The Inaugural Dullah Omar School

9-13 March 2015

Report: May 2015
ACRONYMS

ACAOSA  Association of Community Advice Offices of South Africa
CAOs  Community Advice Offices
CAPATAW  Cape Association to Abolish Passes for African Women
CBO  Community Based Organisation
CBP  Community-based Paralegals
CWAO  Casual Workers Advice Office
DOS  Dullah Omar School
LGA  Local Government Action
NADCAO  National Association for the Development of Community Advice Offices
NGO  Non-Governmental Organisation
SAIRR  South African Institute for Race Relations
SERI  Socio-Economic Rights Institute of South Africa
TAC  Treatment Action Campaign

The Dullah Omar School was made possible through a generous partnership with

The Charles Stewart Mott Foundation
and
The DG Murray Trust
The Dullah Omar School was the result of an initiative by The Black Sash, NADCAO and ACAOSA, a partnership aimed at strengthening the skills and the voice and revitalizing the role of Community-based Advice Offices (CAO’s). This report provides a comprehensive account of the inaugural Dullah Omar School, a week-long, training programme.
1. MESSAGE OF SUPPORT FROM THE OMAR FAMILY

The School enjoys the support of the Dullah Omar Family and the following message of support was submitted by Mr. Rustum Omar and read by Seth Nguni

Directing efforts to bring relief, support and fundamental change to the most marginalised communities, rural and urban, epitomises the legacy of Abdulah “Dullah” Omar. This pursuit was informed by the principles of justice, integrity and empathy that he subscribed to, and expressed with no expectation of reward other than to selflessly and tirelessly creates a better life for oppressed communities.

It also required at times a robust legal response to what was the legislated, structural exclusion and oppression of Black communities from mainstream society, that not only left communities destitute, but also bereft of dignity. The progressive legal fraternity was therefore called to action to defend communities who rose up against injustice and oppression. The system of Apartheid, whilst crude in its consequences, was sophisticated in its architecture and its ability to not only oppress, but also to psychologically scar communities. Tactics were employed that deliberately sought to divide Black communities, that ultimately culminated in the formal establishment of the discredited Tri-cameral system that was based on co-option, as well as the so-called homelands and self-governing territories.

Pass laws sought to restrict the movement of Black persons, shepherding them to economically depressed areas, property rights were curtailed as far back as the promulgation of the 1913 Land Act, economic activity was confined to “locations”, and a raft of other oppressive legislation was enacted to buttress the system of Apartheid.

On the day that he opened his practice, the leadership of the PAC walked in to request his legal counsel. That was the start of what ultimately would define his practice as one that was unambiguously orientated towards supporting all progressive organisations that were at the forefront of the struggle against Apartheid. For the next 30 years or so, he would regularly commute to Robben Island to provide support to and consult with his clients, most notably the likes of former President Nelson Mandela, Walter Sisulu, Govan Mbeki, Ahmed Kathrada amongst others. He would also provide legal services to community members who were typically arrested, charged and brought forward during their uprisings against Apartheid. At one point it was undoubtedly the biggest law practice in South Africa on the basis of the number of clients that it represented, whilst certainly not the most commercially successful.

However, what was equally significant was the manner in which he developed and provided political leadership. He firmly understood the effects and hegemony that Apartheid represented. This shaped his outlook and his activism in a way that defined non-racialism as one of our most important prerogatives and focal areas, in order to challenge the deep, divisive consequences of Apartheid. It sought to recognise the differentiated forms of oppression that Black communities were subjected to, and confront this reality with activities and campaigns that not only
challenged this reality, but also sought to break down racial barriers. His activism ultimately found expression under the African National Congress in which he consistently held a position on its National Executive Committee. It is quite profound that today we still feel the effects of Apartheid hegemony, and the need for the promotion of non-racialism remains a key challenge and prerogative.

At the time of his appointment as Minister of Justice, he was confronted with a legal department that was characterized by amongst others,

- A number of different, almost autonomous departments that were structured along Apartheid lines and whose very reason for existence was to uphold, promote and give legitimacy to the idea of racial differentiation in a way that sought to entrench White superiority and Black inferiority
- A judiciary that was overwhelmingly white, male and largely reactionary
- Inaccessibility of the Justice department to poor communities

It was especially the latter reality that had Dullah Omar promote the idea of the importance and recognition of the role that paralegals can play in bridging the gap between communities and the legal system. In fact, he mooted the idea of paralegals playing an active role in dispensing basic legal services to communities for whom these were out of reach. It would almost represent a formalisation and morphing of the advice offices that sprang up during the 1980s when community struggles were at their most intense.

It is therefore with great humility and honour that the Omar family embraces the establishment of the Dullah Omar School, which will perpetuate his legacy of providing access to basic legal and other support to the most marginalised communities.

Congratulations on this noble initiative, and may it grow from strength to strength.

Dullah Omar Family
1. KEYNOTE ADDRESS: ANIL NAIDOO

Distinguished guests

The first recorded Community Advice Office (CAO), the Legal Aid Bureau, was inaugurated in December 1935, in Johannesburg by the South African Institute of Race Relations (SAIRR), along with the Johannesburg Society of Advocates, the Incorporated Law Society of the Transvaal and the Johannesburg Rotary Club. Its establishment was linked to the increase of police violence against black communities. However, while the initiative was supported by the Secretary for Justice, the condition was that it was only the senior public prosecutor and his staff who could decide who received legal aid. Not surprisingly then, in the 18 months the office operated, only 28 people received legal aid.¹

SAIRR went on to establish its own CAOs in the major metropolitan areas. They were privately funded and run by “socially committed women – the vanguard of the legal aid movement in South Africa.”² In 1957, after legislation (influx control laws) to limit the influx of blacks into urban areas was expanded, the Western Cape Branch of the Black Sash with the ANC Women’s League, the Anglican Church Mothers’ Union, the National Council of Women, the Cape Town branch of the Society of Friends and the South African Federation of Women, formed the Cape Association to Abolish Passes for African Women (CAPATAW). Their aim was to use protest action to pressurize the government into providing legal aid to the victims of the pass laws. Later on in 1958, the Black Sash set up a Bail Fund in Cape Town to assist women victims of the influx control laws.³

Since then, CAOs have been established throughout the country and in the era before the first democratic elections in 1994, were at the coal face of protecting the limited human rights of vulnerable black communities.⁴

² Ibid. 438
³ Ibid. 438
Almost all rural areas in the apartheid era had little or no access to legal education and services, which rendered communities easy victims of intentional or casual abuse. The net effect was that there was little or no understanding of legal rights, no concept of the rule of law and no notion of government accountability.

Currently, there are approximately “500 CBPs working in 313 CAOs across South Africa”\(^5\), but what has changed? While major strides have been made in the achievement of political rights, less has been achieved around socio-economic rights.

The Poverty Trends in South Africa report released by Statistics South Africa (Stats SA) in 2014 states that, “The NDP and Vision for 2030, our most current guiding framework for development, is anchored by two fundamental objectives, namely the elimination of poverty and reduction of inequality. Success of the plan will be measured by the degree to which the lives and opportunities of the poorest South Africans are transformed in a sustainable manner”.

In this regard, according to UNDP’s Human Rights Development Report of 2014, South Africa’s life expectancy at birth for 2013 is the same as it was in 1980.

Furthermore according to the same Stats SA report referred to earlier:

- “Less than half (45,5%) of all South Africans were living below the Upper Bound Povert Line”
- Females remain more impoverished with 47,1% found to be poor as compared with 43,8% of males
- The rural/urban divide is stark in terms of poverty – not only were levels of poverty more than twice as high in rural areas (68,8%) than in urban areas (30,9%), but the majority (58,3%) of poor people in South Africa were living in rural areas

However, despite this, according to Stats SA, poverty levels in the country have dropped since 2006, reaching a low of 45,5% in 2011. Unfortunately, while the poverty situation is improving, inequality in our society remains a serious problem and among the highest in the world.

Comrades, this in effect means that previous generations of CAOs were fighting different battles but the same war against poverty and inequality as you are today, with one major difference. The state of the CAO sector is much healthier today than it was before 1994 or in fact as recently as a mere 3 years ago. That is how quickly change has come about. As part of the sectoral strengthening process, NADCAO initiated a number of interventions and programmes to overcome the issues that undermined the credibility of the CAO sector as a bona fide stakeholder and participant in the wider justice sector. This eventually led to the establishment of a national representative body called the Association of Community Advice Offices of South Africa (ACAOSA) and a provision in the new Legal Practice Bill for statutory regulation of CAOs and CBPs. These instances in time along with the Dullah Omar School provide unique windows of opportunity to the CAO sector to enhance its social justice agenda.

And let’s be clear, social justice ought to be the agenda and the provision of legal services is a mere mechanism for the attainment of social justice. This social justice agenda resonates with ACAOSA’s Memorandum of Incorporation, which states that it has a vision of a “united, credible, professional, skilled, regulated and sustainable CAO sector, providing high quality and accessible primary legal services, Alternative Dispute Resolution and other developmental services to ensure that the human rights of the indigent are promoted, protected and fulfilled”.

We should never forget then, that today, the services being provided by CAOs are those same services the State should be providing. We would do well to recall the caution in the article by Manji and O’Coill entitled “The missionary position: NGOs and development in Africa” wherein they state:

“Development NGOs have become an integral, and necessary, part of a system that sacrifices respect for justice and rights. They have taken the ‘missionary position’ – service delivery, running projects that are motivated by charity, pity and doing things for people (implicitly who can’t do it for themselves), albeit with the verbiage of participatory approaches. NGOs face a stark choice. If they stand in favour of the emancipation of humankind (whether at home or abroad), then the focus of their work has inevitably to be in the political domain, supporting those social movements
that seek to challenge a social system that benefits a few and impoverishes the many. The closing years of apartheid in Africa were illustrative of the choice that NGOs face today: either they supported the emerging popular movements (in South Africa and internationally) that supported the overthrow of a brutal system of exploitation, or “they stayed silent and continued their philanthropic work…”

We know from the Business Case for the Community Advice Office Sector in South Africa Incorporating National Baseline Data Report of 2014, by the Indiba-Africa Group, that CAOs have been literally “trained to death”. This is an indication that the current pedagogies are flawed.

“The reality is that in many African States overall human rights law per se and rights ideology generally are little promoted and continue to have little or no place in teaching (and practice) whether in primary, secondary, or tertiary levels of education. For one thing, in many States the discipline of human right is not yet a recognised subject for generalized education. There are few teaching aids. There is little common methodology. Most of those actively involved in human rights advocacy are not teachers. Information on the Charter, key to teaching about the rights and duties therein contained, is often inaccessible to the general public and generally there is a serious lack of knowledge of the content of that instrument. What is more, African Governments still remain deeply suspicious of the teaching and popularisation of human rights.”

“But such education must be coupled with active promotion and protection. In this respect the challenge is to marry the theoretical analyses that abound to strategies that lead to the development a culture of human rights respect.”

CAOs represent a paradigmatic shift in the delivery of legal services, similar to the proliferation of rural public health workers in response to the formal medical profession’s inability to meet community health needs. Work by CAOs provide enormous benefits to vulnerable communities and to the justice sector as a whole,

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but their work can only be sustained through partnerships between government, private sector and civil society. Support to CAOs as a merit good reflects the importance that society places on equality and social inclusion.

The CAO sector is an undervalued national asset, which if correctly leveraged, can make a significant improvement in the quality of life of poor communities in South Africa. Keen to this ability of the CAO sector to effectively leverage support, is an army of appropriately skilled CBPs, an issue that has been the Achilles heel of the CAO sector.

I am therefore keen to see the Dullah Omar School take a strategic direction that ensures the social justice trajectory of the CAO sector. This means that its pedagogy must build upon the experiences of previous training initiatives and should include standardization, accreditation, and both soft and hard skills. More importantly, these need to be blended by appropriate political education around human rights activism, leadership and ethics. It is also my hope that the Dullah Omar School will become institutionalised in the forthcoming legislation intended to regulate the CAO sector.

To this end, I wish you well in your endeavours.

*Aluta continua!*
2. KEY SUMMARY

In the last 20 years of South Africa’s democracy, active citizenship and engagement with the country’s Constitution to promote and ensure human rights and social justice to communities, has escalated. The role of the paralegal sector has become increasingly critical to under-resourced communities. Community-based advice offices nationally, remain under-resourced and lack broader acknowledgement. It remains critical that making justice accessible to communities is central to making human rights a reality.

The Dullah Omar School (DOS) was conceptualised in response to the need to formalise and standardise the paralegal sector at community-based advice offices. The inaugural Dullah Omar School was held in Johannesburg, in March 2015, and provided a significant learning platform to more than 120 participants from CAOs across all the provinces in South Africa. Contributors to the school included key organisations working on human rights issues, such as Pro Bono, SERI (The Socio-Economic Rights Institute of South Africa) and the Casual Workers Advise Office (CWAO). (See list of participating organisations at the back of this report.) They were invited to provide teaching input on five important content areas that paralegals often encounter in their dealings with communities. The content areas included Labour Law, Social Security and Assistance, Family Law, Local Government and Using the Paralegal Manual.

Another stream of the work was to develop a national Education and Training strategy, which would formalize and develop the capacity of the paralegal sector. Invited guest speakers from academic institutions, provided input and presentations highlighting their experiences and lessons learnt in formalizing the accreditation of non-professional entities. Academic institutions will continue to provide guidance and assistance towards regulating the content and supporting accreditation.

The school programme, conceptualized on principles of popular Adult Education, also included the use of mixed-learning mediums. In addition to the above-mentioned learning sessions, documentaries were screened to encourage discussion and debate on topics linked to key learning areas. The award-winning documentary, Miners Shot Down, was one of the three films screened. Another highlight was the guided tour to Constitutional Hill and a session with Judge Edwin Cameron in the Constitutional Court. Legal Resources and Pro Bono presented inter-active sessions where participants shared cases and received both professional feedback and engaged in peer learning.

Participant evaluations were conducted and evaluations indicated that the 2015 school was a huge success and a valuable initiative, as these evaluation excerpts to the following question demonstrates;
<table>
<thead>
<tr>
<th>Evaluation Question: What were the main positives and successes during your participation at the school?</th>
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<tbody>
<tr>
<td>“I gain more in local government and IDP. Social security; I know more about the grants, types of grants.” 050</td>
</tr>
<tr>
<td>“Broader Knowledge. I can train my communities about local government and social security.” 051</td>
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<tr>
<td>“The Information and professionalism by facilitators.” SN 2</td>
</tr>
<tr>
<td>“Workers’ right. To understand how to work with councillors in our community.” 003</td>
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<tr>
<td>“It was informative and the facilitators knew what they were talking about and they were easy to talk to.” 006</td>
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<td>“To know more about the changes in the laws. Now I am confident to go back and work.” KZN</td>
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<tr>
<td>“To be well educated especially on local government because I’m on the position to deal with matters which affects my community.” 007</td>
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<tr>
<td>“I am greatly excited that the school has finally taken off in a positive way. The move toward an accredited paralegal qualification is also good news for us as paralegals. For anything to take off there will be challenges but we should use these challenges to improve ourselves.” SM</td>
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<tr>
<td>“I have seen the Constitutional court for the first time in my life.” 008</td>
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<tr>
<td>“I gain a lot of information. I even get knowledge on some cases that I’m having in my office.” 009</td>
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<td>“Positives, flexibility, useful material, meals, hospitality.” 016</td>
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<td>“Cooperation within the teams. Full participation in our tasks. Presenters were brief &amp; precise. Facilitators performed well.” 017</td>
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<tr>
<td>“I got the opportunity to socialise with various people from different organisations.” 034</td>
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<tr>
<td>“Sharing information, setting more ideas on the topics.” PG</td>
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<tr>
<td>“I have learned new things that I had no knowledge of, also information sharing with other paralegals.” 035</td>
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<tr>
<td>“Being able to understand labour and family law and everything was clear.” 036</td>
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3. CONCEPTION OF DULLAH OMAR SCHOOL

The Dullah Omar School was conceptualized to achieve the following:

- Offer participants an opportunity to engage in horizontal and vertical learning; engage with practice and enhance activism;
- Raise the profile of the Community-based advice office sector and their role in facilitating access to basic human rights.
- Offer participants an opportunity to engage in horizontal and vertical learning; engage about practice and enhance activism;
- Networking; exposure to relevant legal instruments; and be the forum to collect issues for further advocacy.
- Raise the profile of the Community-based advice office sector and their role in facilitating access to basic human rights.
- To position ‘Access to Justice’ as a measurable goal.

In addition some of the key targets included:

- Starting the first school in 2015 and repeating it annually.
- Targeting approximately 120 paralegals from Community Advice Offices across South Africa, placing particular emphasis on expanding the involvement of women and young people.
- Being structured around a specific theme each year.
- Providing an educational environment in which adult learning methodologies are implemented and wherein several learning techniques are used, including interactive educational sessions.
- Creating a platform for case conferences in which community case knowledge can be shared and applied.
- Participation in a structured working-group to contribute to the formulation of a written education and training strategy for the sector.
- Using locally made documentaries that highlight current issues experienced by the communities at the local level.
- A tour to historical sites to recount its political significance and symbolism of freedom and human rights e.g. The Constitutional Court.

3.1. The Status of the Community Advice Office Sector

Community-based Advice Offices, staffed by community paralegals and governed by a community committee, have for years been important structures of local democracy and justice. They have played a crucial role in educating citizens, particularly women, about their rights. They also aim to ensure that constitutional rights and administrative justice are accessed by poor communities at local level.

Community-based Advice Offices deal with a variety of local issues including:

- Labour: (unfair dismissals, unfair labour practices, social security and unemployment);
- Access to social services: (grants and pensions; access to ID documents; basic service delivery and health);
- Social and family issues (violence against women and children; divorce, maintenance)
- Property law: evictions, land, housing; refugee rights and consumer rights.
The cases taken on by the CAOs offer an insight into the many challenges faced by ordinary citizens. Unfortunately, CAOs are themselves poorly resourced and require capacity development and on-going support, to continue with the historical role that they have played in providing sound and free, paralegal advice services, in the most disadvantaged communities.

3.2. The History of the Black Sash and NADCAO Partnership

The Black Sash and NADCAO share a long history of involvement in the community advice office sector. For many years prior to it becoming an independent organisation, NADCAO was governed and administered as a project of the Black Sash Trust which contributed office space, financial management and contractual support.

It was in March 2012, when NADCAO was registered as a single legal entity. It moved to separate offices and early in 2013 the accounts of NADCAO were separated from those of the Black Sash. In addition to this institutional support, the Black Sash Director served on the NADCAO board. Black Sash played a significant role in the development of NADCAO’s role and the establishment of its credibility, in the community advice office sector (locally and internationally) and within the donor community.

It was therefore with great concern that the organisation increasingly observed that the once-proud community advice office sector was in disarray, without funding, organisation, standards or regulation. We believed that the collapse of the sector would have profound and negative, implications for the quality of our democracy at a local level, and for poor people’s access to justice.

The Black Sash took the decision to become one of seven (7) founding members of the National Association for the Development of Community Advice Offices (NADCAO) which was formed in 2005 as an alliance of civil society and donor organisations. NADCAO was dedicated to the consolidation of the community advice office sector and the development of new models for its sustainability, including possible state recognition, regulation and funding.

3.3. The Legal Practice Bill

In May 2013, NADCAO made a submission and presentation to the Portfolio Committee on Justice and Constitutional Development, arguing for the recognition and regulation of community paralegals. The Legal Practice Bill which was passed in November 2013. Section 34 (9) (b) states that “The Council must within two years after the announcements of Chapter 2 of this Act, make investigations and make recommendations to the Minister on ... the statutory recognition of paralegals, taking into account best international practices, the public interest and interests of the legal profession, with the view to legislative and other interventions in order to improve access to the legal professions and access to justice generally”.

While this recognition is welcomed, the sector now faces real challenges to bring the qualifications and practice of community paralegals in line with the new standards
that are likely to be expected. There is still a considerable amount of work required to ensure that community paralegals and CAOs are acknowledged and resourced, as an important point of access to the justice system at a grassroots level.

3.4. ACAOSA (Association of Community Advice Offices of South Africa)
A sector development process over the past two years has led to a decision by community advice offices to establish the Association of Community Advice Offices of South Africa (ACAOSA), launched in November 2013, as a representative body for the sector. For the next phase, NADCAO has been requested to support this emerging structure, including assistance in the brokering of partnerships for the capacitating and enrichment of the sector.

On the basis of this history, ACAOSA and the Black Sash are entering a new stage and will work together to achieve our objectives.
COURSE CONTENT AND OUTCOMES

Five different courses ran parallel to each other. Participants could select two of the five courses and each course was two days in duration. All courses were repeated to provide the participants with the opportunity of easier course selection. The courses included:

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<thead>
<tr>
<th>Labour Law presented by Casual Workers Association: Igshaan Schroeder</th>
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<tr>
<td>Family Law presented by LegalWise and Pro Bono: Mekwene Ngwenya and Annelie Du Plessies, George Pelser and Helen Cloete</td>
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<tr>
<td>Social Security and Assistance presented by Black Sash: Lynette Maart and Elroy Paulus</td>
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<tr>
<td>An introduction to the Paralegal Manual: Constitutional Issues presented by the Education and Training Unit: Beatie Hofmyer</td>
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<td>Local Government presented by SERI South Africa and LGA (Local Government Association): Koketso Moeti</td>
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Increasing women’s participation was a specific intention and the success of this objective is evident in the gender composition of participants who attended our week-long event.

<table>
<thead>
<tr>
<th>Gender Breakdown of Participants</th>
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<tr>
<td>PROVINCE</td>
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<tr>
<td>Eastern Cape</td>
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<tr>
<td>Free State</td>
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<tr>
<td>Gauteng</td>
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<tr>
<td>KwaZulu Natal</td>
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<tr>
<td>Limpopo</td>
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<tr>
<td>Mphumalanga</td>
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<tr>
<td>North West</td>
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<tr>
<td>Northern Cape</td>
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<tr>
<td>Western Cape</td>
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<tr>
<td>TOTAL</td>
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</tbody>
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An additional cohort of 20 seasoned paralegals participated in a parallel stream discussing the Education and Training Strategy.
4.1 COURSE 1: LABOUR LAW

| Course Title: | Introduction to Labour Rights. Presented by CASUAL WORKERS ADVICE OFFICE (CWAO) |

The CWAO was founded in 2011 as a non-profit, independent organisation. It provides free advice and support to workers; privileging casual, contract, labour broker and other precarious workers.

4.1.1. Aims and Objectives: The main objective of the course was to deepen the understanding of participants by looking at the labour law framework, enhancing their skills to identify labour instruments specific to categories of workers and introducing participants to labour rights resources.

Modules covered included:
- Current experience with labour cases – to test participants' existing knowledge and areas of difficulty
- Summary overview of the labour law framework – to deepen understanding of how different laws affect worker rights
- Case studies – to further develop participants' understanding of specific legal instruments
- How to read sectoral determinations – to further develop participants' skills to read and navigate determinations and agreements.
- Finding workers' specific rights – introducing participants to various worker rights resource.

4.1.2. Profile of Participants
There were 42 participants in total, consisting of a mixed group of females and males.
Monday and Tuesday we had 25 participants, Wednesday and Thursday, 17 participants. This suggested a fairly high degree of interest in labour rights, which, in turn, confirms that labour cases constitute a significant proportion of advice office casework.
Various levels of experience and knowledge were evident in both groups. There was a significant difference in the levels of familiarity with, and knowledge of various labour laws, and this was reflected in the levels of participation in the sessions. Plenary discussion tended to be dominated by a few more experienced paralegals, although, much more interaction and participation took place in smaller group work sessions.

4.1.3. Themes emerging from the session
- Worker rights: Different categories of workers, different worker rights.
- Accurate advice: Paralegals - sufficient competence to provide workers with accurate advice.
- Referral: The need for appropriate referrals to appropriate institutions.
4.1.4. Issues for advocacy:
Participants expressed general frustration of not being able to represent workers within institutions like the CCMA. Increasingly dysfunctional state of the institutions CAOs have to work with, in defence of worker rights. The CCMA, the Department of Labour inspectorate and Bargaining Councils in their current form and practice are incapable of responding to the needs of precarious workers.

Participants at both workshops suggested that ACAOSA convene meetings with the CCMA and Department of Labour at national level to share with them the experiences of workers and CAOs, in the hope that this will lead to progressive change within these institutions. The second group suggested either a meeting or possibly even a conference with the mentioned stakeholders.

4.1.5. Areas for further training
Training in unfair dismissal, the Basic Conditions of Employment Act and the Labour Relations Act were specifically requested.

The following were identified as the most common cases that advice offices engage with: domestic work, farm work, private security, and wholesale & retail.

4.1.6. Key comments/recommendations
The sector cannot remain indifferent to developments in the broader context of human rights, and more specifically labour rights in South Africa.

Different levels of training is needed: Two levels of labour training was recommended, so that experienced participants and those who have been through this year’s course can graduate to a more advanced one e.g. Introduction and Advanced courses.

Ongoing capacity development: The annual schools for the advice office sector would be strengthened if other training programmes took place at provincial levels. This would assist with on-going capacity development; provide mentorship opportunities as well as being a more cost-effective intervention.

4.1.7. Resources
Workers Rights Toolkit (DVD)
4.2 COURSE 2: SOCIAL SECURITY AND ASSISTANCE

| Course Title: Social Security/Assistance - Our Constitutional Right. Presented by the BLACK SASH |

The Black Sash started in 1955 as a human rights organization in the struggle against apartheid and celebrates its 60th anniversary this year. It operated for 40 years as a female membership organization and became an NGO in the 1990s. The mission and objectives are implemented through three interconnected programmes, each building on one another: 1) Rights based Information, Education and Training; 2) Community Monitoring; and 3) Advocacy in Partnership. It works in partnership with around 400 Community Based Advice Offices, CBOs and networks.

4.2.1. Aims and Objectives
- Develop an understanding of Social Assistance as a Section 27 rights mandate, including the role and programmes of DSD (and SASSA).
- Introduce participants to new documents and material.
- Develop an understanding of Social Assistance - different forms, application processes etc.
- Provide information about the foster care grant system and the current challenges, and explore and identify Issues for advocacy.
- Facilitate an understanding of the phenomenon of debit deductions from the bank accounts of SASSA grant beneficiaries and become familiar with the different typologies/ case studies, legislation, and to better understand the implications of the AllPay vs. SASSA Constitutional Court Case.
- Provide information about the CPS/Net1 business model and structure.
- Present the work of the Ministerial Task Team (MTT) to stop debit deductions.
- Introduce the SASSA’s Recourse System.
- Assist participants to work in study groups and hone presentation skills.

4.2.2. Profile of Participants
A total of 30 participants selected this course: 11 chose the first course and 19 chose the second course. All provinces except Gauteng and KZN were represented. In the first slightly more women attended and in the second cohort there were an equal number of males and females. Participants were from almost all provinces although there was a relatively low turnout from the host province Gauteng. There was also a wide range of participant ages with a significant percentage of youth participating from the Western Cape and the Northern Cape.

4.2.3. Themes emerging from the sessions
- **Strategies of ruthless corporations vs. Section 27 rights**: How CPS put profit before section 27 rights.
- **Ongoing efforts to rob the poor**: Various typologies.
- **Clear understanding of government budgets**: How funds are allocated; Section 27 rights.
- **Holding government more accountable**: Implementation of laws and policies. Better understanding between accountability and implementation.
- Budgeting.
- **Tendering and bidding**: Impact on Social Assistance.
- **Confidentiality**: The violation of citizen’s information between CPS and SASSA through the now invalid contract.

Essentially the entire course was designed to link section 27 rights and it’s ultimately primacy in promoting access to justice. As such budgets, laws and Chapter 2 Rights, and in particular Section 27 rights were focused on.

An important observation during the sessions was that participants were able to identify specific gaps, shortcomings and the lack of implementation, insufficient resources and other bottlenecks in the areas in which they work at community level.

4.2.4 **Issues for advocacy**
- Create a platform to communicate with MECs (Ministers of Executive Committees) – share recommendations and while still advocating for section 27 rights.
- Holding local authorities accountable for all that is stipulated in the budget in various projects and how funds are allocated.
- The need for a collective approach as stakeholders for advocacy, including making use of social media.
- Create and be part of related and existing forums such as ACAOSA.
- Community advice offices should understand local and provincial budgets, in relation particularly, to the realization of Section 27 rights.

4.2.5. **Areas for further training**
- Linking the Budget and the Constitution – e.g. Vote 17.
- Advocacy workshops within our communities on the Constitution and Social Assistance.
- Developing skills and knowledge to facilitate referrals and creating systems to capture the related administration.

4.2.6. **Key comments/recommendations**
- Paralegals struggle to read budgets. The need for budget literacy, training resources on economic fundamentals to assist ordinary citizens with understanding public policy.

4.2.7. **Resources**

Social Security Flyers
All grants information
Hands off our Grants ‘Special Assignment’ documentary (flash drive)
LEGALWISE: Legal Wise seeks to grant South Africans equal, fair and affordable access to justice and legal assistance. It gives people the opportunity to have access to a lawyer and enjoy even the most basic rights as required by law.

PRO BONO.ORG: ProBono.Org enables pro bono legal services to be provided to thousands of impoverished people living in South Africa through its network of law firms and members of the bar. It is the first and only organisation of its kind in South Africa. It's innovative referral model channels legal assistance from the private legal profession to the most vulnerable and marginalised. The work of ProBono.Org aims not only to ameliorate the lack of legal resources for the poor but also to facilitate a transformation of the legal profession by promoting the rights of the poor and the rule of law.

4.3.1 Aims and Objectives
The main objectives of the course: To capacitate and empower paralegals on family law and related issues.

The following modules were covered:


4. Maintenance: General aspects regarding maintenance and the duty to support. Enforcement of maintenance order. Amendment, suspension and/or rescission of maintenance orders. Dependent’s action for loss of support.


4.3.2 Profile of Participants
Fifteen out of twenty-one participants were female in the first training session and 10 out of twenty-four were male in the second training session. There was an even spread of participants from all nine provinces across the two training sessions.

4.3.3 Emerging themes
Participants had many questions, relating to cultural practices and family law. Issues
Issues regarding gender-based violence came up in this session too, as many participants reported that they were dealing increasingly with these cases. Discussions also focused on the need for broader awareness raising interventions in addition to the overwhelming number of individual cases managed by the limited number of paralegals.

4.3.5 Areas for further training
This introductory session highlighted the need for ongoing training, as well as the need for repeating this introduction to many other paralegals. It was evident that facilitators with particular experience in Family Law and customary practices would be needed for future training.

4.3.6 Key Comments/Recommendations
- The issues on parental rights and responsibilities seemed to have been generally well received as they had a lot of questions on that subject, even some questions which the facilitators could not answer.
- Some questions regarding African cultural practices such as lobola needed more input.
- Institutions with more experience on these topics should be recruited.

4.3.7. Resources Provided
- An Introduction to Family Law Handbook
- Legal Wise Toolkit (USB Stick)
4.3. COURSE 4: LOCAL GOVERNMENT

Course Title: Understanding Local Government: An Activist's Guide. Presented by Local Government Action (LGA) and Socio-Economic Rights Institute of South Africa. (SERI)

Local Government Action (LGA): is a loose alliance of South African organisations working to promote democracy, accountability and service delivery at local government level. LGA aims to contribute to developing a democratic and open society in which government is based on the will of the people, to promote the advancement of human dignity and to improve the quality of life of people in the country.

The Socio-Economic Rights Institute of South Africa is a public interest law centre providing socio-economic rights assistance to individuals, communities and social movements in South Africa. SERI conducts applied research, engages with government, advocates for policy and legal reform, facilitates civil society coordination and mobilisation, conducts popular education and training and litigates in the public interest.

4.3.1 Aims and Objectives
To strengthen the CAO sector through facilitating an understanding of the importance of local government, its role and responsibilities and the direct impact it has on people’s lives.

The following modules were explored:
- Introduction and overview of local government.
- Roles and responsibilities, structures and committees.
- Key local government processes: understanding the budget and IDP.
- Local government, housing and basic services.

4.3.2 Profile of Participants
A total of 38 participants attended this course. Interestingly, more men showed interest in this session. Out of 21 participants in the first session, six were women and in the second session there were ten women out of 22 participants.

4.3.3 Emerging Themes
The recurring themes were in relation to developing a better understanding of local government roles and functions and accountability for service delivery.

4.3.4 Key Comments/recommendations
Some participants felt that the pitch of this course was too academic and it required more practical examples.
4.4. THE PARALEGAL MANUAL: CONSTITUTIONAL ISSUES

Course Title: Using the Paralegal Manual Effectively: An Introduction.

Presented by the Education and Training Unit.

The Education and Training Unit (ETU) for democracy and development produces the paralegal manual with the Black Sash. ETU trains community organisations, public representatives and public servants to improve their capacity to address the needs of poor people.

This 2-day course was presented by two facilitators from the Education and Training Unit (ETU) and was also repeated twice to provide an opportunity for more participants to attend the sessions.

4.4.1 Aims and Objectives

This course aimed to provide an overview of the contents of the Paralegal Training Manual (2011), with a focus on the following content areas:

- Overview of the Paralegal Training Manual.
- The role and function of the different spheres of government.
- Courts and their functions.
- South African Constitution and Human Rights.
- Land and Housing (excluding eviction).
- Citizenship with a focus on refugees and asylum seekers.

This training session explored further needs of new and existing paralegals and community advice offices. This served to provide feedback about the future design and content of the Paralegal Training Manual.

4.4.2. Profile of the Participants

The session was attended by mainly women and paralegals new to the Advice Office Sector. 10 people attended the first training session of which 3 were young men. 19 people attended the second training session of which 5 were men.

4.4.3. Themes emerging from the sessions

The participants, as new paralegals, had many questions and the following emerged during the sessions:

- **Consumer Rights**: National Credit Act - Understanding contracts and issues around debt collectors.
- **Farm workers rights**: (Seasonal worker)/Labour brokers /Casual workers.
- **Labour related issues**: Basic Conditions of Employment; Seasonal workers/Casual workers/Labour brokers.
- **Citizenship and identity**: Rights of foreign nationals versus South Africans. **Family related issues**: Customary marriages and related rights and the rights of children born out of wedlock, where there is no will.
4.4.4 Areas for further training
Further training needs identified by the participants included:

- Use of technology and information as a tool to access and educate.
- Information about the new Labour Relations amendments; Rights of Farm-workers including Seasonal workers; Basic Conditions of Employment.
- National Credit Act: Consumer Rights especially issues related to Debt Collectors.
- Facilitation skills, counselling skills and dealing with trauma, were some of the soft skills identified as essential.

4.4.5 Issues for Advocacy
- Professional recognition of the Community Advice Paralegal sector.

4.4.6 Key comments /recommendations
- In the absence of the provision of standard, basic training, this course should be an introduction to and criterion for ALL new Paralegals.
- Sections of the Paralegal Manual need to be updated annually and could be available and accessible through CDs that can also then be provided during training and workshops, and for self-learning.
- Paralegals at community advice officers should network and map out key resources and stakeholders in their own communities, especially government agencies.
- Community Paralegals should use diverse methods of advice giving, like workshops and community meetings instead of only providing one-on-one interventions.
- These interventions should ideally also include more pro-active, community education.

4.4.7 Resources
The Paralegal Manual
4.5. **EDUCATION AND TRAINING STRATEGY**

Facilitator: **Anil Naidoo** Independent legal consultant.

4.5.1. **Presentations to Education and Training Strategy**

Various speakers representing academia and other sectors provided presentations;

- Terwin De Vos: Rhodes University Accredited Paralegal Course
- Joy Davids: Accreditation via False Bay College, S.A. Law School
- Linda Cooper: Ditsela Course, University of Cape Town. Centre for Adult Education
- Noeleen Leach: Cape Peninsula University of Technology, Accreditation Path.
- Carol Friedman: Centre for Community Justice and Development, KZN Accreditation Path.
- Peter Lewis: Independent Consultant

Presentations highlighting the following key points:

- Similar struggles shared by the health sector and others (collaboration).
- Re-capturing of the popular space that has dissipated over 20 years.
- Education as an important domain of struggle.
- Progress has been made by the sector as a whole – shift in government toward collaboration and recognition.
- Examined different methods and models of delivery.
- The need for a global movement: Networking locally, regionally and internationally

4.5.2. **Participant Profile**: A total of 21 participants – 5 females and 16 males - representing various provinces actively took part in this session. Although smaller in number, the women in this group were vocal.

4.5.3. **Emerging Themes**

The discussion examined and identified the possible roles and functions of the School and the following points were highlighted as crucial:

- Addresses emancipation – empowering pedagogy – not commercial.
- Service disadvantaged communities.
- Marry the theories of change with the practice of development.
- Inform and Design our own manual.
- Leverage an army of effectively skilled and qualified cadre of paralegals.
- Linked to credible career pathing options.
- Use this knowledge to make democracy visible.
- Up-skill next cadre for the sector (Including women and youth).
- Act as custodians of best practice.
• Ongoing advocacy regarding the paralegal function.

This session used paralegals from the Advice office sector, specifically chosen for their experience to guide this discussion. The Education and Training Strategy session took place over the course of the week and ran parallel to the learning courses. These sessions were conceptualized to facilitate discussions and provide input and presentations from key educational institutional centres, as well as other sectors, focusing on the formalization and accreditation of the paralegal sector.

The first two days of the process explored and discussed the experiences and insights of those who had been active in community advice offices over several years. The rest of the programme included presentations and inputs by several key speakers whose experiences in similar processes could assist developing the Education and Training Strategy for the paralegal sector.

4.5.3. Framing the Process
The following points were highlighted at the beginning of the strategy process to provide an understanding and framework for discussions:

• **Participant Selection** was based on: ability, experience and capabilities to add value to the Education and Training session.
• **Goal**: Developing a strategy for the Dullah Omar School. This includes identifying the training needs, opportunities and accreditation to formalize the training of paralegals and community advice offices.
• **Process**: A structured and facilitated information gathering process focusing on available resources based on an internal and external scan.
• **Outcome**: A draft strategy to develop the capacity of the paralegal sector.

The initial discussion in the group highlighted the need for training as a priority and for exploring the possibility of learnerships and career-pathing within the sector. The participating paralegals demonstrated a high level of enthusiasm about their inclusion. The participants expressed the following key points:

• Up-skilling the sector needs to be according to Adult Education principles that focus on human rights.
• Issues of training and quality control needs to be coordinated and endorsed by NACAOSA, who should also be the guardians of the initiative.

4.5.4. Opportunities presented by the Dullah Omar School
Further group discussions examined opportunities presented by the Dullah Omar School and the following points were raised:

1. A national accredited paralegal school.
2. Different levels of qualifications, which could reflect a CAO status (star) – depending on number of courses attended by paralegals.
3. Re-gain credibility through a rigorous, standard, accredited course.
4. Increased relevance based on community need. Make democracy respond to the rule of law.
5. Address legal empowerment and provide effective legal advice at community level.
6. Evolving role of CAOs.
7. Self-Sustainability through own actions e.g. business wing to pay own initiatives.
8. Networking with a range of other partners.
10. Ultimately, regulation of the sector through collaboration with government.
11. Training of trainers
12. Platforms for recognition

4.5.3. THE EDUCATION AND TRAINING STRATEGY PLAN

Anil Naidoo facilitated the development of a vision and mission for the school.

VISION FOR THE SCHOOL:
The Dullah Omar School strives to become a global centre for excellence in equipping community-based paralegals (CBPs) with skills, knowledge and expertise to ensure access to justice in order to enhance our contribution towards social justice.

MISSION:
To develop a sustainable Community Advice Office (CAO) sector and embrace access to justice for marginalised communities.

The overall Education and Training Strategy is attached as Appendix 1.
5. ADDITIONAL INTER-ACTIVE LEARNING OPPORTUNITIES

5.1. CASE CONFERENCES
A slot for case presentations took place at plenary sessions from Monday to Thursday. These presentations and case discussions were always facilitated by a panel, which provided expert legal advice and guidance to problem-solve the selected cases presented by participants. Legal Wise, Pro Bono and Black Sash facilitated some of the plenary sessions.

5.2. A VISIT TO CONSTITUTIONAL HILL
An afternoon was allocated to visit Constitutional Hill. The Honourable Judge Edwin Cameron addressed the participants. They later had a guided tour at this location.

5.3. FILM SCREENINGS
Several recent and locally produced films\(^8\) had been selected for screening during the course of the Dullah Omar School. These were held in the evenings and were chosen for their informative and factual value. The content of the selected films raised awareness of key human rights issues currently at the forefront of debate in South Africa. They provided additional insights and points for lively discussion.

- **Miners Shot Down: Rehad Desai/ South Africa/2014/86min**
  A focus on Labour Rights in South Africa and the portrayal of the tragic events, which took place at the Marikana Mine protest strike that left many, mine workers killed and maimed. Miner workers interacted with the advice office paralegals, about the events leading up to the tragedy and the consequences for themselves and their families.

- **TAC - Taking HAART: Jack Lewis/Lucilla Blackenberg/South Africa/2014/99min**
  TAC – Taking HAART provides a fly on the wall view of how outrage ignited a movement that united people across race and class. It built coalitions, used the courts, peaceful protest and civil disobedience to achieve its objectives. TAC played a critical role in showing how the bill of rights entrenched in the South African constitution could be used to win constitutional rights and to change government policy. It was through such a mass movement that the right to universal access to HIV/Aids treatment was won.

- **Crumbs – The toppling of the Bread Cartel: Dante Greef & Richard Finn Gregory/ South Africa/2013/57min**
  This documentary tells the story of Imraahn Mukaddam, the whistle blower who exposed corporate bread price fixing. It underscores the fight for economic justice and the personal cost of blowing the whistle on corporate greed. It highlights corporate secrecy and the critical role of whistleblowers in fighting inequality.

\(^8\) *We would like to thank the makers of the films for allowing us to make this screening possible and for providing permission for distributing copies to our participants.*
6. EXCERPTS FROM EVALUATIONS

81 Evaluation forms were collected from participants. These are some responses:

1. **Why did you attend the school?**
   - To know and learn more about social security, labour courses. So that I can help my community. 011
   - I attend this school because I want to learn more about the use of the paralegal manual and how to use it during our consultations with our clients. And to learn more about family law. So to equip me with more knowledge that will invoke my skills as a paralegal and to equip me to be able to do a better job or to do better service delivery. 012
   - So that I can learn more about the work I do as a paralegal in my community. I always need update in new laws as I am always attending different classes. KZN

2. **What were the key areas in which you received training?**
   - Family law, traditional law, how to use the paralegal manual as a tool in my office. SB
   - Labour law, how to help people, especially farm worker to teach them about their rights and responsibilities as the workers. Also on paralegal manual because it consists of a lot of information. 001
   - Labour rights, social security. 011
   - Paralegal manual, the duties of a paralegal and how to use the manual, citizenship and xenophobia, Family law, we learned about maintenance, divorce and the marriage and domestic violence. 012
   - All information about the paralegal manual. 002

3. **Were the areas in which you received training directly linked to your own needs – applicable to your organisation too?**
   - It covered my needs to address issues and cases. My organisation will benefit from this because we are the only NGO in the area. SB
   - My community members are facing the problems regarding social grants and the challenges in their workplace. Now I have solutions to the problems that we are facing. Very much because our organisation is helping our community a lot so this information that I got I am gonna help our people. 001
   - Yes they were directly linked to my organisation needs. We handle 40% of labour cases and 30% of family law cases. 006
   - Yes but although they were not all covered because of time, but I gained a lot. KZN

4. **What do you think you were meant to benefit from the training?**
   - The resource manuals which will help or assist to mobilise our community members to improve access to justice. SN
   - To just know that a specific group of organisation is there helping us to deal with each problem that we face every single day of our work as paralegal. We gain more resources and knowledge. 004
I generally think that the courses we did at the school will benefit the organisation and our community at large. SM

Skills and knowledge which will help me to do my job properly and professionally. 008

Intensive training in leadership and qualitative paralegal. Self-esteem in terms of interacting in the media. 017

5. **What were the main positives and successes during your participation at the school?**
   - The facilitators were very much helping where we could not understand and they were patient with us. 001
   - Local government, IDPs and local government. 002
   - As a paralegal advisor who’s also involved in facilitation for peer education in schools. I am so inspired with the criteria in which our facilitators used in engaging with the group which I will also adopt in going forward. SN
   - Information and professionalism by facilitators. SN 2
   - Worker’s rights and to understand how to approach our councillors in our community so that we can help them. 003

6. **What were the main challenges you experienced?**
   - Domestic violence, land affair (evictions), child labour and exploitation, social grant which have been violated. 004
   - I’ve experienced that I need more knowledge on divorce cases and how to handle the cases without being emotional. 005
   - The challenge was that we were not able to attend all of the courses. 006
   - I came here knowing nothing so I was too quiet listening to other people but they give me a vision and from now onward I am going to participate. 010
   - Was the way that we workers are treated so badly at their work. Farm workers are treated somehow by the employee. What are we going to do about those deduction that we see from CPS. 011

7. **Suggest any improvements for next school.**
   - If we could spend more time on subjects, especially in the laws. SB
   - Enough time to teach and get us to invite more stakeholders so that we can more experience. 001
   - Next school must add more stakeholders. Thanks for everything. 002
   - The Dullar Omar team must work on the duration of the courses. SN
   - It’s perfect. Add more on legislation. SN 2