

**Annual Report of the
Legal Assistance Trust and
the Human Rights Trust**

1 July 1991 - 30 June 1992

TRUSTEES

THE LEGAL ASSISTANCE TRUST

The Honourable Kenneth Bethune (Chairperson)

Hosea Angula

Geoff Budlender

Jeremy Gauntlett, S C

David Smuts

Dr Teopolina Tueumuna

The Hon Ben Ulenga

THE HUMAN RIGHTS TRUST

The Right Rev K Dumeri

The Right Rev B Haushiku

The Right Rev J H Kauluma

D F Smuts

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LEGAL ASSISTANCE CENTRE

Lawyers

David Smuts (Director)

Andrew Corbett

Michaela Figueira

Gail Super

Paralegals

Ono Angula

Chaka Goraseb

George Mhoney

Rosa Namises

Pero Nampila

Administrative and Support Staff

Joy Bartlett

Stella Bezuidenhout

Jacqueline Daniels

Sophia James

Shirene Martin

Maria Ndura

Mona Pfeifer

Toivo Shovaleka

Danita van der Waal

Fanie Windstaan

Anita Witt

HUMAN RIGHTS CENTRE

Paralegals

Ben Ausiku

Olivia Imalwa-Ekandjo

Karl Ndroma

Erastus Uutoni

Administrative and Support Staff

Meme Nangolo

Ruth Uudjombola

WALVIS BAY ADVICE OFFICE

Wilfred Emvula (paralegal)

Anitha Tjivangurura

RUNDU ADVICE OFFICE

Ambrosius Haingura (paralegal)

Paulina Kalola

Matheus Sinonge

NOMTSOUB ADVICE OFFICE

Nico Kaiyamo (paralegal)

Cornelia Kashala

THE LEGAL ASSISTANCE AND HUMAN RIGHTS TRUSTS

The Legal Assistance Centre (LAC) was founded in 1988. It is a non-profit public interest law centre based in Windhoek and is the only centre of its kind in Namibia. It provides legal and educational services in the public interest to people who would not otherwise have access to the legal system.

In addition to the Windhoek Office, there are five other affiliated advice offices in Namibia. These are the Human Rights Centre in Ongwediva, the Rundu Advice Office, the Walvis Bay Advice Office, the Nomtsoub Advice Office in Tsumeb and the Keetmanshoop Advice Office, which opened its doors in January 1992.

The LAC was established and carries out its work with the approval of the Law Society of Namibia and the Society of Advocates of Namibia.

The LAC does not charge fees to its clients. Consequently, it is not allowed in terms of the rules governing the legal profession in Namibia, to recover legal costs, other than out of pocket expenses, even when successful in litigation. The offices are accordingly entirely dependent on donation income. This is received through the Legal Assistance Trust for the Legal Assistance Centre, the Nomtsoub Advice Office, the Walvis Bay Advice Office and the Keetmanshoop Advice Office, and the Human Rights Trust in respect of the Human Rights Centre and the Rundu Advice Office.

The Legal Assistance Trust was formed in February 1988 in order to receive and control the funds donated for the purposes of establishing the Legal Assistance Centre (LAC) and funding its activities. The impetus for its establishment came from various churches in Namibia, the national trade union federation (the National Union of Namibian Workers), the umbrella student organisation (The Namibian National Students Organisation - NANSO), various community organisations and importantly, from local practitioners and colleagues associated with the Legal Resources Centre in South Africa.

The Trust is chaired by Kenneth Bethune, a retired Namibian judge. Other Trustees are Geoff Budlender, a trustee and founder of the Legal Resources Centre in South Africa, Jeremy Gauntlett, a senior advocate of the Cape Bar who has been active in human rights work in Namibia, Ben Ulenga, Deputy Minister of Wildlife, Nature Conservation and Tourism and former General Secretary of the Mineworkers' Union of Namibia, Dr Teopolina Tucumuna, a medical doctor of the Oshakati State Hospital, Hosea Angula, an attorney of Windhoek and David Smuts, Director of the LAC.

The work of the Trust has been generously supported by funding from foreign governments, non-governmental organisations and churches, and recently, the first local private donors. During the year under review, grants were received from the following organisations:

British High Commission	Danchurchaid
Friedrich Naumann Foundation	Ford Foundation
Swedish Embassy	Lawyers Committee for Civil Rights
CDM	NOVIB
SIDA	Oxfam UK and Ireland
Norwegian Embassy	UNICEF
Church of Norway	Trocaire
Church of Sweden Aid	New Prospect Foundation

The Human Rights Trust funds and controls the Human Rights Centre and the Rundu Advice Office. The Trust was established in 1987.

The impetus for its establishment came from various churches in Namibia as well as from individual church and community leaders. At the commencement of its activities in 1988 the Human Rights Centre in Ongwediva, northern Namibia had been subjected to many years of guerrilla war and with it, human rights abuses and oppression on a large scale, which included mass detentions, deaths, disappearances and the destruction of property. It was in this context that the need for a law centre to assist the victims of widespread human rights abuses was identified and the Human Rights Centre was established. The need for a law centre in northern Namibia was and is compounded by the fact that there are no full-time practising lawyers based in the far northern region of Namibia, where more than half of the Namibian population lives.

The Human Rights Centre, and the Rundu Advice Office accordingly provide a service to people who would otherwise have to travel hundreds of kilometres in order to obtain legal assistance.

The Trustees of the Human Rights Trust are David Smuts, the Right Reverend B Haushiku, the Roman Catholic Bishop of Windhoek, the Right Reverend Kleopas Dumeni, Bishop of the Evangelical Lutheran Church in Namibia and the Right Reverend James Kauluma, Anglican Bishop of Namibia. The work of the Human Rights Trust has also been generously supported by funding from foreign governments, non-governmental organisations and churches. During the year under review, the Friedrich Naumann Stiftung paid most of the expenses of the Human Rights Centre whilst NOVIB covered the costs of the Rundu Advice Office.

Although a separate Trust, the work of the advice offices funded by the Human Rights Trust is supervised and controlled by the Director of the Legal Assistance Centre (who also serves as a Trustee of the Human Rights Trust).

THE LEGAL ASSISTANCE CENTRE (LAC)

For the most part of the year under review, the Legal Assistance Centre enjoyed the services of an advocate, two attorneys, five paralegals and eleven administrative and support staff. During the course of the year several of the support staff left the Centre. These included Jacqueline Daniels, Stella Bezuidenhout, Danita van der Waal and Fanie Windstaan. They were replaced by Mona Pfeifer, Shirene Martin and Sophia James. From the ranks of the paralegals Chaka Goraseb resigned during the year under review. However, the Centre was fortunate to have Rosa Namises and George Mhoney join the staff paralegals during the same period. The Centre's lawyers, Andrew Corbett and Michaela (Clayton) Figueira, who have been with the Centre since its inception, were joined at the end of the year under review by Gail Super.

One of the paralegals, Pero Nampila, acts as the National Coordinator of the Legal Education Project, taking responsibility for the legal education work of all of the advice offices. Toivo Shovaleka was appointed as National Administrator of the LAC and the affiliated offices during 1990/1 and continues to fulfil this function.

The general approach and policy of the LAC and its affiliated advice offices is to take on cases in the public interest in which the outcome may have an impact on the rights of a group of people rather than cases which merely benefit individuals themselves. These include cases which may represent particular forms of abuse or exploitation which call for redress. These are broad guidelines and it has only been through experience that the staff of the LAC and its affiliated advice offices have been able to identify those cases appropriate for consideration and action.

There has often been a tendency to err on the side of lenience, given the inevitable reluctance to turn away people in need. The sheer volume of work has been and continues to be a source of pressure. It is encouraging, however, that following the introduction of formalised paralegal training, more and more cases and disputes are resolved by paralegals at advice office level.

The lawyers at the LAC service and provide legal back-up to all of the affiliated advice offices. Paralegals at the advice offices investigate and in many instances are able to finalise cases by giving the required advice or taking appropriate action themselves. When the intervention of lawyers is required, the matters are referred to the LAC for the taking of necessary legal action by the attorneys based there.

Most of the clients who approach the LAC and its affiliated advice offices for assistance, live in remote rural areas. Many of these clients do not have access to telephones and the postal service is not effective or non-existent in most areas, so communication about cases is often difficult. Frequently, the regional radio services are used to broadcast requests for clients to call upon offices for consultations and for furnishing further information and instructions regarding cases. Paralegals and staff lawyers are also frequently required to travel several hundred kilometres to remote areas in order to provide effective legal services to outlying communities.

The extensive travel places one of the biggest stresses upon the staff of the LAC, given the enormous distances to some of the outlying areas. The use of public transport has in some instances assisted in overcoming some of these problems but this service is seldom used owing to the fact that the service is erratic and extremely costly.

During the year under review, paralegals at the Legal Assistance Centre opened approximately 117 new files. A breakdown of the caseload is as follows:

<u>CASES</u>	<u>%</u>
Dismissals and notice pay claims:	52
Workmen's Compensation claims:	14
Pension claims:	6
Housing:	2
Other labour matters:	5
Maintenance:	7
Other matters:	14

During the year under review, the attorneys at the Centre handled over 220 cases, in most of which litigation was launched. A breakdown of these cases is as follows:

<u>CASES</u>	<u>#</u>
Claims against security forces:	47
Criminal matters:	14
Eviction and housing matters:	7
Consumer matters:	3
Land disputes:	2
Pensions matters:	13
Dismissals:	39
Other labour matters:	21
Delictual claims:	6
Refugee matters:	1
Maintenance matters:	6
Aids matters:	1
Other:	60

In addition to the work of the Legal Education Project, both lawyers and paralegals based at the Centre addressed and participated in workshops and seminars organised by local community-based organisations, trade unions and non-governmental organisations.

THE HUMAN RIGHTS CENTRE (HRC)

The Human Rights Centre is situated at Ongwediva in northern Namibia. It opened its doors in July 1988. During the year under review, the Centre was staffed initially by four and thereafter by three full-time paralegals and two support staff. The work of the Centre is divided into two components, namely the provision of legal services and community legal education. The HRC Coordinator is Karl Ndroma.

During the year under review, the caseload of the Human Rights Centre underwent a significant shift. This represented a continuation of a trend which became apparent during the course of 1989 and 1990. Following the cessation of hostilities towards the end of May 1989 during the implementation of UN Security Council Resolution 435, the number of human rights violations at the hands of the South African-backed security force apparatus dropped off considerably. A further decline in security force violations was experienced after the final removal of Koevoet elements from the security forces later in 1989.

The number of human rights violations perpetrated by security force members dropped still further following independence. Although detention without trial is no longer authorised by the Namibian Constitution, detentions still occur in the area at the hands of tribal authorities and the Centre has acted against the Uukwanyama Tribal Authority on behalf of detainees. The incidence of assaults at the hands of security force members dropped from 24% during 1989 to only 4% of cases handled by the Centre during the year under review.

The dramatic shift in the caseload of the Centre can be attributed to the drastic reduction of the security force presence in the area, with the area formerly being a war zone and occupied by tens of thousands of defence force members and more than 2 000 "Koevoet" members of the Police.

The breakdown of the caseload reveals a shift towards cases involving social and economic rights. The majority of the cases now attended to by the Human Rights Centre are labour-related and include, for example, unfair dismissals and non-payment of salaries owing. The number of women coming to the Centre seeking assistance with claiming maintenance in respect of their minor children has also increased substantially.

CASE	%
Dismissals and outstanding payments to employees:	41
Pensions:	22
Workmen's Compensation:	1
Land and Housing disputes:	4
Assaults and harassment (by employers and NAMPOL):	4
Customary matters:	4
Consumer-related matters:	3
Other matters, including matrimonial and general advice:	21

The Legal Education Project (LEP), co-ordinated in the north also by Karl Ndroma, covered a lot of ground during the period under review. Various seminars and workshops were organised with church groups and other community-based organisations on topics such as the Constitution and the powers of the Police. The LEP also prepared materials for presentation on the local radio dealing with various issues including maintenance, criminal procedure and bail for accused persons.

THE RUNDU ADVICE OFFICE

The Rundu Advice Office Coordinator, Ambrosius Haingura, is assisted by two part-time administrative personnel. The office serves a huge area, comprising more than 50 000 square kilometres, with a population of approximately 120 000.

This office also experienced a significant shift in its caseload, following independence. Prior to independence, the largest portion of the caseload involved human rights abuses perpetrated by security force elements. Following independence and during the year under review, the largest portion of the work in the office also related to the enforcement of social and economic rights.

Dismissals and other employment-related matters together with pension enquiries formed the bulk of the work of the office.

THE WALVIS BAY ADVICE OFFICE

The Walvis Bay Advice Office is based in Walvis Bay's black township of Kuisebmond. It also services the community of Swakopmund with the Coordinator, Wilfred Envula, being based in Swakopmund one day per week.

Many of the cases handled by the office continue to deal with difficulties resulting from the South African administration of the enclave which include the abuse of police power, particularly at the main border post between Swakopmund and Walvis Bay. However, a large proportion of the work is comprised of labour-related matters. The number of maintenance cases reported to the office has also increased. But the rendering of assistance in many of these cases has been frustrated by the fact that Walvis Bay remains part of South Africa, making it impossible for maintenance orders to be enforced against persons residing in Namibia.

A number of assaults on workers by employers have been reported to the Walvis Bay Advice Office. In one such matter client's claim against the employer was settled for an amount of R 9 000-00.

Ninety-six files were opened by the Walvis Bay Advice Office during the year under review, the breakdown of these cases being as follows:

CASE	%
Dismissals and salary disputes:	30
Pension matters:	3
Claims against security force members:	14
Workman's Compensation:	10
Maintenance:	6
Security force / employer assaults:	25
Medical Negligence:	2
Consumer:	1
Other advice, including matrimonial and general advice:	9

Apart from his weekly visits to Swakopmund, Wilfred Envula also visited Spitzkoppe, Usakos and Karibib during the period under review. In addition to the Legal Education Project activities, Mr Envula was requested to represent Walvis Bay residents on the Joint Technical Committee entrusted with the task of drafting terms of reference for the Namibian/South African Joint Administration to be established in Walvis Bay.

THE NOMTSOUB ADVICE OFFICE

The Nomtsoub Advice Office is located in the township adjacent to Tsumeb in the central northern region of Namibia. The Coordinator of the office is Nico Kaiyamo who is assisted by a secretary.

The office serves not only the community of Tsumeb, but also those of Grootfontein, Otavi, Outjo, Otjiwarongo and the surrounding farm areas.

Ninety-five files were opened by the Nomtsoub Advice Office during the year under review. The majority of cases referred to this office relate to unfair dismissals and pensions. A breakdown of the caseload is as follows:

<u>CASE</u>	<u>%</u>
Dismissals:	23
Pension matters:	27
Workmen's Compensation:	11
Maintenance:	3
Consumer:	5
Other matters:	19
<u>Housing:</u>	<u>12</u>

During December 1991, Nico Kaiyamo attended the Zimbabwe Paralegals Retreat organised by the Legal Resources Foundation in Bulawayo at which he presented a paper entitled "Namibia - Legal Assistance to Disadvantaged Communities".

Under the guise of the Legal Education Project, Nico conducted 30 sessions at the Otjikoto Secondary School for Grades 10 - 12. He also facilitated the compilation of statistics for a project sponsored by UNICEF entitled "Women and Children in Difficult Circumstances".

After the resignation of Ambrosius Haingura of the Rundu Advice Office in April 1992, Nico assisted with the running of the Rundu Advice Office by travelling to Rundu twice a month to consult with clients and follow up on cases taken on by the Office.

THE KEETMANSHOOP ADVICE OFFICE

The long-awaited advice office in the south of the country opened its doors as the Keetmanshoop Advice Office on 2 January 1992. This was made possible by very generous donations from Oxfam UK and Ireland and the British High Commission, and Consolidated Diamond Mines Ltd.

The Keetmanshoop Advice Office serves the entire southern region from Mariental in the north to Noordoewer on the border with South Africa and the work of this office is co-ordinated by Aloysius Katzao. He is assisted by a secretary, Wilma Isaaks.

In the six months of its operation during the period under review, this office opened 115 files. By far the majority of cases attended to by this office have involved complaints relating to imprisonment for civil debts and abuses of the Section 65 procedure for the collection of civil debts. Other problems commonly dealt with by this office include non-payment in terms of pension and insurance policies.

A breakdown of the case load is as follows:

<u>CASE</u>	<u>%</u>
Unfair dismissals:	7
Pensions:	17
Workmen's Compensation:	7
Maintenance:	9
Insurance:	12
Housing/land/debt collection:	33
Assaults:	5
Medical Negligence:	1
Other:	9

On the Legal Education front, Mr Katzao has introduced the programme to the local schools and held a teachers' seminar to facilitate the use of the legal education programme in schools.

OTHER ACTIVITIES OF THE CENTRE

During June 1992 the Legal Assistance Centre hosted a regional conference on human rights and criminal law reform. The conference was attended by representatives of the legal profession from the various southern African countries and papers were presented on several aspects of procedural justice. Andrew Corbett presented a paper on the use of Anton Piller procedure for obtaining evidence of torture in civil proceedings.

Michaela Figueira represented the Centre on the Refugee Support Committee instituted by the UNHCR to coordinate NGO efforts in assisting refugees. She also initiated the establishment of Sisters-in-Law, a discussion group for women working in law-related fields. At a conference in Johannesburg on "Legal Rights and Aids" organised by the Johannesburg-based Aids Consortium, Ms Figueira presented a paper on "Aids and Human Rights in Namibia", a critical analysis of national Aids policy adopted by Cabinet in June 1992. At the Police College in Windhoek she gave numerous half-hour lectures and facilitated a five-hour seminar on "The Role of a Defence Attorney" and "Criminal Procedure and Human Rights", for detectives and chief inspectors.

Andrew Corbett attended a sitting of the African Commission on Human and People's Rights in Tunis, where he presented a paper to the Commission on civic education in Namibia.

STAFF TRAINING AND DEVELOPMENT

The Legal Assistance Centre and its affiliated offices are committed to upgrading staff skills and to the continuing education of members of staff.

It was decided to concentrate on the improvement of skills of paralegals at the Centre.

There is a severe shortage of lawyers in Namibia - less than 100 lawyers in private practise in the entire country. None of these practise in the northern regions of the country where more than 60% of the population resides. Only about 5% of the lawyers in private practise are black, and even less are women. These factors, and most importantly the absence of an effective legal aid system, mean that the legal system is inaccessible to most Namibians.

In order to make the legal system more accessible to people at a community level, the Legal Assistance Centre and its affiliated advice offices rely heavily upon the services of paralegals drawn from the communities they serve. These paralegals usually have no formal legal training but have over the past years received formal in-service training with the Centre.

The need for more ongoing training of paralegals was identified at a meeting in June 1991 and a formalised programme was structured. During the year under review four one-week intensive training sessions were held with follow-up assignments being given for completion after each session. Topics covered included the role of paralegals and the general function of advice offices, alternative dispute resolution techniques, social security legislation, labour legislation, processing claims, prescription periods, the basic laws of contract and delict and certain other general matters. These courses were conducted by the attorneys at the Centre.

Administrative and support staff also underwent training and attended computer courses during the year under review.

Nico Kaiyamo of the Nomtsoub Advice Office attended a seminar for paralegals organised by the Legal Resources Foundation in Zimbabwe during December 1991, where he presented a paper entitled "Namibia: Legal Assistance to Disadvantaged Communities".

In June 1992, Michaela Figueira of the Legal Assistance Centre attended a conference in Johannesburg, South Africa on the topic of "Legal Rights and Aids", where she presented a paper on "Aids and Human Rights in Namibia". Ms Figueira has been doing an increasing amount of research and work in the area of human rights and Aids, concentrating particularly on issues of discrimination.

Pero Nampila, the Legal Education Project national co-ordinator, attended a six-week course at the University of Lund in Sweden during April and May of 1992, covering human rights instruments and humanitarian law.

Rosa Namises of the Legal Assistance Centre was invited to attend a number of workshops and seminars in Namibia, particularly focusing on gender-related issues.

LAC BURSARIES AND SCHOLARSHIPS

The Centre continued its assistance to Namibian students furthering their studies at university level through its Bursary Fund. The fund was created as a result of the disruption of bursary programmes and funding institutions as a consequence of the implementation of the UN Peace Plan in the second half of 1989. A number of students who were at second or third year level of studies were stranded without bursary funds to pursue their studies in 1990.

The Centre responded by approaching donors to assist the students. Two of the three students who are being assisted completed their studies at the University of Cape Town at the end of the 1991 academic year, whilst the third student, studying law, will complete his studies at the end of 1992.

At the end of 1991 a new and separately funded LAC Scholarship Fund was established with the very generous assistance of the Ford Foundation and NORAD to assist Namibians in pursuing legal studies from the beginning of 1992. An independent panel comprising Ms Figueira and Mr Shovaleka from the Legal Assistance Centre, a representative from the Ministry of Justice and a High Court judge, selected the scholarship recipients from more than 60 applicants who competed for the available scholarships which were advertised nationally in Namibia.

The principle of affirmative action was applied in the selection process and the selection panel tried, as far as possible, to ensure that the scholarships were awarded to students from the different regions in Namibia.

Scholarships were awarded to 10 students for the 1992 academic year for studies in the field of law at various South African universities. With the exception of one of the scholarship recipients, all are first-year students. As the aim of the Scholarship Fund is to facilitate the training of Namibian lawyers, it is a condition of the scholarship that the recipient return to Namibia and practise law for a period at least equal to that period for which the scholarship was held.

The Legal Assistance Scholarship Fund is administered by one of the attorneys at the Legal Assistance Centre, Michaela Figueira with the assistance of Mona Pfeifer.

THE LEGAL EDUCATION PROJECT

The Legal Education Project has been implemented in all of the regions served by our various advice offices by the project co-ordinators at those offices. Whilst the initial emphasis of the project was on conducting lessons in the schools, there has been a shift during the year under review towards concentrating more on the training of teachers to facilitate the continuation of the project in the schools by the teachers themselves. To this end a teachers' training manual has been developed by the project co-ordinators with the assistance of attorneys at the Centre and a total of nine teacher training seminars were held countrywide which were attended by more than 100 teachers.

In addition to the programme in the schools, the Legal Education Project has also facilitated a number of workshops and seminars with churches and community-based women's, youth and other organisations, covering issues such as the Constitution, women's rights and violence against women, gender awareness, maintenance, housing and the new Labour Act.

A shortage of resource material has been an ongoing problem for the Legal Education Project co-ordinators and much work has been done during the year under review to try and alleviate this problem by developing materials for use by the project. Pamphlets on maintenance, violence against women and court procedures have already been completed and work is underway to produce further pamphlets covering issues such as drug and alcohol abuse, children's rights and divorce. The first draft of the teachers' training manual has been completed and the co-ordinators are engaged in an ongoing process of refining this manual.