relation to certain civil cases. If the paralegal organization has lawyers on staff, paralegals can help represent individuals or groups in cases before courts or administrative agencies on issues affecting the public interest. Paralegal organizations will often take a strategic approach to litigation, taking cases that affect not only the individual involved but also larger legal and social issues within a community or country.

- ▶ *Community organizing and advocacy.* Help resolve widespread problems in a community and problems with authorities through negotiation and mediation. Assist in making contact with the press and publicizing events and problems. Some organizations take up cases that challenge existing laws while others draft and advocate for new legislation. Organizations may also provide analysis or opinions on legal instructions being considered.

Each paralegal program and its paralegals will need to choose the methods that are best suited to the individual cases they seek to address, as well as the overall environment in which the program operates. These topics are explored further in Chapter 3, “Setting Up a Paralegal Program,” and Chapter 6, “Solving Justice Problems.”

## 1.3 The Special Benefits of Using Paralegals

Community-based paralegals offer unique skills and professional characteristics that enhance efforts to improve justice for the poor. Similar to the gap that rural public health workers fill in relation to doctors, paralegals provide a dynamic, cost-effective, community-oriented alternative to lawyers. Paralegals do not replace lawyers but by working in conjunction with them can enhance the use of the law and the applicability of legal and policy solutions to individual and community problems. Community-based paralegals may bring together skill sets belonging to diverse professions, such as social workers, mediators, educators, traditional community leaders, interpreters, administrators, and lawyers, with the added value applying these skills according to the specific needs of the situation and the community.

### 1.3.1 Paralegals Are Effective in Solving Justice Problems

Often in countries with weak justice systems, going to court is expensive, time consuming, ineffective and may lead, to permanently damaged relations between the litigating parties.

A community-based paralegal, however, can assess a case and apply the methods that are best suited to the situation—one that may include knowledge of formal law and government, customary law, and also negotiation, mediation, and training. This broad set of knowledge and tools, combined with sensitivity to the culture and needs of the community, enables paralegals to be especially effective. Because community-based paralegals do not take fees and are not contracted to promote the interests one

particular client, they can take a broader view of a case, consider both sides of a dispute and pursue a result that is just overall. The ongoing presence of paralegals in the community also means that enforcement of any agreement can be ongoing and adaptive, in contrast to the formal justice sector which may have only crude and costly enforcement mechanisms.

If the paralegal is unable to solve a problem, the case can be referred to a lawyer for litigation. Litigation is addressed in Chapter 6, “Solving Justice Problems.”

In addition to offering a repertoire of tools for addressing problems, paralegals working within a human rights framework are well positioned to assist community members in learning how to address their own problems—through legal mechanisms or through advocacy. Community-based paralegals, in particular, promote community empowerment through education that shows how individual and collective actions can effectively resolve problems. In some cases where the system has failed—for example, when services are not delivered—paralegals can assist community organizers in bringing about changes in laws and policies. This guide includes several examples of community-based paralegals working for social justice. In the Philippines, a network of legal services NGOs known as the Alternative Law Group is dedicated to the “defense and empowerment of disadvantaged sectors,” guided by the belief that “the people in general serve as the primary force for social transformation.” The groups’ activities include training and supporting community-based paralegals to work with a spectrum of disadvantaged populations such as women, farmers, the urban poor, unionized workers, street vendors, and indigenous peoples.

### 1.3.2 Paralegals Are Accessible and Generally Cost Effective

For many people, legal professionals are inaccessible both financially and geographically. Paralegals are proactive in making themselves available to underserved populations. Community-based paralegals usually live within the communities they serve and, in remote areas, may organize periodic visits in mobile units.

Although there are initial expenses related to starting up a program and training personnel, paralegal programs are highly cost effective once they are operating.<sup>3</sup>

3. Studies of community based paralegal programs have shown that they are successful in the following ways: solving cases; increasing the effective operation of related government agencies; and involving community members in education, advocacy and other democracy and development-related activities. Quantitative studies on the economic effectiveness and wider social benefits of such programs remain to be organized. Related research sponsored by the Legal Services Research Centre in the UK can be found at: [www.lsrc.org.uk](http://www.lsrc.org.uk).

### The Indigent Father: Timap for Justice Paralegals at Work in Sierra Leone

When a mother of three children in Magburaka, Sierra Leone complained that the children’s father had abandoned his responsibilities, paralegal Michael Luseni wrote to invite the father, “Ahmed D.” to the Timap for Justice office. Ahmed D., a vice-principal of a school, came to the office about one week later. A Timap paralegal conducted a mediation in which Ahmed D. and the children’s mother agreed that he would give a specific monthly maintenance payment to Timap that would be picked up by the mother.

*Source:* Timap for Justice, 2007.

This is because paralegals often facilitate informal and early resolution of problems that make it unnecessary to go to court. This diversion saves time and expense for all parties, including the criminal justice system. In many countries, the court systems are slow, expensive, and ineffective.

Preventing existing problems from escalating is a particular benefit of using paralegals. The preventive approach taken by community-based paralegals through community education and advocacy not only prevents existing problems from getting worse, but also helps to forestall new problems as they emerge.

### **1.3.3 Paralegals Can Provide a Community Link that Improves the Quality of Legal Services**

Because of their familiarity with local communities, paralegals are often more capable than lawyers when it comes to straddling formal and customary legal systems. In many countries, the training process for lawyers will only introduce them to the formal legal system and lawyers will subsequently be more likely to live in urban areas close to the formal court structures. This may mean that they are unfamiliar with, and often somewhat skeptical about, the customary structures which are often more prevalent in rural areas. In poor and isolated communities formal law and government can likewise be unfamiliar and may even be abusive in a particular context or when improperly applied. Vivek Maru, former director of the Timap for Justice paralegal organization in Sierra Leone, describes how Timap's paralegals help to "bridge law and society" in numerous ways:

- Paralegals help communities make formal law and government work for them. For example, if government agricultural supports are available but the community does not know about them, the paralegal can help community members apply for the supports.
- Paralegals can use formal law and government to check abuses that happen within the community, including by monitoring and documenting official corruption.
- Paralegals can help the community hold government officials accountable, especially when the latter fail to do their jobs or live up to their promises. For example, in one case in Sierra Leone, a paralegal threatened to litigate against an abusive police officer, resulting in the officer's apology and a change in behavior.

According to a paralegal specialist at the Black Sash Education and Training Unit in South Africa, advice seekers regularly experience problems with lawyers and state officials. The following are some problems commonly associated with attorneys:

- They do not explain the law and procedures in plain language.
- They are often not interested in discussing the community's other legal, socio-economic, or political problems.
- They are less interested in dealing with rural or poor clients than with urban, wealthy ones.
- They have little personal contact with clients and little knowledge of their clients' communities.
- They make decisions on what steps to take without properly consulting the client.
- They do not give full updates on cases.

While these challenges could be addressed in other ways, a paralegal can provide a holistic link between a community or client and the lawyer or state officials, and can help surmount such problems. Some of the specific tasks they can carry out in overcoming these problems are:

- Telephoning lawyers or officials regularly for updates on the matter.
- Asking for explanations on points that anyone does not understand.
- Working as an interpreter if there are language problems.
- Helping collect information and documents, contact clients and witnesses, set up meetings, and provide updates as each task is completed.
- Keeping the lawyer or official informed of any changes or developments in the matter, or relevant developments in the community if it is a community matter.
- Ensuring that the lawyer or official consults properly with the client or representatives of the community before he or she takes any big steps in the case. The lawyer can act only with a mandate from the client.
- Asking the lawyer how much the case is going to cost. If the client or community cannot afford this, ask the lawyer if it is possible to get legal aid or any other kind of funding for the case.

- › Encouraging the lawyer or officials to look at non-legal ways of solving the problem, including mediation and negotiation.
- › Asking the lawyer to hold meetings and consultations at a place convenient to the community rather than at his or her office.
- › Asking the lawyer or official not to use legal or technical jargon, and instead to present information in a way the client can understand.

## 1.4 Institutional Homes for Paralegal Programs

A paralegal program with a justice focus can be added to an existing community-based organization, an NGO, or a clinical legal aid program based within a university. Alternately, an entirely new organization might be established to house a paralegal program. Regardless of where it is housed, a network of relationships and cooperation is necessary to for a paralegal program to succeed.

### 1.4.1 Paralegals within an Existing or Newly Established Community-based Organization or NGO

A paralegal program can be added to a portfolio of programs already offered by a community-based organization, NGO, or NGO network. In some countries, paralegals have been attached to trade unions, political parties, and bar associations. Human rights groups and community-based organizations are often involved with populations that need legal services. A paralegal initiative that is added to an existing agency can deepen and extend the work already being done by that agency.

In Malawi, the Paralegal Advisory Service (PAS) is primarily concerned with the rights of prisoners and people who have been arrested or detained. PAS paralegals are housed in a number of NGOs where they advocate for prisoners' rights and provide assistance to the NGO's clients.

In Cambodia (see box), a community-based paralegal program was initially introduced within the Khmer Institute of Democracy, an NGO that had an established network of "citizen advisors" in villages.<sup>4</sup> The paralegal initiative aimed to strengthen the

4. The Cambodian paralegal program is currently housed within an alternative NGO, Bridges Across Borders Southeast Asia (BABSEA), as part of the Community Empowerment and Legal Awareness (CELA) Program.

legal knowledge of the citizen advisors. The advisors trained through this initiative were then expected to train other community activists in their villages. Under this structure, project resources could be devoted to materials development and training, rather than used to establish a new NGO.

In the Cambodian example, an international organization (in this case, the Open Society Justice Initiative) worked with a legal clinic in a university, which in turn worked with NGOs and government institutions. This approach used work with an existing paralegal-type structure in the community to enhance paralegals' capacity, rather than develop an entirely new structure from the ground up.

In Sierra Leone, a coalition of human rights groups called the National Forum for Human Rights collaborated with the Open Society Justice Initiative to initiate a community-based paralegal effort in 2004. Organizers soon determined that it made programmatic sense to help the paralegal effort evolve into an independent organization focused on the provision of justice services. As a result, a new NGO called Timap for Justice was established. It began operation in five chiefdoms and the nation's capital, Freetown, and expanded to five additional chiefdoms in the following year.

There are many benefits to establishing a new paralegal program within an existing community-based organization or NGO. These entities are already working in the communities and many are, by definition, grassroots organizations with well-developed local networks and knowledge of community needs. Established NGOs are likely to have multiple ties to the donor community that help make the organization sustainable. NGOs may also already have expertise in certain areas you need for your paralegal program, such as the law or training.

However, there can also be disadvantages to adding a paralegal program to an existing community-based organization or NGO. You may find that you are working with personalities and groups that are used to doing things a certain way. They may not be open to doing something differently, and may have established practices and habits that are hard to change. There can also be power struggles among staff over control of the project.

As already illustrated in the case of Timap in Sierra Leone, new NGOs have been established solely for the purpose of beginning a community-based paralegal program. The advantages of this model are that the leaders of the new NGO can shape all aspects of the program, from program design to the hiring of personnel. The disadvantage is that founding a new organization is likely to require more time, effort, and financial resources.

### **Strengthening the Work of an Existing NGO: The Khmer Institute of Democracy, Paññasastra University, and the Open Society Justice Initiative**

The Khmer Institute of Democracy (KID) set up a network of human rights activists called "citizen advisors." KID chose advisors from a pool of teachers and school directors and had a total of 87 advisors, more than half of whom were women, operating in six provinces in 2004. The project aimed to establish "an independent and neutral service to provide fair and legal solutions to communities through advisors who could give advice on laws and legal processes and act as mediators and conciliators of disputes." KID provided the advisors with training on democracy, human rights, civic education, and basic information about family, land, and criminal law.

To strengthen the advisors' legal knowledge and prepare them to work as master trainers for other grassroots NGOs, the initiative pursued a partnership with the legal clinic at Paññasastra University in Cambodia. The partnership resulted in the development of learner and educator manuals for a "trainer of trainers" program that trained 20 citizen advisors and over 40 activists.

*Source:*  
Khmer Institute of Democracy, 2004.

### 1.4.2 Paralegals within a Government Agency

Although many paralegal programs are based within an NGO, they may also be directly affiliated with government agencies or supported entirely by public funds. This can happen when the state recognizes that paralegals are helping them to provide promised legal aid services to citizens. It is important that any paralegal program set up under the auspices of the government have an independent oversight committee with a majority of members coming from civil society in order to ensure procedures of accountability and supervision of the paralegal work. See Chapter 3 “Establishing a Paralegal Program” for more about setting up advisory committees.

In Mongolia, a paralegal program was introduced within an existing governmental institution, the Ministry of Justice and Home Affairs, which employed 30 legal advisors in local governors’ offices in the country’s 21 provinces and the capital city of Ulaan Baatar. A report prepared by the Open Society Forum–Mongolia confirmed that rural populations had a high need for legal services and law-related education to address community problems. At the suggestion of the Open Society Forum–Mongolia, and with the support of the Open Society Justice Initiative, the Ministry of Justice agreed to pilot a new paralegal program through its own institutional structures in 10 pilot sites in 2006.

The ministry changed the responsibilities of the legal advisors so that they would continue to spend half of their time advising government officials but the other half serving community members directly. The legal advisors now act as paralegals and their work is managed by newly established legal aid centers.

Despite the Mongolian example, it is unusual to have paralegals directly employed by the government. It is more common for paralegals to receive support from governments through in-kind contributions; in South Africa, some paralegals are based in government offices located near the tribal chiefs’ courts. This arrangement not only reduces operational expenses but also gives paralegals greater access to clients who come into the building. In Hungary, the second phase of the Roma paralegal training program received support through a European Union structural fund. In some countries, it is possible that government funds earmarked for legal services could be used to support paralegal work.

Operating a paralegal program through a government agency has the benefit of linking the program to funding support that may be more sustainable than funding from an NGO. One drawback to working closely with the government, however, is that officials may seek to control or even obstruct the program’s work. Paralegals frequently have to address problems that result from government actions or inactions. Such issues may be more difficult to address if the paralegal program is closely affiliated with the govern-

ment. In addition, in some countries people may mistrust you if you are seen as working with or for the government. If your paralegal program becomes affiliated with a government agency, it will be essential to establish safeguards for your independence and to actively manage your reputation so that you are recognized as operating independently.

### 1.4.3 Legal Clinic Co-sponsorship of Paralegal Programs

Law schools often use faculty and, in some cases, supervised law students in implementing paralegal programs. Generally speaking, law schools are involved in paralegal programming through established clinical legal education programs already in operation.

Clinical legal education refers both to a method of teaching as well as to activities undertaken by law students in and outside of the classroom. This method of teaching is student-centered and interactive: law students learn through reading case studies, providing legal services to actual clients, undertaking externships with NGOs, and conducting law-related education in secondary schools or with other target groups. Clinical legal education emphasizes practical knowledge and skills, presented in a social justice context. The ethos of the legal services clinics is to meet the needs of poor and under-represented clients, thus making these clinics highly suitable partners for supporting a paralegal program.

In 1989 in South Africa, David McQuoid-Mason, the dean of the law faculty at the University of Natal-Durban,<sup>5</sup> and Carole Baekey, a visiting American law professor, established a new NGO to provide paralegal services in rural areas. This NGO—called the Community Law Centre (now called Community Law and Rural Development Centre)—began its programming with five pilot community law centers in rural areas, which were hosted in the offices of tribal authorities. Two paralegals were based at each center. They received their initial training and ongoing supervision via staff at the Community Law Centre office at the university. The office was supported by both the law clinic and street law programs, wherein law students, school teachers and community leaders are trained to carry out legal literacy programs in high schools, prisons, and community organizations.

In South Africa, the involvement of the law school helped give credibility to the program. The affiliation also helped to ensure the program adhered to rigorous standards, and eventually provided an avenue for paralegals to earn law school credit.

5. The University of Natal-Durban was renamed University of KwaZulu-Natal in 2004 when it merged with the University of Durban-Westville.

### Agency and Democracy: Community Law and Rural Development Centre, South Africa

The Community Law and Rural Development Centre (CLRDC) in Durban is a paralegal organization established in 1989 that serves a population of about 1 million rural South Africans living in KwaZulu Natal and the Eastern Cape. The CLRDC has developed a self-sustaining program of paralegal advice and legal education and training to assist with rural development. It hopes to assist rural communities with skills development to participate in South Africa's evolving democracy. The center works to increase the sense of self-reliance, confidence, and responsibility over legal matters among residents in rural communities, while also developing their awareness that although law is an important tool, it is not the only tool.

The CLRDC operates in over 30 rural communities that are governed by customary law and ruled by tribal authorities. The latter consists of tribal chiefs, tribal administrators, and unpaid tribal councilors. There is no formal training for tribal authorities who are expected to administer increasingly complex affairs in their communities and there is often conflict between “Western law” and customary

practices. CLRDC paralegals are trained in mediation skills so that they can assist in resolving these disputes.

The CLRDC provides training to paralegal advisers from communities that have established paralegal committees. In the past, the CLRDC offered an intense three-month training program during which selected paralegals were trained to operate advisory offices. At the end of the training period, the paralegals were issued a paralegal diploma from the Faculty of Law, University of Natal-Durban (now the University of KwaZulu-Natal).

Since its inception, the CLRDC has handled tens of thousands of cases and recovered millions of rands a year for rural residents. It also presents numerous community legal education workshops annually, monitors government administrative functions to measure accountability, and provides voter education throughout the region.

*Source: McQuoid-Mason, 2006.*

McQuoid-Mason says that this relationship can be facilitated by taking steps such as putting law school representatives on the board of the NGO, informing visitors to the university legal clinic about the paralegal program, and having NGO representatives present to law school faculty. “Basically, you want to position the NGO as a part of the law school community,” says McQuoid-Mason. “This results in a ‘win-win’ situation.”

McQuoid-Mason also notes that law schools in South Africa play an important role in providing legal education and support services for paralegal advice offices. South African university law clinics have provided legal education and support to clusters of paralegal offices in their areas. For example, one law clinic may be responsible for supporting up to 10 paralegal advice offices in its region.<sup>6</sup>

In Hungary, a paralegal training program was spun off from a larger legal clinic program that provided legal services as well as community education. In order to receive grants from abroad, a separate NGO, the Foundation for Clinical Legal and Street Law Programs, was established at the Eötvös Loránd University (ELTE). ELTE provided office space and the NGO director, Agnes Kover, was a full-time member of the faculty. However, all other human and material resources were generated through separate grants. As the university’s larger legal services program drew increasing numbers of law students of Roma background—a population highly discriminated against in Hungary and other parts of Europe—Kover created a new paralegal program within the foundation at the law school. The new program aimed to support the training of Roma minority representatives and activists and was carried out via the foundation. The program draws on the training expertise developed through the street-law clinic run by Kover, and cooperates with the largest Roma civil rights organization in the country, the Roma Civil Rights Foundation.

Legal clinics can bring a range of resources to a paralegal program, including the enthusiasm and legal expertise of law faculty, as well as space for trainings or even an office. Faculty associated with legal clinics can make use of interactive training methods, which are not always used in law schools. These participatory methods are required for training paralegals and preparing them to carry out community education. Law students can also contribute to a paralegal program by assisting professors in writing, translation, or even conducting trainings.

6. The donor funding provided for the South African cluster programs is administered by the Association of University Legal Aid Institutions Trust (AULAI Trust).

A disadvantage of creating a paralegal program through a legal clinic is that the law school may be some distance from the communities that the paralegals will be serving. Another potential drawback is that law faculty may not have the time required to set up and support a paralegal program. Partly for this reason, legal clinics involved in paralegal programming often work in cooperation with an outside NGO. NGOs can involve law faculty on a consultancy basis even without a formal affiliation with the university sponsoring the clinic.

Another negative associated with working through a legal clinic has to do with the university as an institutional partner. A paralegal program that is formally linked with a university will need to fulfill the university's bureaucratic requirements. There is also the risk that the paralegals will become embroiled in university politics if the program takes up issues from which the university wants to distance itself. The challenges and benefits of creating a paralegal program within an existing legal clinic are explored further in Chapter 3.

### **Growing a Paralegal Program from a Teaching Clinic: Foundation for Clinical Legal and Street Law Programs in Hungary**

The Foundation for Clinical Legal and Street Law Programs is an NGO housed at the Faculty of Law within Eötvös Loránd University (or ELTE) in Budapest, Hungary. ELTE is the oldest university in Central and Eastern Europe. Ágnes Kövér is the founder of the foundation and coordinates the clinical legal education program, which currently houses six clinics.

Five of the clinics provide legal consultation in the areas of criminal law, family law and children's rights, labor law, non-profit laws and aftercare, women's rights and prisoner's rights. The street law clinic uses law students to lead law-related, interactive activities in high schools, juvenile institutions, and other community settings. Kövér's groundbreaking initiative at ELTE began with the street law teaching program, and she considers it her foundational clinic. Through this teaching clinic, she developed participatory learning techniques for helping law students in all her clinics to learn legal theory and develop "lawyering skills" such as communication, persuasion, mediation, critical thinking, case analysis, interviewing, writing, and exploring ethical issues.

The paralegal training program within the Roma community emerged from the clinic experience of having law students teach in integrated classrooms (including Roma and non-Roma students) as well as a program of the related NGO (“the Foundation”) which trained Roma teachers in law-related education using the “street law” method.

*Source:* Tibbitts 2005a.