

# Report:

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## **Oral Presentation by Nadcao and National Task Team on Community-Based Paralegals to the Portfolio Committee on Justice and Constitutional Development on the Legal Practice Bill: 28<sup>th</sup> May, 2013 at 11h00 at Parliament – Cape Town**

Nadcao together with the National Task Team (NTT) on Community-Based Paralegals (CBPs), supported by Advocate Anil Naidoo of Indiba-Africa, made an oral submission to Parliamentary Portfolio Committee on Justice and Constitutional Development calling on Parliament to include the paralegals in the *Legal Practice Bill* (LPB) because as it is, the *Bill* excludes them. The oral submission started off with both Nadcao and the NTT giving a background of CBPs and the work they do in their Community Advice Offices (CAOs). The role of CAOs has been very significant in assisting victims of unjust apartheid system in the history of South Africa. Thus, CAOs were mediators and also seen as Alternative Dispute Resolution organs by those who had lost hope in the discriminatory apartheid state machinery in the 1970s and 80s when apartheid system intensified. CAOs today continue to ensure access to justice for the poor and marginalised.

The concern for the CBPs was that the previous pieces of legislations such as the draft of the LPB mentioned and acknowledged the work of paralegals, whereas the current LPB as it is excludes them despite earlier discussions between CBPs and the Department of Justice. Nadcao and the NTT argued that countries like Sierra Leone; Malawi; and Zimbabwe, among others, recognize paralegals and in some cases they represent clients in the lower courts. The United Nations Principles and Guidelines to Legal Aid also emphasise the need for paralegal service as is important in the justice system. Therefore CAOs are seen as primary-level entities for marginalised rural communities. Nadcao and the NTT made it clear to the Committee that while they call for inclusion of paralegals in the *Bill*, government also needs to come on board to make funding available to the CAOs because they continue its (government's) constitutional mandate of making justice accessible to everyone including the poor. Nadcao and NTT are studying on the workable funding model. CBPs refer their cases to Legal Aid South Africa (LASA) whom they have a working relationship with.

The Portfolio Committee acknowledged the crucial work done by the CAOs and emphasised the need to have a regulatory framework for the paralegal sector. However, the Committee argued that it is not practical to include the paralegals in the *Bill* at this juncture as the *Bill* itself is at the very advanced stage. There is desire to wrap-up the *Bill* before the 2014 general elections. The Committee then committed that it will prepare a report that will be attached to the *Bill* that will argue for a legislative framework to be developed for paralegals and the report will urge the Minister to report on the processes needed to engage paralegals and regulate their work.

The Committee then recommended that Nadcao and the NTT come back after elections to lobby the incoming Justice Portfolio Committee Chairperson to push for such a framework to be developed. The Committee highlighted that there could either be a separate regulation or an amendment the Legal Practice Act (after this *Bill* has been signed into law) in order to recognise the paralegal sector. They cautioned Nadcao and NTT on the impact of state funding on the independence of the sector, they cited the challenges that the Public Protector was grappling with as a case in study.

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The Department of Justice was represented by Lawrence Bassett, Ray Daya and Wilma Louw, at the meeting, responded by acknowledging the conversations they had with Nadcao and confirmed that the facts that were presented in front of the Portfolio Committee were true and correct, however this was a "compromise" *Bill* and they acknowledged their support for a separate legislation for paralegals.

### **Delegation that made a submission before the Committee was composed of:**

1. Ms Nomboniso Nangu Maqubela –Interim Director: Nadcao
  2. Mr Seth Mnguni – Spokesperson: National Task Team on Community-based Paralegals
  3. Adv Anil Naidoo – CEO: Indiba-Africa
  4. Mr Thabiso Nyapisi – Project Officer - Knowledge Management: Nadcao
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### **Compiled by Thabiso Nyapisi:**

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