


LEGAL ASSISTANCE CENTRE



ANNUAL REPORT 2001

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FOREWORD

The past year has been yet another eventful and challenging one for the Legal Assistance Centre.

The year saw attacks upon the independence of the judiciary and marginalised groups by senior members of government and also steps taken against the independent media by government. These and other developments emphasised the ongoing need for the Centre and its mission and the need to nourish the development of a human rights culture and for it to take stronger root in Namibia.

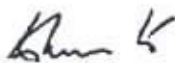
During the past year and amidst these and other challenges, Clement Daniels completed his second year at the helm of the Centre. Under his able and effective leadership, the Centre has continued to make a contribution in various ways, given the varied nature of its activities. These range from continuing with the Centre's established work in the field of impact litigation in human rights and constitutional cases, to newer areas of activity such as the innovative work of the Aids Law Unit. The activities also include other well-established internal projects such as in the field of land and environment, juvenile justice, editing the Namibian Law Reports, legal education, research, advocacy and publications in different areas, including domestic violence, children's rights and equality in marriage and divorce.

The LAC News has become a welcome and regular feature in disseminating information about these activities and generally concerning human rights issues in Namibia. Two special highlights over the past year have been the training of paralegal volunteers and the publication of reports on the status of the San people in Southern Africa.

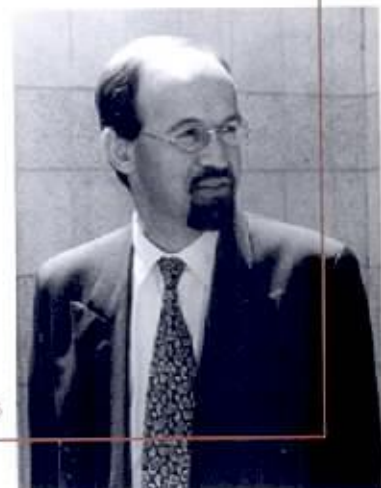
In furthering the work of the Centre, Clement has been admirably assisted by the talented and dedicated staff of the Centre. I take this opportunity to express my warm thanks to the entire staff for their continued commitment.

The work of the Centre and its component projects would of course not have been possible without the generous support of the Centre's donors. Their continued support is indeed greatly appreciated.

In closing, I also take the opportunity of extending my warm thanks to my fellow trustees for their invaluable input and commitment and for their time so freely given..



DAVID SMUTS
Chairperson
Board of Trustees



David Smuts

LAC's POLICY AND PLANNING COMMITTEE



Back, left to right:

Clement Daniels (Director), Norman Tombe (LEAD Coordinator), Gwen Kotze (Secretary),
Rudolf Gawassab (Accountant), Leigh-Anne Agnew (GR&AF Representative)

Front:

Alloysius Katzap (Keetmanshoop Regional Office), Eva Weltz (LAC Manager), Toni Hancox
(HURICON Coordinator), Ruth Hekandjo (Ongwediva Regional Office), Trudy Boock (Hardap
Regional Office), Michaela Figueira (ALU Coordinator)

MISSION STATEMENT

The Legal Assistance Centre, being a public interest law centre, strives to make the law more accessible to those with least access, through education, law reform, research, litigation, legal advice, representation and lobbying, with the ultimate aim of creating and maintaining a human rights culture in Namibia.

LEGAL ASSISTANCE
CENTRE

OFFICE HOURS

Monday - Friday

08h00 - 13h00

14h00 - 17h00



The logo of the Legal Assistance Centre depicts the scales of Justice and Equality

1. INTRODUCTION

The Legal Assistance Centre was founded in 1988 as a public-interest law centre and is the only Namibian organisation currently involved in public interest litigation and related activities in Namibia.

On the human rights front, 2001 was an extremely challenging year. We believe that, despite some setbacks and negative activities, the Legal Assistance Centre and other civil society organisations have made some progress regarding the establishment and maintenance of a human rights culture in Namibia. The first half of the year was particularly destructive in respect of human rights as a result of public statements made by top government officials and politicians. These statements, however, activated civil society organisations and human rights activists to come out strongly in support of our constitutional democracy, the protection of human rights, in particular the rights of gays and lesbians, the independence of the judiciary and freedom of the media.

As a result of these activities and related campaigns, government officials have toned down their anti-human rights rhetoric, which has created an environment for positive discussion and debate on some of these issues. The Legal Assistance Centre has been active in these human rights activities and campaigns.

This report highlights some of the activities that were executed by the Centre in 2001. More detailed project reports are available for interested members of the public.

2. MANAGEMENT AND ADMINISTRATION

The Legal Assistance Centre continues to build on its reputation as one of the most well-organised, well-managed and -resourced non-governmental organisations in Namibia.

The Legal Assistance Trust's Board of Trustees, consisting of lawyers and other experts, governs the work and finances of the Centre. The Centre operates with the consent and support of the Law Society of Namibia. In 1997 the Centre received the UNICEF-Maurice Pate Award for its outstanding contribution to the improvement of the human rights situation of women and children in Namibia.

The Centre has its headquarters in Windhoek with two regional centres: in Keetmanshoop (south) and Ongwediva (north). The Centre is administratively structured in six major units responsible for the implementation of strategic projects designed to contribute to the establishment and maintenance of a human rights culture. The Director of the Centre is responsible for the overall management and coordination of these projects to ensure that there is no duplication, and that the programmes are in line with the Namibian constitution, international human rights instruments and the developmental objectives of the Government of Namibia. The Centre cooperates with most non-governmental organisations active in the areas of human rights, democracy and development.

The different units and their projects and programmes are indicated in the table:



One of the LAC's very consistent donor partners is the Finnish Embassy in Windhoek. Ms Sinika Antila (Finnish Embassy) and Clement Daniels (LAC) during the handing over of funds

Unit

Aids Law Unit

Gender Research and Advocacy Unit

Human Rights and
Constitutional litigation Unit

Juvenile Justice Unit

Land, Environment and Development
Unit

Legal Education Unit

Projects and Programmes

Test case litigation on HIV/AIDS

Legal advice service

Research and policy formulation

Educational materials

Education and training

Advocacy and lobbying

Gender research for law reform

Advocacy and lobbying for law reform

Educational materials on children and
women's rights

Education and Training

Human rights and constitutional test
case (impact) litigation

Namibia Law reports

Training of candidate legal practitioners

Training of government officials and law
enforcement agents

Legal advice column in newspapers

General legal advice

Advocacy and law reform

Implementation of screening and
diversion options

Research and policy formulation

Education and training

Test case litigation on land disputes

Legal assistance to conservancies

Legal assistance to community based
organisations

Community dispute resolution

Research and policy formulation

Education and training

Human rights and gender education

Community paralegal volunteers

Observance of important human rights
days

During the period under review the Centre had forty-two fulltime/part-time staff members and seven intern volunteers.

The Centre remains dependent on donor funding for its activities due to the nature of its client base and the public interest service it provides. Management worked hard to consolidate relations with existing donor partners and has also attracted new donor partners, in particular local partners. The total

expenditure for the year amounted to N\$10 995 085, while the Centre received an income of N\$10 632 145. It should be noted that some funds were received in advance in 2000 for 2001, while some funds were received in advance in 2001 for 2002.

The organisations and institutions listed on the following page were the most important donor partners of the Centre during 2001:

International donor partners

Austria Development Cooperation (North-South Institute for Development)
Bischofliches Hilfswerk Misereor EV (Misereor)
British High Commission (DIFD)
Canadian Lawyers' Association
Development Alternatives Incorporated
Embassy of Finland (Windhoek)
Evangelischer Entwicklungsdienst (EED)
European Commission
Family Health International
Ford Foundation
German Development Service
Horizon3000 (Austria)
Humanist Institute for Cooperation with Developing Countries (Hivos)
Open Society Initiative for Southern Africa
Swedish International Development Agency (Sida)
UNAIDS
UNAM
United States Embassy (Windhoek)
UNICEF
USAID

Local donor partners

Barden International
Bank Windhoek
Mashilahi Fishing Company
Namibia Nature Foundation
Namibia Women's Manifesto Network
NAMDEB
Pupkewitz Holdings
SANLAM, Namibia
Legal Shield, Namibia

Clement Daniels and the former Swedish Ambassador to Namibia sign a cooperation agreement in the amount of approximately N\$6 million for the period 2001 to 2003.

Toni Hancox, Leigh-Anne Agnew and Deon Obbes (AG's Office) during a workshop on the International Criminal Court held in Windhoek.



3. PROTECTING AND PROMOTING THE RIGHTS OF PEOPLE LIVING WITH HIV/AIDS

The Work of the AIDS Law Unit

HIV/AIDS remains one of the most serious social, economic, political and legal challenges faced by all Namibians. In response to this challenge the AIDS Law Unit was established in 1999 and its main objective is to promote and protect the human rights and dignity of people living with HIV and AIDS in Namibia. The unit works closely with and assists most AIDS Service Organisations (ASO) with legal advice, education and training.

The unit was staffed by: Michaela Figueira, Coordinator; Ruusa Shipiki; Yvonne Dausab, who left in January 2001 to pursue a masters degree in South Africa; Tenu Avafia, who joined the unit in February 2001; Mona Malherbe, who left the unit in March 2001; Collette Campher, who joined the unit on a part-time basis in April 2001 and Sunita Steenbakker, a VSO volunteer who joined the unit in June 2001. Some of the main activities of the unit were the following:

Research, policy formulation and law reform

- Research is being conducted on discrimination on the basis of HIV status in access to insurance and medical aid. The results of this research will assist us in deciding whether to launch a test case challenging the constitutionality of such discrimination.
- Research is being conducted on the right to health as contained in the Constitution and in international agreements to which Namibia is a party. The results of this research will assist us in deciding whether to launch a test case challenging the constitutionality of government's failure to provide access to affordable mother-to-child transmission prevention medication.
- Research is being conducted on the various AIDS service organisations in existence in Namibia and the services offered by them. This research has been finalised and a report containing the results will be published early in 2002.
- A survey was conducted on benefits available for people living with HIV/AIDS in terms of local insurance and medical aid schemes.
- The unit provides assistance to employers and trade unions in developing appropriate HIV/AIDS policies in the workplace. During the period under review the unit assisted Bank Windhoek, the Bank of Namibia, the Road Contractors Company, Commercial Bank of Namibia, Namwater, Barloworld, the City of Windhoek and Hartlief's with the formulation of appropriate workplace policies on HIV/AIDS for their respective workplaces.
- In April 2001 the unit, in collaboration with the Gender Research and Advocacy Project, hosted a workshop for health-care workers on the development of rape protocols.
- In July 2001, the unit was requested by both Ministries of Education to assist with the development of a new HIV/AIDS policy for the education sector. The unit chairs the working group that has been established to develop this policy and leads the policy development process.
- In November 2001, the unit assisted the Association of Local Authorities of Namibia with the drafting of a declaration on HIV/AIDS and presented the draft declaration at a workshop of the Association for discussion and finalisation.

Litigation and legal advice

- The unit is currently dealing with several cases relating to discrimination on the basis of HIV/AIDS in respect of breaches of confidentiality by health-care workers, testing of employees for HIV without consent, access to employment and to insurance, harassment on the basis of HIV status, will writing, inheritance and guardianship and civil liability of the Ministry of Prisons/Ministry of Home Affairs in respect of infection of an awaiting trial prisoner.
- In September 2001, lawyers represented a client in the District Labour Court in a claim for unfair dismissal on the basis of HIV status. The case was satisfactorily settled and the employer paid the client an amount equal to six months salary.
- The unit runs a legal advice clinic for people living with and affected by HIV/AIDS at the offices Catholic AIDS Action in Katutura every Thursday from 10h00 to 11h30. Attendance at the clinic is fairly consistent and the main issues dealt with include the drafting of wills, maintenance and social security claims, insurance, unprofessional conduct on the part of medical practitioners, including breaches of confidentiality and adoption. The clinic also serves as an important referral agency in respect of problems that are not of a legal nature.
- As anticipated at the outset, the initial caseload in terms of litigation and advice is fairly low. This can largely be attributed to the fact that due to the discrimination and stigma currently attached to HIV/AIDS, people living with HIV/AIDS are reluctant to seek advice and litigate as this inevitably involves a disclosure of their HIV status. We anticipate that as our work on advocacy, education and training and on the promotion of a non-discriminatory approach to HIV/AIDS progresses, the demand for this type of assistance will increase.

Advocacy

- The Treatment Access Forum (TAF) initiated by the unit continues to address the issue of access to treatment for HIV/AIDS in Namibia. Several meetings with stakeholders were conducted and a plan of action was developed. On several occasions the government has indicated that mother-to-child transmission prevention programmes will be implemented but nothing has happened thus far. TAF is now considering how to proceed in order to facilitate their implementation without further delay.
- In February 2001, the unit hosted a workshop at Pension Kleinesheim on a toolkit on developing and implementing policy on HIV/AIDS developed by USAID's IPC Project. This workshop, which was funded by USAID, was attended by representatives of ASOs and the Ministry of Health and Social Services and its objective was to familiarise participants with this toolkit.

Namibians march to create greater awareness on International AIDS Day, 1 December 2001

LAC staff members displaying the banner of the AIDS Law Unit



- In March 2001, the unit held an advocacy training workshop for people living with HIV/AIDS at Greiter's Conference Centre. The objective of the workshop was to build the advocacy and lobbying capacity of people living with HIV/AIDS.
- During the period March to May 2001, the unit engaged in active lobbying and advocacy with members of the National Assembly and National Council on the Defence Amendment Bill, 2001. The Defence Amendment Bill seeks to amend the provisions of the Defence Act that relate to recruitment and provides that the Namibian Defence Force shall not employ any person who has *"a disease or ailment which is likely to deteriorate to the extent that it will impair his or her ability to undergo any form of training required to be undertaken or to perform his or her duties as a member of the Defence Force"*. Although the Bill does not specifically refer to HIV it is clear that HIV falls within the ambit of the wording. The Bill thus effectively precludes the NDF from employing any person who is HIV+ and effectively negates the judgment of the Labour Court handed down in 2000 in the matter of H Nanditume v Minister of Defence in which the court held that exclusion from the NDF solely on the basis of HIV status constituted unfair discrimination under the Labour Act. Despite representations made to the Minister of Defence the National Assembly approved the Bill.
- In May 2001, the unit secured an audience with the National Council Standing Committee on Foreign Affairs, Defence and Security to address them about our concerns regarding the Defence Amendment Bill, 2001. A presentation was done, which appeared to be well received. Subsequently however the Bill was approved by the National Council in its original form.
- On 11 May 2001, the unit hosted a preparatory meeting for Namibian ASOs, NGOs and other civil society representatives for the United National General Assembly Special Session on HIV (UNGASS). The purpose of this meeting was to solicit the input of Namibian civil society on the Declaration of Commitment that was tabled for adoption by member states at UNGASS in June 2001. Input was recorded and fed into the electronic discussion forum, Break the Silence, in order for the comments of participants to be shared internationally.
- In June 2001, the unit assisted 'Lironga Eparu', a newly formed association of people living with HIV/AIDS, to organise a planning meeting at which members worked on a plan of action for the organisation in order to facilitate the compiling of a project proposal. In October 2001, the unit assisted Lironga Eparu with the finalisation of their funding proposal and the organisation was launched by the Honourable Minister of Health and Social Services on 22 November 2001.
- On 8 August 2001, the unit had a meeting with the Minister of Prisons and Correctional Services organised by the Khomas Regional AIDS Committee to discuss the issue of access by prisoners to condoms. Despite representations made about the necessity of providing condoms to prisoners, the Minister and his staff remained adamant that condoms would not be provided to prisoners, as sodomy remains an offence in Namibia.
- On 25 September 2001, the unit held an advocacy training workshop for people living with HIV/AIDS at Greiter's Conference Centre. This workshop was a follow-up workshop to the advocacy and lobbying workshop held in March 2001 and the objective of the workshop was to look at developments in lobbying and advocacy activities by people living with HIV/AIDS since the March workshop, to identify strategies and issues for lobbying and advocacy in the future and to build the advocacy and lobbying capacity of people living with HIV/AIDS.
- In October 2001, the unit organised an essay writing competition for the youth on stigma and discrimination associated with HIV/AIDS. The competition was advertised in the youth supplement of the Namibian newspaper and approximately 80 entries were received. The results will be announced in January 2002.

Education and training

The project is collaborating with the AIDS Care Trust of Namibia in providing training on the legal and rights aspects of HIV/AIDS in the workplace to top and middle management.

The unit has been assisting the British Military Assistance Training Team based in Harare as well as the British Military training personnel based in England with the training of SADC troops on HIV/AIDS and the Military. This training forms part of the broader training of SADC troops by the British military on military and peacekeeping operations. Training on HIV/AIDS and the military were conducted in Johannesburg (January 2001), Swaziland (March 2001) and Pretoria (April 2001). The British government covers all costs of undertaking this training and a donation of 100 British Pounds is made to the Centre for each training course presented.

Workshops on a range of topics were presented by members of the unit in Namibia, including:

- HIV/AIDS and Human Rights to Kindergarten teachers
- Will writing, inheritance, HIV and Human Rights to Traditional leaders in Uukwambi, Uukolonkhadi, Ombalantu and Ongandjera
- HIV/AIDS and the Law to Peace Corp volunteers
- Community paralegals on AIDS in the workplace; HIV/AIDS and insurance; the human rights of PLWHA's; and confidentiality, stigma and gender empowerment
- Wills and inheritance to health care workers
- HIV/AIDS, Law and Human Rights, in Noordoewer, Keetmanshoop, Mariental
- Legal and policy framework on HIV/AIDS in Namibia
- HIV/AIDS as a threat to regional security Workshop on civil military training organised by UNAM.
- Policy and legal framework and the importance of a human rights based approach to HIV at Polytechnic, Windhoek
- Legal issues associated with HIV/AIDS in the workplace
- Policy and legal framework on HIV/AIDS in Namibia to School inspectors of the Ministry of Basic Education at Midgard.
- HIV/AIDS and Human Rights in Gobabis for regional and local counsellors.
- HIV/AIDS and Rape for Namibian Police, Windhoek
- HIV/AIDS and Human Rights, Namibian Police, Windhoek
- HIV/AIDS and Human Rights Regional counsellors, Khorixas and Opuwo
- HIV/AIDS, Human Rights and HIV/AIDS in the workplace at Rundu and Tsumeb
- HIV/AIDS, Human Rights and HIV/AIDS in the workplace at Lüderitz and Keetmanshoop
- HIV, Human rights and the gender dimensions for women and church elders, Council of Churches, Oshiko
- Workplace peer educators on HIV/AIDS, human rights and the legal aspects of HIV/AIDS in the workplace Windhoek
- HIV/AIDS, Human Rights and HIV/AIDS in the workplace in Walvis Bay
- HIV/AIDS, Human Rights and HIV/AIDS in the workplace at Swakopmund
- HIV/AIDS, law and human rights in Namibia for nurses at Medi Clinic, Windhoek
- HIV/AIDS, law and human rights in Namibia at Katima Mulilo
- Legal framework relating to HIV/AIDS in Namibia for doctors, Ministry of Health and Social Services
- HIV/AIDS, Human Rights and the legal aspects of HIV/AIDS for Namdeb employees and management in Oranjemund
- The unit has also conducted training internationally. In October 2001 the project coordinator conducted training on HIV/AIDS and Human Rights for Human Rights Commissions in South East Asia and the Pacific, in Melbourne, Australia, at the request of UNAIDS.

Publications

During 2001, the unit project produced the following publications:

- Pamphlet on HIV and Pregnancy
- Pamphlet on Wills
- Pamphlet on the AIDS Law Unit
- Training Manual on Wills and Inheritance



UN'S SPECIAL SESSION ON HIV/AIDS: A TURNING POINT IN THE GLOBAL RESPONSE TO THE DISEASE?

In June this year the historic twenty-sixth special session of the United Nations General Assembly on HIV/AIDS committed itself to ensuring that the resources provided for the global response to HIV/AIDS are substantial, sustained and geared towards achieving results, by adopting a Declaration of Commitment on HIV/AIDS.

By that declaration, Heads of State made a commitment to reach a target of an overall annual expenditure on the HIV/AIDS epidemic of between \$7 and 10 billion in low- and middle-income countries by 2005. It also called for the implementation of measures to ensure that needed resources are made available, particularly from donor countries and also from national budgets, bearing in mind that resources of the most affected countries are seriously limited.

Global Health Fund

The Assembly furthermore supported the establishment, on an urgent basis, of a Global HIV/AIDS and Health Fund to finance an urgent and expanded response to the epidemic based on an integrated approach to prevention, care, support and treatment. The fund will assist governments to combat HIV/AIDS, with priority given to the most affected countries.

Contributions to the fund will be mobilised from public and private sources, with a special appeal to donor countries, foundations and businesses.

The Assembly committed itself to launching, by 2002, a worldwide fundraising campaign aimed at the public and private sector, to contribute to the HIV/AIDS and Health Fund.

Addressing actions to be taken at national level, the Assembly further committed itself to ensuring, by 2003, the development and implementation of multi-sectoral national strategies and financing

plans for combating HIV/AIDS that: address the epidemic in forthright terms; confront stigma, silence and denial; address gender- and age-based dimensions of the epidemic; eliminate discrimination and marginalisation; involve civil society, the business sector and people with HIV/AIDS, vulnerable groups, people at risk, women and young people.

The Declaration goes on to state that national strategies should be resourced wherever possible from national budgets without excluding other sources such as international cooperation; fully promote and protect all human rights and fundamental freedoms; integrate a gender perspective, and address risk, vulnerability, prevention, care, treatment and support; reduce the impact of the epidemic, and strengthen health, education and legal capacities.

Addressing prevention - described as the mainstay of the international community's response - the Declaration states that by 2003, there is another commitment to establish time-bound national targets to achieve the internationally agreed goal of reducing, by 2005, HIV prevalence by 25 percent among young men and women aged 15-24 in the most affected countries, and by 25 percent globally by 2010.

Call to strengthen pharmaceutical practices

On the issues of care, support and treatment, there is also a commitment to make every effort to provide in a sustainable manner the highest attainable standard of treatment for HIV/AIDS. There is also a call for constructive cooperation to strengthen pharmaceutical policies and practices, including, those applicable to generic drugs and intellectual property regimes, in order to promote further innovation, and the development of domestic industries consistent with international law.

There are also commitments to improve, by 2005, the effectiveness of supply systems, financing plans and referral mechanisms required to provide access to affordable medicines, including anti-retroviral drugs, diagnostics and related technologies, as well as quality medical, palliative and psycho-social care.

According to the Declaration, the Assembly, again by 2005, committed itself to implementing measures to increase the capacities of women and adolescent girls to protect themselves from the risk of HIV infection, principally through the provision of healthcare services, including sexual and reproductive health, and through prevention education that promotes gender equality within a culturally gender-sensitive framework.

In his closing remarks, the President of the General Assembly said that despite the alarming statistics and the human suffering they represent, out of the lively discussions and deliberations during this historic three-day special session, the feeling had emerged that there was reason for hope.

Speakers in both the plenary and the round tables had emphasised that clearly, a turning point had been reached.

Now the international community must reach out to those who most needed that hope, or be judged responsible for not acting when it had the chance.

It's the first global battle plan

He also said that the concrete targets and follow-up mechanisms contained in the Declaration represented the first global "battle plan" against

AIDS. The beauty and significance of the Declaration was its pragmatic and straightforward approach, and the global commitment to scale up efforts in all critical areas. It would serve as a tool for specific strategies to turn the tide of the epidemic. The Declaration was also the global call for desperately needed resources. In that regard, he welcomed the establishment of a global fund to finance the fight against the disease, as well as the pledges already announced by a number of countries.

Other issues raised over the historic three-day meeting included access to affordable drugs and putting human lives before profit; the integral link between care, treatment and prevention; the importance of implementing multi-sectoral national strategies; the symbiotic relationship between poverty and the spread of HIV/AIDS; broad societal participation in initiatives to combat the disease, including those living with HIV/AIDS; the end to stigmatisation, discrimination and the culture of silence; and the importance of mainstreaming gender and human rights issues in AIDS-related policies and programmes.

The AIDS Law Unit of the Legal Assistance Centre applied for and was granted accreditation by the United Nations General Assembly to participate in this Special Session.

Project lawyer, Ruusa Shipiki, represented the AIDS Law Unit at UNGASS. Coordinator of the AIDS Law Unit, Michaela Figueira, attended as a member of the Namibian delegation to UNGASS, which was led by the Honourable Minister of Health and Social Services, Dr Libertine Amathila.

(from LAC News No. 5, August 2001)

Regional Networking

Meetings have taken place between project staff and staff from the AIDS Law Project in Johannesburg to discuss ongoing collaboration and upcoming litigation.

The unit is currently making contact with other organisations in the region that work with HIV/AIDS and human rights with a view to setting up a meeting of organisations in the region to discuss the establishment of a regional network.

Ruusa Shipiki, staff member of the AIDS Law Unit, attended the UN Special Session on HIV/AIDS in New York



4. THE STRUGGLE AGAINST GENDER DISCRIMINATION AND GENDER-BASED VIOLENCE

The Work of the Gender Research and Advocacy Project

The primary objective of the Gender Research and Advocacy Project (GR&AP) is to make a contribution to the law reform process to bring Namibian laws and practices in line with the gender equality clauses in our constitution through research, advocacy, lobbying and networking.

During 2001, GR&AP was staffed by Dianne Hubbard, the Coordinator, Leigh-Anne Agnew, who joined in March 2001 as a legal researcher, Willem Odendaal, who went on study leave in September 2001 and Collette Campher.

Consultants and volunteers were used during the year to extend the capacity of the project. A total of 11 consultants/contracting partners/volunteers from outside the LAC worked on various projects during 2001. These persons/groups are Prudence Egumbo, Nicky Marais, Wendy Damante Rossouw, Philip Ford, Perri Caplan, Dudley Viall for Quiet Storm, Research Facilitation Services (Erna Keulder), SchoolNet (Joris Komen), Mandy Bonisteel (George Brown University) and volunteers Dr Rob Gordon, Dr Sid Haring and Elizabeth Cassidy. Interns Sue Taylor and Heather Sherdahl joined in September and will remain until the end of February 2002.

Rape

The development and promotion of rape protocols (formal guidelines) for police, magistrates, prosecutors, social workers and medical professionals has been a success. With the assistance of consultant Wendy Damante Rossouw, these protocols have been widely circulated in every region for comment. A sixth protocol/information document for accused rapists has been added to the package, at the request of interested parties. A final consultative workshop took place with senior representatives of each profession in October. The draft protocols were subsequently sent to the relevant government and professional authorities for adoption. LAC will

continue to monitor the protocols, to facilitate their finalisation. We will assist with translation, publication and popularisation of the protocols during 2002.

The educational booklets on the new rape law – a detailed *Guide to the Combating of Rape Act* and a shorter booklet aimed at the general public – were translated into Afrikaans. The English and Afrikaans versions of the 2000 publication *After the Rape* (which deals with medical issues for rape survivors and has been published in English and Afrikaans) were updated and re-printed.

Domestic Violence Bill

The Law Reform & Development Commission published a draft bill on domestic violence in February 2001. The report of the LRDC openly acknowledged the contribution of the GR&AP in the preparation of this bill, as well as the usefulness of some of its other work around violence:

In particular this report should be read together with the report prepared by the Legal Assistance Centre for the LRDC (hereinafter referred to as the "LAC's Report")... (paragraph 1.2)

It was in May 1999 decided to put the issues that were at that stage being dealt with by the Women and Law Committee under new separate project committees of the LRDC. As far as Domestic Violence was concerned, this was however entrusted to an internal committee of the LRDC consisting of two of its staff members, MR HL Awaseb and Mr BF Bankie, together with the co-author of the LAC's report, Ms Dianne Hubbard. The LRDC would like to put on record its appreciation for Ms Hubbard's continuous input. (paragraph 3.4.2)

The Namibia Domestic Violence and Sexual Abuse Directory of the Legal Assistance Centre, first published in September 1999, for example, provides inter alia a comprehensive list of bodies, organisation, etc. involved in issues in this regard. (paragraph 4.1)

A unique new development is the initiatives taken by men that eg lead to the establishment of men's organisations and the national conference "Men against Violence against Women" on 23 February 2000 [an initiative of the Legal Assistance Centre]. (paragraph 9.3)

Report on Domestic Violence, LRDC 10

The draft bill approved by the LRDC is very close to the recommendations put forward by the GR&AP in its 1998 research paper on domestic violence.

Dianne was asked to serve as a technical adviser to the Ministerial Committee of the Ministry of Justice during its consideration of the draft Domestic Violence Bill published by the LRDC.

Domestic violence advocacy campaign

This campaign has several components.

- (1) The LAC commissioned Quiet Storm Film Productions to produce five films on domestic violence, in English, Afrikaans, Oshiwambo, Herero and Nama/Damara. The story is based in a rural setting, adapted in each language version to reflect community conditions.
- (2) Quiet Storm Film Productions was also commissioned to produce a series of radio dramas in Afrikaans, Oshiwambo, Herero and Nama/Damara. These dramas, which include 10 episodes each, highlight the problem of domestic violence, once again targeting rural audiences.
- (3) The GR&AP sponsored a website design contest, which was organised by Schoolnet and involved some 32 schools around the country, most of which have only recently acquired Internet access. We provided background materials on domestic violence as a resource for the content of these sites. The contest was launched on 22 June. Thirteen schools entered the competition, and of these schools, twelve qualified with their websites available on the Schoolnet Website. Due to the fact that the organisers felt that the schools had all produced impressive websites, it was decided that the prize money would be distributed to all twelve schools equally, by way of computer accessories.
- (4) School students have worked together with local artists to design and paint murals about domestic violence on public buildings in six locations in different parts of the country. Sites in the north, south and central areas of Namibia were chosen on the basis of interest shown, with concentration on rural areas. Participating schools have been invited to write essays on the experience and on how they will use the murals, and a small monetary prize will be awarded to the school which submits the best essay. One headmaster referred to the murals as "education on walls", and the students have come up with some marvellous imagery. The goal was to get the students to depict positive solutions rather than the violence itself.

The Domestic Violence Advocacy Campaign encouraged students to paint murals across the country



The process of producing the different media has in itself already begun to contribute to local awareness-raising. For example, in order to get guidance on the scripts, workshops were held last year in rural communities around the country to discuss people's understanding of domestic violence. As another example, the filming involves the staging of a men's meeting to discuss violence, which in several locations has turned into a real meeting, with the 'extras' drawn from the community, and continuing to discuss the issues after the camera stops rolling. The Domestic Violence Advocacy Campaign is targeting young men in rural areas, with the hope of inspiring them to re-examine their attitudes about violence.

Media attention has been generated by interviews on radio, television and with the print media. *The Namibian* newspaper featured a "Weekender" piece on the campaign, as well as numerous other smaller articles on the individual projects. A press conference highlighting local business support was held in May, followed by additional media interviews on this topic. GR&AP also participated in a press conference hosted by SchoolNet on the website competition in June. The Deputy British High Commissioner drew attention to the project through a visit to Otjimbingwe to observe filming in June, and a 'press bus' of journalists was taken to observe filming in Rehoboth in July. The Rehoboth visit resulted in a segment on the campaign on NBC's cultural programme *Tutalemi* in July. The National Art Gallery included a segment on the mural project in a display in their museum shop, and *Sister* magazine published two articles on the campaign. Articles about the initiative have also appeared in several LAC newsletters.

The films and the radio dramas were launched on 5 October, at an event attended by some 250 people. British High Commissioner Brian Donaldson was keynote speaker. "Previews" of the productions were premiered at the launch, which received good press coverage.

Other activities on violence against women

The GR&AP continued to participate in the networking body, the Multi-Media Campaign on Violence against Women and Children, and to attend its regular meetings.

Three police training courses on the topic of domestic violence and rape were presented by the project. One of these was a two-day "training of trainers" course on rape and domestic violence organised by the Woman Child Protection Unit for police and social workers from every region in Namibia.

Nicky Marais arranged four art, dance and music therapy workshops for community-based volunteers and counsellors, to equip them with techniques for dealing with the emotional aspects of violence. Feedback from the groups who attended indicated that these workshops were very useful and successful. The idea behind this initiative is to ensure that appropriate support services are in place to deal with the increased disclosure of violence expected in light of the new law on rape and the forthcoming law on domestic violence.

Lobbying continued on the Vulnerable Witnesses Bill which has still not been finalised by the Ministry of Justice. Dianne attended several meetings of the Ministerial Committee of the Ministry of Justice (at the Minister's invitation) to serve as a technical adviser during discussions of the draft bill, and shared relevant research with the legal drafter responsible for the bill. Although the bill is still not final, the most recent version appears to incorporate most of the suggestions for improvement put forward by LAC.

Dianne and Leigh-Anne assisted the Multi-Media Campaign with the formulation of a proposal to the European Commission, in partnership with ACORD, for a project entailing the collection of detailed statistics on violence against women and the creation of a database with this information. Such a database could facilitate more sophisticated analysis of the causes and patterns of violence. If the proposal is accepted, two technically trained people would be based at the MMC to perform this function, in consultation with all MMC members.

Maintenance

Dianne attended four lengthy meetings with the Ministerial Committee of the Ministry of Justice at the Minister's invitation to discuss the Draft Maintenance Bill. Input from this meeting will be incorporated into the draft bill by Ministry officials, and then perhaps this long-delayed bill will take another step forward. Lobbying efforts on this topic, in conjunction with a range of other women's groups, have continued.

The research on maintenance guidelines for Namibia, begun last year with the help of consultant Prudence Egumbo, is now complete. However, we have decided to delay publication of this report for two reasons: (1) More economic analysis is needed to come up with a workable system, in light of some of the difficulties revealed in the report. (2) In light of information that the Maintenance Bill might be ready to go to Cabinet again, it was decided not to "muddy the waters" in any way which might delay finalisation of the underlying bill. This initiative will be further addressed in 2002.

Dianne assisted Rundu Regional Councillor NM Muremi to bring a number of serious complaints about the operation of the maintenance courts in the Kavango Region to the attention of the Chief of Lower Courts. The matter is receiving attention from the government.

Children's legislation

Dianne prepared a summary of the revised Draft Child Care and Protection Bill for use at a consultative workshop organised by the Ministry of Women Affairs and Child Welfare. The goal is to facilitate public input on the bill, which has not been widely discussed since the layperson's draft was finalised by the Ministry of Health in 1995.

The Ministry of Women Affairs and Child Welfare convened a three-day workshop to discuss the Draft Child Care and Protection Bill in October. Dianne was asked to facilitate at this workshop, which was chaired by the

Minister herself. The GR&AP sponsored the participation of South African child law expert, Jacqueline Gallinetti, from the Community Law Centre at UWC. Her input was very useful, as South Africa is similarly in the process of discussing comprehensive new children's legislation. The Ministry has decided to convene a task team to take forward the recommendations made at the workshop, and LAC will be participating in this team. We will propose further consultations on some specific issues, as well as the continued involvement of South African experts.

More murals ...

The actors who participated in the Domestic Violence Advocacy Campaign and some of the staff members of the LAC



Marital property and cohabitation

Work began on a major research project on marital property and cohabitation which will continue during 2002.

Dianne gave an input on marital property regimes and the Married Persons Equality Act at an LEP workshop for magistrates and marriage officers on Marriage, Inheritance, and Will Writing in Oshakati in April. This workshop called attention to the fact that marriage officers in the north have been given incorrect legal instructions by the Ministry of Home Affairs regarding declarations on marital property regimes on terms of the Native Administration Proclamation 15 of 1928 which is still in force.

Leigh-Anne discussed this concern with the Ministry, and has prepared a detailed memorandum explaining the law and exploring possible avenues of relief for couples affected by the erroneous instructions, based in part on South African approaches to a similar issue. An article summarising the issue was published in *The Namibian* newspaper in November. This article seems to have served its intended purpose, as we received an interested enquiry from an ELCIN-based marriage officer in Oniipa who had read the article and was very interested and concerned about the issue.

Dianne is representing LAC on a UNAM Steering Committee on field research on women's property and inheritance. We have arranged to incorporate questions on marital property and cohabitation into this research initiative to avoid duplication. Dianne and Elizabeth worked through several drafts of the focus group/key informant questionnaire with the committee. The UNAM research will take place during December 2001, and LAC will supplement the UNAM research next year with a smaller set of in-depth individual interviews.

Divorce

The research paper on divorce published by GR&AP in 2000 is being used as the primary reference document for the Law Reform & Development Commission subcommittee on divorce. Dianne has also been asked to serve as a member of this subcommittee. (The research report is also being used as required reading in two UNAM courses.)

The subcommittee met approximately every two weeks during August-November, and produced a draft Divorce Bill which is modelled very closely on the draft produced by the Legal Assistance Centre. The LRDC draft will be circulated for public comment at the beginning of 2002.

The GR&AP received reports of incorrect advice reportedly being given to clients by legal practitioners on the concept of malicious desertion in divorce cases, with the result that some women experiencing violence may have been afraid to leave the family home for fear of the implications in the ensuing divorce. This matter has been raised with the Law Society, which reports that it is following up on the problem.

Other family law issues

A joint project between the LAC and Out of Africa publishers resulted in a booklet on Family Law written by Dianne for the "Law for All" series. LAC will receive royalties from the sale of this book, and will be able to purchase copies for educational use at a reduced price.

Dianne and volunteer consultant Elizabeth Cassidy (lecturer in Constitutional Law at UNAM) wrote an academic piece provisionally entitled "Family Law Reform in Namibia: Work In Progress" for the *International Survey of Family Law* which is published by the University of Hong Kong and edited by Cambridge-based family law professor Andrew Bainham.

SALAN conference

LAC in its role as a member of the Southern African Legal Assistance Network (SALAN) hosted a workshop on Marriage, Divorce, Inheritance and Property Rights under Civil and Customary Law, in March 2001. The GR&AP secured the attendance of Professor Martin Chanock, an expert on customary law from La Trobe University in Australia who has written extensively about developments in the South African region. Other special guest speakers included Advocate Alice Wahome (Vice Chairperson of the International Federation of Women Lawyers-Kenya); Adv Mwangala Zaloumis (Zambian lawyer and special advisor to Dr Kenneth Kaunda); Kameshni Pillay (an attorney in the Constitutional Litigation Unit at the Legal Resources Centre in South Africa); Adv Irene Mulyangonja (from Uganda); and Kathleen Mahoney (well-known gender specialist from Canada). Case studies were presented by participants from Mozambique, Zimbabwe, Botswana, Namibia and Zanzibar. Because of the workshop's relevance to Namibian developments, it was attended by several representatives of the Law Reform and Development Commission, including the Chairperson, as well as representatives of the Ministry of Women Affairs and Child Welfare, the Dean of the Law Faculty of UNAM and several law lecturers.

Alongside the workshop, the Legal Assistance Centre took steps to give the international guests broader local exposure during the week of the workshop, with the goal of advancing family law reform in Namibia – especially in the area of customary law.

These activities were:

- an NBC "Talk of the Nation" episode on Approaches to Gender Equality under Customary Law featuring lawyers from Australia, Zambia, Kenya and Namibia (5 March)
- a public panel discussion on same topic attended by some 35-40 people (7 March)
- a guest lecture for UNAM law students and faculty on gender equality in customary law by special guest Professor Martin Chanock (6 March)
- land roundtable discussion organised jointly with LEAD on Namibia's Communal Land Reform Bill featuring Professor Martin Chanock and attended by about 20 key players in the area of land (8 March)
- publication of an article on the conference in the LAC Newsletter (March).

Sex work

Sex work and associated activities are currently criminalised (for the sex worker but not the client) by the Combating of Immoral Practices Act 21 of 1980. Criminalisation currently reduces the ability of sex workers to negotiate safer sex practices and also hinders them from coming forward for counselling and testing, for fear of prosecution. A legal judgement, which is expected to find some portions of this law unconstitutionally overbroad will soon be forthcoming, in a case which was heard in mid-2000. It is likely that this development will stimulate a new examination of this issue on the part of the government. Therefore, much of 2001 has been devoted to carrying out major research project on this topic, working together closely with the AIDS Law Unit. The components of this project are as follows:

As part of the land resettlement research the LAC interviewed beneficiaries of the resettlement programme. Above is Monica Nganjone (with cap) and Sar women at Mangetti Dune and below is Willem Oederdaal (in white T-shirt) and Abraham Gariseb at Onverwag



- an explanation of basic terms and concepts and an overview of international debates on the topic
- a review of Namibia's relevant international commitments, in terms of the Beijing Platform for Action, the UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and other international conventions
- a look at the history of sex work in Namibia, drafted by Dr Rob Gordon, a Namibian-born anthropologist based at the University of Vermont who has done extensive research and writing on various aspects of Namibian history
- a section on sex tourism and Internet sex based on research by Willem
- a report on the current legal position of sex work in Namibia
- the results of recent field research on sex work in Namibia being carried out by Research Facilitation Services under the direction of the GR&AP. This field research includes qualitative interviews with people engaged in sex work, clients of sex workers, and randomly selected members of the public (via telephone) in a sampling of urban and rural areas chosen to present a variety of manifestations of sexual transactions. The researchers have been trained in HIV issues as well as research techniques, and all are equipped with the Namibia Domestic Violence and Sexual Abuse Service Directory to facilitate referrals if needed
- information on the links between sex work and HIV/AIDS
- a comparative examination of legal approaches to sex work in other countries
- recommendations for Namibia.

Linkages were established with South African groups working in this area when Dianne and three other Namibian representatives from outside the LAC attended a 3-day workshop on Commercial Sex Work hosted by the Reproductive Health Research Unit in Johannesburg in February.

An advertisement announcing the field research was placed in all the local papers in June, and the research is currently underway and going very well. Dianne also appeared on a *Talk of the Nation* segment in March, to discuss the general topic of sex work. There has been substantial interest in the project from the press, and several articles have appeared in the media already.

All the research inputs will be compiled into a single report on sex work to be edited and published by the Legal Assistance Centre. Our initial plan was to publish the research paper and present the findings at a workshop with interested parties in the second half of 2001. However, after consultation with the two key ministers concerned (the Minister of Health who first raised the issue in Parliament, and the Minister of Women Affairs), it was decided that these two steps should be postponed until 2002 for greater political impact. This provides the advantage of allowing for more time to think through recommendations on this complex and controversial issue.

Land and gender

The study of gender and land issues on resettlement farms allocated in terms of the Commercial (Agricultural) Land Reform Act was delayed because of the need for some further research and analysis. Material from visits to two additional resettlement projects in Onandjandja and Otjihau was also incorporated. The draft was revised by Professor Sid Harring, an international expert in the field, on a volunteer basis, and sent to the printers in December.

Affirmative action

Dianne has been advising the Namibian Women's Manifesto Network (spearheaded by Sister Namibia) on legal issues relating to the 50/50 campaign on affirmative action for women at all levels of government. A detailed paper on this topic, entitled "50/50: Options for Namibia" was presented at a national workshop on 28 June, and has been circulated internationally by the Royal Tropical Institute (known in Dutch as KIT) in Amsterdam and the organisation ICES in Sri Lanka.

Dianne also drafted a "50/50 bill" which includes the specific amendments to the Local Authorities Act, Regional Councils Act and Electoral Act, which would implement the proposals being lobbied for. The draft bill was explained at a workshop on the issue organised by Sister in October, and the bill was presented to Parliamentarians in hopes of garnering their support for it. The Namibia Women's Manifesto Network included a payment to the GR&AP for its legal services in its project budget, which enabled the GR&AP to upgrade its computers.

Networking

In addition to contacts with other organisations around specific issues, the GR&AP remained in regular and ongoing contact with the LRDC Secretariat, the Ministry of Women Affairs, the Multimedia Campaign, Sister Namibia, WAD, NID and NDI in Namibia.

In South Africa, regular contact was maintained with the Centre for Applied Legal Studies at Wits University, the Women's Legal Centre, the Community Law Centre at UWC and the Institute of Criminology at UCT.

The GR&AP continues to enjoy a fruitful relationship with CLAIHR, in connection with their internship programme and other potential co-projects.

Dianne assisted a Namibian MP with the preparation of a presentation on the Married Persons Equality Act for Zimbabwean Women Lawyers, and the Guide to the Married Persons Equality Act was distributed to this group.

As noted above, a workshop held in Windhoek brought together SALAN members to discuss family law reforms, in order to share and learn from each other's experiences.

NAMLEX

The 2001 NAMLEX update went to the publishers in November. It includes all statutes through 15 October 2001, as well as cases through the 1999 Namibian law Reports (which are the most recent to be published). Leigh-Anne is being trained to assist with the updates, intern Sue Taylor has assisted with updating the international pages, and technical intern Alfa Diakite has been consulted on ways to use computer technology more effectively in future updates. Dianne has also prepared a written guide on how to do the updates, which will make it easier for others to participate in future updates.

Sales of NAMLEX are consistent, but low. Approximately 110 copies were sold for both 1999 & 2000, along with about 196 copies of the original 1997 publication. (Records of initial sales are incomplete.) It appears that LAC as a whole needs to do more to popularise NAMLEX. For instance, the case of *S v Bushebi* 1998 NR 239 (SC) concerns a review by Judge Frank, who inquired of the Prosecutor-General about amendments to Schedule 4 of Ordinance 4 of 1975 (the Nature Conservation Ordinance). Judge Frank relied on incorrect information from the Prosecutor-General's Office and overturned the conviction. Later, when the mistake was discovered, the Prosecutor's Office sought to reinstate the conviction (unsuccessfully). Had any of the parties consulted NAMLEX, they would have easily been able to see the relevant amendment to Schedule 4 listed under Ordinance 4 of 1975.

ART THERAPY WORKSHOPS INSPIRES COUNSELLORS

Discussions about domestic violence and possible causes and cures resulted in the contemplation of creative solutions to a seemingly endless cycle of violence. One such solution is the use of art therapy.

Art Therapy has two useful processes inherent in its practice: the doing of art is in itself therapeutic and the discussion about the result and its possible meanings afterwards is where counselling happens.

Ruth Pein, a practicing clinical Art Therapist from Cape Town, was asked to facilitate a workshop for community activists in Windhoek late last year. She came to Windhoek for an initial three days with the option of returning later for follow-up workshops. Nicky Marais was contracted as the coordinator of the project in conjunction with Milly Jafta of the Legal Assistance Centre.

Of the three initiating workshops the first was not well attended, but those who came found it useful and inspiring. They included a member of Childline, a representative of Men for Change from Gobabis, an employee of the Ministry of Health and two social workers from the Erongo region.

The other workshops held in January and February this year were very well attended. Participants came from various schools, UNAM, the Ministry of Health and Social Services, Men for Change, social workers from the Women and Child Protection Unit, the Namibian Children's Home and counsellors from Childline, among others.

What did they do?

Ruth Pein approached the subject of Art Therapy from both an academic and a practical point of view. Her facilitation began with an explanation of the origins and methodology of Art Therapy accompanied by slides and videos. Ms Pein then gave a short case-history of her work with a young and very disturbed child, which put the work into context and allowed participants to ask questions about the process. She then began the practical work.

At the beginning of each workshop Ruth took the participants through a short ritual which allowed them to come into the workshop space with a feeling of belonging and at the close the participants each lit a candle "to carry the light of creativity out into their workplaces".

Participants had practice in listening and then recording what they had heard, which was evaluated by their partner, in finding out about personal space in paintings and also about personal interpretations of each other's artworks. Emphasis was put on the impossibility of being able to

entirely interpret other people's art, and on rather discussing what the artists themselves intended, through a process of questioning.

Further exercises consisted of making full-size self-portraits, collages, meditations resulting in the portrayal of totemic animals, clay work, mask-making and paintings of sacred spaces. In all the exercises discussions about the healing processes took place as well as possible uses in therapy sessions.

In the follow-up workshop dreams and their interpretation were explored as a means of allowing people to think of motives for their behaviour.

We concluded that the input had been successful for various reasons, which were not entirely the same reasons we had initiated the project for in the first place however. Our understanding of Art Therapy had been simplistic, and we had overestimated the amount of training that could take place during one weekend workshop. The idea that trainees could, after two days, commence with this highly specialised form of therapy was naive. However, the knowledge gained by most participants was significant. It was encouraging that participants were grateful to learn new skills and many of them felt personally changed by their experiences. Our further objective of nurturing those who spend their days consulting with the victims of horrific violence was achieved.

The workshop recommended that the LAC considers coordinating more Art Therapy workshops in the different regions of Namibia and also considers other creative ways of treating victims of violence and nurturing those who work with them.

Breaking cycles of violence and providing hope and care to the victims as well as to the perpetrators could eventually lessen the incidence of violence in our society and create a safer environment for us all. *(By Nicky Marais, freelance artist and illustrator)*

Facts about domestic violence

Domestic violence remains one of the most serious violations of human rights in Namibia. With over 2000 cases reported to the police annually, domestic violence comprises more than one-fifth of all violent crimes committed in Namibia. Despite these alarming statistics, domestic violence is still viewed by some as a private issue that should remain behind closed doors. Those who are not affected by it choose to ignore it. Police often do not want to get involved in something that they consider a domestic dispute.

5. PROMOTING ACCESS TO JUSTICE AND A HUMAN RIGHTS CULTURE THROUGH LITIGATION AND EDUCATION

The Work of the Human Rights and Constitutional Unit

The primary focus human rights and constitutional unit is the litigation of public interest and human rights cases, the training of candidate legal practitioners and human rights awareness.

Toni Hancox is the Coordinator of the unit. Other staff members include Lynita Conradie (part-time) Delme Cupido, Evelyn Zimba, Werner Boesak and Sophie van Wyk (part-time). Gerson Narib left for LEAD in March 2001.

Litigation

The unit finalised 33 files and opened a further 154 files during the 2001. However, a significant portion of the files opened relates to Caprivi torture cases which were not previously entered into the computer system. Due to the welcome addition of Sophie to the Unit, the computer filing system has been properly updated. At present, the unit is dealing with 396 matters.

Caprivi detainees

Much time is still being taken up by the Caprivi torture cases. With the cooperation of all members of the Unit and also of LEAD, discovery affidavits were drafted and a trip made to Grootfontein to have the affidavits signed.

These affidavits, together with discovery notices, were filed with the Government Attorney. After some pressure, the Government has now filed its discovery affidavits. We have also now received copies of clients' medical files from the Chief Medical Officer at Grootfontein Prison. These files are now in the process of being sorted.

We were informed earlier this year that dockets relating to the criminal charges laid by the alleged secessionists have eventually been handed over to the Prosecutor-General in Windhoek. A full list of the complainants was obtained from the Deputy Prosecutor-General in Rundu and it appeared that not all our clients had laid charges. We informed the Deputy Prosecutor-General accordingly and requested him to ensure that all those who wished to lay charges had, in fact, done so. This has subsequently been attended to. We have now, however, been informed that the dockets have been sent back to Nampol for further investigation, not an uncommon occurrence in our courts. Possibly this is something that could be addressed in the future.

In another related issue, the unit recently launched an application on behalf of the 128 Caprivi accused relating to their lack of legal representation. After much effort to obtain funding for legal representation it became apparent that funding would not be forthcoming. In the circumstances, it was decided that a formal application should be launched charging that the amendments to the Legal Aid Act were unconstitutional.

Norman Tjombe and Delme Cupido had several consultations with the Kxoe community in Western Caprivi relating to alleged human rights violations that occurred in this region



Previously, the position was that the High Court, could, if it was of the opinion that an accused's right to a fair trial would be impaired if s/he did not have legal representation, issue a Judge's Certificate ordering legal aid to be granted. The amendments to the act did away with this and the position is now that the Director of Legal Aid has the discretion to decide whether legal aid should be granted or not. It is further alleged that the government has the duty to uphold the Namibian Constitution and therefore the accused's right to a fair trial and, in the circumstances, should make funding available to ensure that the accused have adequate legal representation. The matter was argued on 12 December 2001 and judgment was given in favour of the accused. Government has, however, appealed and the appeal will be heard early in 2002.

I Malgas/C Afrikaner/S Frederick

Default judgments have been granted in three of the prison matters. These cases arise from assaults by members of the prison services on inmates of the Windhoek Central Prison on 27 January 2001. Ivan Malgas, Christiaan Afrikaner and Sageus Frederick decided to bring an action against the Minister of Prisons and Correctional Services for the assaults. After government attorneys failed to comply with the procedural requirements of the rules of the Court, we applied for default judgments to be granted against the Minister. The matters were heard on 1 June 2001 at the Magistrate's Court in Katutura, and the following sums were awarded to the inmates:

Ivan Malgas	N\$10,000.00
Christiaan Afrikaner	N\$15,000.00
Sageus Frederick	N\$15,000.00

Joors !Gaoseb

The matter of Joors !Gaoseb was favourably settled in that the government paid the amount of N\$20,000.00 in damages for the assault on client. The cheque was handed over to the client, who was obviously very pleased, on 29 May 2001 at our offices. Payment of N\$20,000.00 has also been received in the similar matter of Alfons Neib versus the Minister of Home Affairs.

Herbert Solomon

The case of Herbert Solomon (for unlawful arrest and detention and assault) versus the Minister of Home Affairs was set down for trial on 24 April 2001, but a day before we were due to go to court, we received a settlement offer from the Government Attorney and the matter was settled for the amount of N\$12,047.65.

R Sikunda and Four Others /L Muhigirwa

During late 2000, the Centre launched an application to review the decisions of both the Minister of Home Affairs and the Security Commission to place our clients, Raphael Sikunda and four others and Louis Muhigirwa, on a list issued by the Minister of Home Affairs purporting to declare certain foreign nationals as *persona non grata* and requesting the UNHCR to relocate these persons to other countries. Government has opposed the applications.

Mr Sikunda's father is also on this list and although the Centre is not acting on his behalf, it was his arbitrary arrest and continued detention despite a court order ordering his release, that prompted the Centre to act on behalf of his son and five others. The applicants fear that pursuant to their appearance on this Home Affairs list, they too will be detained and deported. Two of the applicants are Namibian citizens and have lived in Namibia for over 40 years. Mr Sikunda (jnr) has permanent residence and the other three applicants have been afforded refugee status in Namibia. The government has now filed its records in these matters but such records lack some important documents. Subsequently the Unit filed an application to compel the production of further records. The government has opposed such application stating that such records constitute state secrets and cannot be open to the public. This interlocutory application is still pending.

Mr Sikunda's father has since been released but an appeal was noted by the government and subsequently argued in the Supreme Court. The Government Attorney is of the opinion that the outcome of the appeal will have a major effect on whether litigation relating to our clients will continue,

we presume relating to whether they will continue with their opposition or not. The Unit's major concern is to ensure that, in the interim, clients' interests are fully protected in that they need not fear arbitrary arrest, detention or deportation. The government has made such undertakings and the matters are now held pending the outcome of the appeal.

Sadly, however, this is not all that Mr Sikunda Jnr has to be concerned about. During the time his father's matter was heard and in the related publicity, hordes of Swapo Youth League members converged on Mr Sikunda Jnr's home constituting a grave threat to client and to his wife and children. The assistance of the Namibian Police was called in and they arrived at the scene some hours later after the crowds had dispersed. We addressed a letter to the Inspector-General complaining of the tardiness of his officials and have been assured that, in future, the police officers have been put on alert to attend to similar complaints as a matter of urgency. Since then client has again been harassed by unknown "official looking" persons visiting his home and making vague threats. These incidents have been reported to the police.

'Chains'

The Supreme Court ruled on 9 July 1999 that the chaining of prisoners in leg irons or chains is unconstitutional. Pursuant to this judgment, the Centre attempted to settle the civil claims of sixteen prisoners who were claiming damages for being placed in leg irons or chains. The government refused to settle as it was contended that the prisoners' causes of action arose before the ruling of the Supreme Court at which time the practice of chaining was still allowed by the Prisons Act. The first of these 16 matters went to trial in October 2000. Acting on the contention of the government, the court immediately requested that only argument on the issue of whether the government is indeed liable would initially be heard.

Thereafter, a ruling was made that government was liable and only the issue of quantum had to be decided. The court ordered that the sum of N\$15,000.00 be paid to the Plaintiff and also ordered the

payment of costs on an attorney/client scale to show its dissatisfaction with government's handling of the matter. The government has subsequently appealed, however, the notice of appeal was defective and also out of time. The Unit managed to have the notice of appeal set aside.

Government then filed another notice of appeal, properly worded this time, but this notice is now even more out of time. Before government can therefore proceed with the merits of the appeal, they will have to argue for condonation for the late filing of the notice of appeal. The matter was set down for hearing in October 2001 before the full bench of the High Court. Since then the law has been amended to exclude appeals to the full bench. The appeals pending have now all been transferred to the Supreme Court and the matter will be argued on 5 April 2002.

Namunjepo and Others

The Engelbrecht matter, referred to above, together with the Namunjepo and Others matter all concerned the plaintiffs having being held in chains in prison for varying lengths of time. Such conduct was held to be unconstitutional by the Supreme Court.

These cases were due to go to trial in August this year. Fortunately, a settlement was reached in all fifteen cases. Government agreed to pay damages in all the cases and settlements ranged from N\$6,000 to N\$18,000, depending on the length of time the respective prisoners were in chains. We are at a loss to understand why government has chosen to settle these cases but not the one concerning Norman Engelbrecht.

Gerson Narib, second from left, was admitted as a legal practitioner in 2001. With Gerson is Clement Daniels, Lynita Conradie and Tenu Avafia



D Vries and Three Others

On 27 February 2001, our clients, Dawid Vries and three others, who happened to be community leaders as well as Congress of Democrats' leaders in the southern region, were arrested at Tses at around 8:00 pm by a certain Constable Iita and the Station Commander, Warrant Officer Kashamba. The reason for the arrest and detention was apparently clients' interference with the police in the execution of their duties. According to our clients' version, what transpired earlier that day was that they had simply questioned Constable Iita about the transporting of trial-awaiting prisoners in the pick-up vehicle of the Village Council, and also about the fact that a person who was known not to be in possession of a valid driver's licence was driving the said vehicle at the time. They were then told to leave this matter for later and during the evening were called to the Police Station to discuss their discontent about these issues. This was in hindsight only a false pretense under which they were lured to the police station, where they were subsequently arrested and detained for the above-stated ludicrous charge of interference with the police in the execution of their duties. They were kept in custody until the following morning at which time they were transported to Keetmanshoop for their court appearance. After the prosecutor perused the docket, the charges were withdrawn due to insufficient evidence being available to substantiate such charges. We have claimed for the unlawful and wrongful arrest and detention of our clients to the tune of N\$ 25,000.00 each.

State v Ganeb

The LAC was approached by the Judge-President to act as *amicus curiae* in the above matter and Lynita kindly obliged.

The question, which the court was to decide, was whether section 305 read with section 309(4)(a) of the Criminal Procedure Act, 51 of 1977, was unconstitutional. These sections provide that a prisoner who is not legally represented and who wishes to appeal against conviction and/or sentence from the Magistrate's Court to the High Court, needs a

Judge's Certificate in order to do so. This provision does not apply to prisoners who are legally represented, nor does it apply to convicted persons who are not in prison, if for example they received a fine or suspended sentence or are out on bail pending appeal.

The Constitutional Court in South Africa had declared these sections unconstitutional and in argument before the High court on 24 September 2001, heavy reliance was placed on this case.

Judgment was handed down on 7 December and the court found that the provisions complained of were indeed unconstitutional.

State v Ras Sheehama

Sheehama had been convicted in the Magistrate's Court for possession of a small quantity of dagga. This case has been pending for a long time and there were many delays caused by various postponements of the appeal.

The appeal was based on the question whether Sheehama, as a Rastafarian, was entitled to smoke dagga as part of his religious practice. The argument was that by prohibiting him from smoking dagga, there was an interference with his religious freedom in terms of the Namibian Constitution.

The matter was eventually argued on 26 October 2001. At the hearing the Court raised, *mero motu*, the question whether the appellant had followed the correct procedure.

The Court dismissed the appeal, but never even addressed the question of religious freedom. The dismissal of the appeal was based on the premises that instead of appealing against the decision, the appellant should have asked for a stay of the proceedings in the Magistrate's Court – at the commencement of the trial – and should have brought an application to the High court declaring the section prohibiting the possession of dagga, unconstitutional. The Court held that this procedure was preferable, as it would allow all interested parties, such as the Ministry of Health, for example, to have been joined as a party.

Liz Frank

Liz Frank, who is a German national, has lived and worked in Namibia for nine years. She took her case to court after two applications for permanent residence had been rejected without reasons. Ms Frank's original application was based on her professional qualifications, but also her long-standing lesbian relationship with her Namibian partner. In her affidavit, Ms Frank pointed out that if she was involved in a heterosexual relationship with a Namibian citizen she would have been able to marry and thereby gain the constitutional right to reside in Namibia. Because of her sexual orientation this was not possible. The court held that the Immigration Selection Board should issue a permanent residence permit to Ms Frank. Not surprisingly, government then appealed against the ruling but the appeal record was not filed timeously. The appeal matter was argued by Lynita in the Supreme Court in October 2000.

During argument, Counsel for government conceded that the Immigration Selection Board should have furnished Ms Frank with

their reasons for rejecting her applications for permanent residence. Judgment was handed down on 5 March 2001. The court condoned government's late submission of the appeal record (the Chief Justice disagreed with this decision) and further upheld the appeal thereby setting aside the previous order of the High Court. The light at the end of the tunnel was that the court set aside the decision of the Immigration Control Board to refuse to issue client with a permanent residence permit and referred the matter back to the Board to reconsider and decide after complying with the *audi alterem partem* rule. To this end, client was ordered to submit further representations to the Board within 30 days of the order, fully setting out details relating to her experience and qualifications. This was duly attended to and the Unit received a very welcome message from the Office of the Government Attorney on 22 June 2001, to the effect that the Board has taken a decision in client's favour and that she should report to the Ministry of Home Affairs, presumably to finalise the granting of her permanent residence.

Interventions that have not resulted in Litigation**M van der Bijl**

Tenu acted on behalf of Mrs Minette van der Bijl, a teacher employed with the DHPS school. Mrs Van der Bijl approached us to challenge a practice that she perceived to be gender discrimination at the school. The school apparently undertook to pay all teachers who were breadwinners of their families, an amount of money to subsidise the teachers' medical aid contributions. The school then paid all the male teachers who were found to be the breadwinners, the amount in subsidy. It so happened that Mrs Van der Bijl was the breadwinner of her family from August 1993 to April 1996, and then again from July 1998 to July 1999. The school however did not make the subsidies available to her because the school authorities automatically assumed that all the breadwinners were male. After several negotiations between our client and the representatives of the school board, the DHPS indicated its willingness to settle the matter out of court. The parties are currently in negotiations concerning the exact nature of the payment to be made to our client. As a result of our intervention and threat of legal action, the school has also re-worded its medical aid subsidy contribution to ensure that it is not gender discriminatory.

G Mwilima and Other Caprivi Detainees

During March this year, the Unit received a complaint from Mr Geoffrey Mwilima, who is an awaiting-trial inmate at the Windhoek Central Prison, that the prison authorities were making copies of his private correspondence. Gerson wrote a letter to the Ministry of Prisons demanding immediate cessation of this practice. We seem to have been successful in this regard, as Mr Mwilima reported that the practice had been stopped.

In general, the Caprivi detainees have adopted us as their legal practitioners in all matters and we regularly deal with issues ranging from allegations that they are not being allowed to see doctors of their choice, to complaints relating to their treatment. These issues are generally dealt with as they arise and are solved in a fairly amicable manner.

M Kandundu

In the case of Matheus Kandundu, our involvement ensured that he be released from prison at the proper time. The client had been sentenced to a four-year term of imprisonment for car theft on 21 April 2000 and on 22 April 2000 he was sentenced to another six months imprisonment for escape from lawful custody, which sentence was to run concurrently with the four-year sentence. He was however informed by prison officials that the sentences would not run concurrently. After numerous phonecalls and deliberations with officials from the Ministry of Prisons it was agreed that the sentence would run concurrently and that client would be released on the 20 April. It has been confirmed that client was indeed released.

Advocacy

The Unit was requested by the previous Attorney-General to draft amendments to the legislation governing the detention of the criminally mentally ill. This arises out of a case brought by the Unit in 1998. The services of a consultant were engaged to produce a written study of the relevant international human rights standards and legislation adopted in other countries. This study is now complete and includes appropriate recommendations for consideration by the Namibian legislature when adopting legislation in this area. The study has been forwarded to the Attorney-General and a workshop with all role players is planned for early next year.

Support to other organisations

Toni is a member of the Namibia Human Rights Forum under the auspices of the Sahringon Namibian Chapter, which was established to address various human rights issues in an effort to consolidate activities on the part of human rights organisations. Various committees have been established. Delme is acting on the committees relating to "Refugees, Racism, Xenophobia, Nepotism and Reconciliation" and "Independence of the Judiciary". Toni acts on the committees relating to the "Right to Education" and "Rights of Gays and Lesbians". The latter committee initiated the recent and first Human Rights march held in Windhoek.

Toni is a trustee of the Hoofbeats Trust, Archillen Gawanab Trust and Maria Geelbool Trust and these are administered with the very helpful assistance of Gerson and Werner.

Other activities

The Unit launched a "question and answer" column in the Youthpaper supplement to the Namibian. The column essentially targets the youth and attempts to educate the public on their human and constitutional rights whilst making the issues relevant to everyday life. Some success was initially apparent as the Unit received its very first query having had to do mock-ups in the past. However, since then no more questions have been received. The unit will commence with a second series of mock-ups early next year in an attempt to revive this project.

The Namibian Defence Force approached the Unit coordinator in February with a request that human rights training be given to trainee soldiers as part of their curriculum. We were happy to oblige and Delme has been conducting training sessions on a regular basis. Due to the language barrier, an interpreter is utilised which makes it extremely difficult to gauge the effectiveness of the training. Toni and Delme are currently in the process of drafting a short manual to be translated by the NDF into Oshiwambo with a view to assisting the transfer of information. This will be finalised next year.

(Continued on page 30)

Lectures and workshops

Members of the unit presented the following human rights and public awareness activities:

Group

"Open File" on NBC Television
Trainee soldiers from the Namibian Defence Force

Inspectors and Unit Commanders in the Namibian Police
Workshop organised by the HRC of South Africa and the Institute for Human Rights and Development, Banjul, The Gambia
MISA workshop

Trainee soldiers from the Namibian Defence Force

SADC Conference on the ratification and implementation of the International Criminal Court in terms of the Rome Statute

Workshop hosted by the Ministry of Labour in conjunction with the International Labour Organisation

Trainee soldiers from the Namibian Defence Force

"Crossfire" on NBC radio

Law students at the University of Namibia

Radio Ecclesia

Dept. of Continuing Education, Oxford University
Sahringon representatives from Southern Africa-Zambia
Inspectors and Unit Commanders in the Namibian Police
Okakarara community

Inspectors and Unit Commanders in NAMPOL

Inspectors in the Namibian Police
"Open File" - NBC Television

Inspectors and Unit Commanders in NAMPOL

SALAN - Cape Town
Inspectors and Unit Commanders in NAMPOL

Topic

Discussion on "Police and Human Rights"
Basic human rights concepts and the Constitution and how these affect soldiers in their duties

The role of the defence lawyer in the criminal process

Procedures of the African Regional Human Rights Systems

Freedom of the Press

Basic human rights concepts and the Constitution and how these affect soldiers in their duties

Civil society activities to support the establishment of the ICC

Analysis and discussion of the results of the child activities survey

Basic human rights concepts and the Constitution and how these affect soldiers in their duties

Rights of gay and lesbian people in Namibia

At Dianne's invitation discussed the Müller matter focusing on the use of international human rights organs

Interviewed on the LAC in general and the focus of the Unit in particular
Human Rights Programme

Strategising relating to the future direction of Sahringon

The role of the defence lawyer in the criminal process

Community workshop on wills and estates in cooperation with the NID

The role of the defence lawyer in the criminal process

Dispute Resolution workshop

Interview relating to Caprivi detainees' right to legal representation

The role of the defence lawyer in the criminal process

Bi-annual conference

The role of the defence lawyer in the criminal process

(continued from page 28)

In 28 April 2001 the LAC took part in the first ever Human Rights March to be held since Namibia's independence. The day brought together people of all creeds and dispositions with the common goal of maintaining a human rights culture in Namibia. Various high-profile speakers took the podium and kept the audience's spirits high. The day was a great success in that an unexpected number of people attended and the day passed without mishap.

In conjunction with The Rainbow Project, the LAC hosted a Human Rights Awareness week consisting of talks by invited guests, discussion panels and get-togethers. The focus of the week was the rights of gays and lesbians, juvenile justice and human rights in general.

The LAC, together with other interested NGOs, hosted an event commemorating the UN International Day against Torture on 26 June 2001. This event was also a great success and, in addition, live music was provided to entertain the audience. At the same time an essay competition was launched. Approximately 180 entries were received and the winners have since been chosen.

Lastly, the LAC together with other interested NGOs participated in the Human Rights Awareness week from 10-14 December 2001, that was organised and hosted by the Office of the Ombudsman. The Prime Minister officially opened the event. This event was a great success, but most participants indicated that the timing was not suitable, since most people were already on holiday and out of Windhoek during this period.



The International Day against Torture, observed with a public rally in Zoo Park on 26 June 2001, was attended by people from all walks of life. The event was addressed by Advocate Bience Gawanas, Ombudswoman, and Mrs Jacqui Badcock, UN representative in Namibia. The event was organised by the LAC, NSHR, Office of the Ombudsman, BWS, UN Information Service and the CCN.

HANDS OFF THE JUDICIARY

All Namibians have a Constitutional duty to protect the independence, dignity and integrity of our Judiciary.

We cannot allow baseless, xenophobic and racist attacks to undermine the independence and effectiveness of our judges.

'The exact boundaries of judicial power have varied from time to time and from country to country, but the principle of an independent judiciary goes to the very heart of sustainable democracy based on the rule of law. Subvert it and you subvert the very foundations of the civilization it protects.'

the late Chief Justice Mahomed

NAMIBIANS MARCH FOR HUMAN RIGHTS

Concerned Namibians and members of civil society organisations turned out in droves in Windhoek on 28 April to march in support of the Constitution against attacks on Constitutional rights by Government and political office-bearers. Once again the rallying cry of 'an injury to one is an injury to all' resounded in the heart of the capital.

Holding aloft the Namibian flag as well as banners and placards in support of the independence of the judiciary, press freedom and the rights of gays and lesbians, among others, the marchers, singing well-known liberation songs, snaked down Independence Avenue to Zoo Park for a rally.

The event, organised by eighteen NGOs to "take a public stand" on "attacks on human rights", drew together one of the most diverse groups yet to assemble under one banner.

Old and young, representing the rainbow spectrum of the Namibian nation, people of various political persuasions as well as rights activists were united in their call "One Namibia, One Nation". Director of the Legal Assistance Centre, Clement Daniels, added that it was important for people to stand up for their rights while they still could.

Commented one rights activist: "After 1990 I never thought the day would come that I would be marching for freedom again."

A representative of the Southern African Human Rights NGO Network, Pauline Dempers,

called on the country's political leadership to order high-ranking officials to stop instigating violence against minority rights.

Dempers also referred to reports of gross human rights abuses in northeastern Namibia.

Addressing the issue of the relentless attacks on gays and lesbians, the Director of Sister Namibia, Elizabeth Khaxas, said sexuality and sexual orientation was being used in Namibia to divide the women's movement and civil society. Khaxas added that there was a need to develop an ethic of diversity in Namibia. Ian Swartz, representing the Rainbow Project, urged Government to stop the hate speech against gays and lesbians and other minorities and address "the burning issues" confronting the nation.

Director of the National Society for Human Rights, Phil ya Nangoloh, charged that the obsession of high-ranking Swapo officials with vilifying and attacking the judiciary, the media, human rights activists, sexual minorities, the church and foreigners was tantamount to reverse racism. Apart from the event being filmed by TV crews from South Africa, it was also recorded by State agents.

The rights march, the first of its kind in independent Namibia, went off without incident.

[from an article in *The Namibian* by Max Hamata and Jean Sutherland]

6. PROMOTING CHILDREN'S RIGHTS AND RESTORATIVE JUSTICE FOR CHILDREN IN CONFLICT WITH THE LAW

The Work of the Juvenile Justice Project

The Juvenile Justice Project (JJP) was implemented in 1995 in Windhoek and can be regarded as a major success story. The main aim of the project is to provide a comprehensive national system of restorative justice for children who come into conflict with the law. The project has not only changed the attitudes of government officials tasked with the administration of justice, but has also ensured that there is political will and policies in place to ensure that Government will take full responsibility for the successful implementation of this project in all the regions of Namibia from 2003.

Celeste Zaahl is the project coordinator. Other staff include Ricardo Makondo, Senorita Gases, Wilma Isaak, Memory Ndjawella and two student interns, Mona-lisa Zatjirua and Letisia Alfeus.

The main activities of the project included the following:

Screening

Assessment is done every working day by the juvenile justice staff and the Social Workers from the Ministry of Health and Social Services. The coordinator at the Ministry of Higher Education assists when needed. The screening/assessment has been done at the new magistrates' court in Katutura since February this year. Arrangements were made to organise for a court orderly who would assist with the detained juvenile offenders. Negotiations are underway to move to another office space, to protect the identity of the juveniles when transferred from the screening office to the court.

The screeners have recommended conversion to a children's court inquiry, but this has not been feasible due to a channeling blockage. The screeners had a meeting with the prosecutor and it was decided that the prosecutor would follow procedures set out in the Criminal Procedure Act whenever the screener made such a request. Reports would be

requested from the Ministry of Health and Social Services. Screening forms are adjusted to include gender aspects. The revised forms have been in use from August.

Six hundred and thirty (630) children were screened between January and December. Of these, five hundred and forty-two (542) were boys and eighty-eight (88) were girls. Only one hundred and fifty (150) children have been diverted. The necessity for a programme for repeat offenders cannot be emphasised enough, as most of the children screened are repeat offenders. We still experience problems with forms that are not completed, and this has an influence on the statistical results. A consultant was contracted to produce a manual that would include all procedures on juvenile justice, to be used as a tool by the different role-players. Their different roles would also be highlighted, which would be useful to improve the juvenile justice programme in the respective regions.

Celeste Zaahl, Coordinator of the Juvenile Justice Project



Children in northern Namibia



Consensus decision-making

Consensus decision-making is the point at which the victim becomes involved in the juvenile justice process, and it also determines diversion, with the agreement of the victim to withdraw the case on certain conditions. The community is educated on juvenile justice, and is also brought into contact with resources in the community when needed. Procedures of the court are also explained to the parties involved.

Diversion options

Programme for repeat offenders

A study was done to determine why certain children constantly default and return to the system, in order that a programme be developed to cater for their needs. The results indicated that repeat offenders are usually school dropouts. Their parents do not appear in court and the children then have to stay in detention. This causes overcrowding in cells, and the children are often physically abused by other inmates.

There are also no holding facilities for children, since COLS (Change of Lifestyle Home Project), the place of safety for awaiting-trial boys, do not want to accommodate repeat offenders. Due to the lack of experts on juvenile justice in Namibia, we rely heavily on the expertise of South Africans to assist us. We contracted experts to train trainers on the journey programme during September. The journey programme involves four components, including an intensive life-skills programme, to prepare children for the outdoor programme (focusing on trust-building to explore solutions to their problems), vocational training and pre-trial community service.

Pre-trial community service

Effective referral procedures have been put into place after a workshop with possible placement agencies. Monthly meetings are held to monitor the process. Three organisations have committed themselves, namely the Change of Life Style Homes Project (COLS), Tabitha Old Age Home, and the Katutura Old Age Home. Children and

their parents are transported every Friday to a specific organisation to familiarise them with the organisation's set-up. Forms have been adjusted to meet the requirements of the parties involved. Forty-four children in Windhoek were referred for the pre-trial community service, and fifteen complied with the diversion condition.

The promoter in the south is still busy structuring pre-trial community service. In the north, problems have been experienced with lack of transport, funds, and commitment from key role-players. These problems were addressed during a recent workshop there, and a group was established to set up the referral system. Training for traditional leaders, the magistrate, prosecutors and councillors has been initiated. Multi-sectoral committees will be established in the different regions to work together with the juvenile justice forums. The promoter is responsible for coordinating the process.

The life skills programme

Ninety-four children were referred to the life skills programme, and forty-eight successfully completed it. Since we are not using a Namibianised manual, we are aiming to compile a resource manual that would enable facilitators to build a programme according to the needs of the children. HIV/AIDS would also be part of the manual. The programme has been more successful in Windhoek, since the vastness of the country makes it difficult to implement it in the regions. The programme is still combined with a weekend camp that includes more therapeutic sessions. The staff at the office are responsible for the facilitation of the programme in Windhoek, while youth officers from the Ministry of Higher Education, Technology and Employment creation, Directorate Youth Development, facilitate the programme in the regions. The Coordinator of the Juvenile Justice Programme in the said ministry participates actively with our staff in capacity building.

Counselling

Counselling is attached with other diversion options depending on the individual needs of the juvenile.

Crime Education

In conjunction with the Young Women's Christian Association (YWCA) and the Ministry of Higher Education, Recreation and Employment: Directorate Youth Development, the JJP has been involved in crime education and peer counselling with the establishment of the National Committee on Crime Education and Peer Counselling. The aim of the Committee is to educate and create an awareness amongst young people in the community about crime. Youth Against Crime groups have also been established in four regions. These groups are comprised of young, unemployed volunteers, and they work closely with the local municipalities and the police.

Monitoring of the arrest and awaiting-trial phase

Monitoring of the treatment of juvenile offenders by law enforcement agencies during screening entails the completion of monitoring forms. These forms also provide information on the transferral of all detained juveniles to Wanaheda police station, the tracing of parents and any human rights abuses.

Arrest and awaiting-trial meetings

Regular meetings were held with investigating officers for juveniles, and the Station Commander of the Wanaheda police station. Transport is currently a big problem and has a negative influence on the speedy trial of

juvenile cases. Transport donated by UNICEF is out of commission.

Prosecutors make entries in investigation diaries, and screeners complete recommendations in duplicate to attach to dockets for the information of investigating officers. Whenever parents are traced by police officers, they complete a form and put it in the docket so that the screeners know that parents have been informed. Conditions at the cells are also be monitored, including food given to the juveniles. Information on referral to COLS as a place of safety is also given during these meetings.

Local sponsors contribute to the purchase of cleaning materials for the police cells.

Cell visits

Juvenile justice staff, volunteers and COLS visit cells on a regular basis. Volunteers were rewarded for their tremendous work with certificates during a Juvenile Justice Forum Meeting. They determine whether children were screened, if parents were informed about their arrest, the date of the court hearing, treatment while detained and reasons for over-crowding. The promoters, in conjunction with other role-players, also visit cells in the regions on a regular basis. Problems specific to the north, are that there is no place of safety to refer awaiting trial-juveniles, and the Criminal Procedure Act also stipulates that the cells are also a place of safety for children.

Members of the Winahoe Juvenile Justice Forum, which consists of staff of the LAC, police officers, social workers and officials from the Ministry of Justice and Prisons



Juvenile Justice Forum meetings

Planning is done during these meetings to ease the implementation of the juvenile justice programme. Information is also shared on updated developments. The forums in the regions have not been functioning efficiently, due to transferrals of active and committed members. The juvenile justice promoters in the regions attend meetings every month to guide the role-players in this process.

The Inter Ministerial Committee (IMC)

The Inter Ministerial Committee (IMC) on juvenile justice was established in 1999 to ensure that Government is responsive to the needs of children who come into conflict with the law. A full-time Programme Manager was employed in July 2001.

A consultant was contracted to draft the juvenile justice bill, so that it can be enacted next year. A follow-up workshop will be held with Permanent Secretaries of the different ministries when the second draft of the bill is available. The programme manager is currently finalising the preparation phase for advocacy (crime prevention), capacity building, service delivering (process mapping and two feasibility studies), juvenile justice information systems and structures. Regular discussions are held on the phasing out of the juvenile justice programme of the Legal Assistance Centre, to emphasise Governments' responsibility towards juvenile justice.

Capacity building

To ensure a pool of trained role-players is available to the juvenile justice programme, the project, in conjunction with the Ministry of Higher Education and Training and Young Women's Christian Association (YWCA) has conducted regular training on juvenile justice and crime education for government officials and other stakeholders.

Statistics of last year indicate that children who went through the system were between 15 and 17 years of age. Crime education, combined with peer counselling, is

focused on children at high risk, from 12 years of age.

Follow-up meetings were held in different towns in order to strengthen the decentralisation process. Problems experienced especially in the north are the lack of holding facilities for juvenile offenders resulting in overcrowded cells, transport problems for Police and lack of committed role-players.

Networking

The programme works with children in need of care, and staff attend meetings to keep up-to-date on the current situation and developments. Regular meetings are held with the National Street Children Committee, the Steering Committee on the Government/UNICEF Programme Cooperation, the Ministry of Women Affairs and Child Welfare, the Family Life Empowerment Programme and the Inter-ministerial Committee.

Namibia ratified the Convention on the Rights of the Child (CRC) on 28 September 1990 and government has declared this day as the Day of the Namibian Child. The project was involved in organising the first celebration. We were subsequently invited to be part of a panel discussion on violence against women and children. This programme was aired on national television and radio.

The coordinator of the project and the programme manager at the IMC briefed all prosecutors in the country (over 70) on juvenile justice during their annual national training on 29 November.

JUVENILE JUSTICE PROJECT EXPANDS PRE-TRIAL DIVERSION OPTION WITH MODERN RITES OF PASSAGE

The Juvenile Justice Project (JJP) is broadening its pre-trial diversion programmes to ensure that children who come into conflict with the law more than once may also be diverted. The Prosecutor-general's office has accepted the implementation of the repeat offenders' diversion programme.

In September 2001, fourteen participants, three from the LAC and eleven from government institutions, attended a workshop on the "Journey Programme" run by the National Institute for Crime Prevention and Rehabilitation of Offenders (NICRO) as well as the "Siyavuka" programme for youth at risk, run by Educo-Africa. NICRO and Siyavuka are NGOs based in Cape Town, South Africa and have extensive experience in helping youth at risk.

The Journey Programme has four components. The life skills and outdoor components are run by Community Service and Vocational Training. The Namibian repeat offenders' programme will be based on this model.

As the process unfolded, participants listened intently, as the training involved not only imparting knowledge, but also touched their lives, with the most memorable aspect being the wilderness rites of passage aimed at inducing both teamwork and self-reflection.

The rights of passage focused on the threshold of growth. According to Educo-Africa a rites of passage traditionally entailed a process of

severance, to ensure that one acknowledges the movement away from the past and is prepared for the changes and challenges ahead. It is a threshold ritual, and an incorporation process in which one is mentored and guided, until with new insight, one returns to the community.

Elements of these ancient rites are essential to experiential learning and self-reflection. During the solo and mirroring processes, one is challenged to recognise one's strengths and weaknesses.

In the actual solo period, children are separated from each other in the wilderness with no food for a day or two. The children are away from their comfort zones and are provided with a journal for reflection. Safety measures are in place to ensure that no one is harmed. When the children come together again they reflect on what they had thought and felt about themselves while alone.

After the participants had observed a solo period, they were required to share their reflections and emotions were high.

The repeat offender programme is more than a programme for juvenile offenders. It is appropriate for all children and adults as a gateway to self-discovery and the recognition of the need to live in harmony with others. However, JJP will initially restrict the programme to needy children in conflict with the law.

[from an article by Ricardo Mukonda, LAC News no. 6 October 2001]

Youth participants in the Journey Programme for repeat offenders



7. THE EQUITABLE REDISTRIBUTION OF LAND AND NATURAL RESOURCES

The Work of the Land, Environment and Development Project

The primary aim of the project is to assist Namibians, in particular poor and marginalised communities, to gain access to land and natural resources through legal means. During 2000 the LAC undertook a major external evaluation of the project and as a result a new three-year proposal and plan of action were developed and implemented in 2001.

Norman Tjombe is the coordinator of the project. Other staff include Gerson Narib, Libertha Kapere and Sophie van Wyk.

Litigation and advice

The Project dealt with a number of legal disputes. Hereunder is a summary of the more interesting cases:

■ IXoo Community of Corridor 17, Omaheke region

In August 1998, the !Xoo Community of Corridor 17 signed an agreement with a private lodge entrepreneur, Intu Africa Lodge (Pty) Ltd which stipulated that the community will reap a share of the profits from visits to the lodge in return for a range of services that the community would provide to the tourists visiting the lodge and area.

However, after three months, the management of the lodge unilaterally cancelled the contract for no apparent reason. The community, with the assistance of WIMSA attempted to solve the matter, but to no avail. During 2000, community leaders instructed the LAC through the LEAD Project to assist with finding an amicable solution. Despite numerous attempts by the Project's lawyers to meet with the management of the lodge, this has failed. We are now preparing to have the matter finalised by arbitration to which the community and the lodge are contractually bound.

■ Nyae Nyae Conservancy

The Nyae Nyae Conservancy and the La Rochelle Lodge (Pty) Ltd, a private tourism and hunting enterprise entered into a hunting agreement whereby La Rochelle would pay the Conservancy hunting fees. A dispute arose with the interpretation of the agreement, with the Conservancy losing several thousands of dollars. After a year of fruitless negotiations, the Conservancy sought legal advice and intervention from the Project, who advised that the agreement be terminated. The agreement was ultimately terminated in November 2001, and the Project has been requested to provide legal support with negotiations and drafting a new contract.

■ Insecurity in the West Caprivi undermining development work

Since 1999, the Kavango and west-Caprivi region have been insecure due to the Angolan rebel movement's unlawful activities. Several people have died as a result of landmine explosions and many more have been shot dead or abducted into Angola. The increased presence of the Namibian security forces and the Angolan government's armed forces has also contributed to insecurity in the area, and many residents complained of harassment, arbitrary arrests and detentions and assaults at the hands of Namibian law enforcement authorities.

The Kxoe and Vasekele communities (both communities are part of the indigenous and extremely marginalised San community living in the West Caprivi area) have continued to suffer an increase in harassment by Namibian security forces. The traditional leadership of these communities believes they are being victimised due to the fact that many of their community members were used by the apartheid South African government in its military

operations against SWAPO's PLAN fighters. Several hundred San people have fled to Botswana and have received refugee status in that country.

Security forces are also harassing development workers working on CBNRM programmes, such as community game guards, thus making their important work of policing poaching, difficult, if not impossible. One worker has been killed and another arrested for no apparent reason, only to be released after lawyers from the Project threatened to go to Court for an order for his release. The area is also unsafe because a new wave of landmines has been planted. Several people have been maimed or killed since December 1999.

Because of the insecurity, several international donors have temporarily withdrawn their technical support to some or all of the development activities in most of the Caprivi region. This, of course, has set back community development activities tremendously. These undesirable activities have effectively halted the implementation of the CBNRM programme in the west Caprivi area.

Accordingly, in January 2001, the traditional leadership instructed the LEAD Project to lodge a formal complaint against the security forces at the Office of the Ombudsman. As a result of the complaint, the Ombudsman and her staff visited the communities in west Caprivi in February 2001 and had a day-long meeting with the traditional leadership and local development workers.

We are still awaiting the Ombudsman's report on her investigations.

Despite the visit by the Ombudsman, harassment of the local communities still continued, and the Project consulted with the community in July 2001 and thereafter launched a High Court application for the release of 15 men who were arrested in August 2000 and had not appeared in Court since their arrests. This Court application, which was opposed by Government, continued for a number of court days and judgment was finally handed down in early December 2001. The court found on a balance of probabilities that the 15 missing people were not in the custody of the Namibian Defence Force. Despite several investigative trips to the region and consultation with the community and witnesses the 15 people remain missing.

In a sequel to the unlawful arrests and detentions of the local people, Thaddeus Chedau, the acting Chief of the Kxoe community in west Caprivi was arrested in September 2000, but released 36 hours later without being charged or questioned. The Project represented him in a suit he brought against the Police for the unlawful arrest and detention and he won a compensation award against the Police of N\$ 23,000.00. Several similar matters are pending against the Police and the Namibian Defence Force, emanating from the harassment of the Kxoe and Vasekele communities in Western Caprivi and should come before the Courts during 2002.

Members of the Kxoe and Vasekele communities in Western Caprivi



■ **!Kung Community in M'Kata area**

In October 2000 the !Kung San community in the small settlement of M'Kata near Tsumkwe was informed that Government intended constructing a refugee camp near M'Kata to relocate over 20 000 refugees from the current refugee camp at Osire farm near Otjiwarongo. The !Kung raised several objections against the planned relocation of the refugees, such as their land, environmental and cultural rights, security, water and other resources, health and wildlife conservation.

In January 2001, the traditional chief of !Kung, Chief John Arnold approached the Project for assistance. WIMSA, in consultation with the Project and the traditional leadership of the !Kung community, conducted a community consultation around the issue. After these consultations the community instructed the Project to represent them in this dispute. Should government go ahead with the planned resettlement of the refugee camp, it will mean the effective dispossession and demise of the !Kung in the area.

■ **Women's and children's rights to inherit property**

Two cases of Kauapirura and Ashikoto that could break new ground for the inheritance rights of illegitimate children and women, and for the marital property regimes of many black Namibians was meant to be heard in the Namibian High Court on 15 October 2001. However, three days prior to the date of the hearing, Government, which vigorously opposed the two cases, settled both cases by offering to the Applicants the property in dispute. Whilst the matter resulted in a happy ending for our clients, unfortunately the law (the Native Administration Proclamation No. 15 of 1928) regulating the inheritance of black person's estates, which was challenged as unconstitutional, remains in force.

In a similar matter, widow Alma Gontes instructed the Project to reclaim her and her deceased husband's property from her husband's family. In this matter, the Native Administration Proclamation of 1928 is also challenged. This case will be heard in 2002.

■ **Johanna and Magdalena Manuel**

In a similar matter, the Manuel twin sisters instructed the Project to claim back their deceased father's Katutura house that was unlawfully transferred to the father's cousin after 1983 when the father died. They contest the constitutionality of a legal provision in customary law that, as female relative of their father, they could not inherit property. (Fortunately in this matter, the case did not prescribe yet as the sisters only turned 21 two years ago.) Due to the publicity of the cases of Ashikoto and Kauapirura, the Project has received several cases that involve inheritance of urban houses by black people, but unfortunately, many of these cases have prescribed.

However, the number we have received is an indication of the unfairness of the inheritance laws as applicable to black people, and how it basically impoverishes families by depriving them of the biggest assets – house and land.

■ **Legal support for drafting constitutions of emerging conservancies**

During the period under review, the LAC drafted seven conservancy constitutions for emerging conservancies. These were: Ondjiye, Okangundumba, Mashi, Orupembe, Ozondundu, Otuzemba, Otjimboyo Conservancies. The next step is now to assist these emerging conservancies to register as Conservancies.

■ **Permission to Occupy (PTO) disputes in the northwestern regions**

The High Court spoliation case of the Purros Community was settled in favour of our clients in that the campsite's manager had to pay our legal costs. However, the dispute over the ownership and management of the Purros Community Campsite still continues. This also applies to the disputes in respect of the community campsites in Otjidakui, Khowarib and Warmquelle areas. A speedy resolution to these disputes is hampered by the fact that the underlying ownership of land in communal areas is still uncertain. The positive resolution of these disputes is of paramount importance to the effective implementation and continuation of the national CBNRM programme.

This matter has been taken up with the Ministry of Lands, Resettlement & Rehabilitation and we are awaiting feedback from them.

■ Uibasen Conservancy

We provide advice to the Uibasen Conservancy regarding the issuing of a Permission to Occupy (PTO). The Conservancy applied for a PTO from the Ministry of Lands, Resettlement and Rehabilitation, but discovered that the PTO was in fact issued and registered in the name of an outside individual. It appears that the issuing of the PTO in the name of this individual was illegal. We have sought a legal opinion from Andrew Corbett, an advocate retained by the LAC to provide legal support to the conservancy development.

■ Hunting quotas

The LAC provided legal opinions to the Nyae-Nyae, Purros, Salambala, Ehi-rovipuka and Torra Conservancies in relation to their respective applications for hunting permits and quotas. Before granting new permits for trophy hunting or own-use hunting in the conservancies, the Ministry of Environment and Tourism have stated that they require completed management plans to be submitted by the Conservancies. Although the management plans are a long-term requirement of the Ministry of Environment and Tourism, they are not stated as pre-requisite to the granting of hunting permits. Also, the completion and submission of management plans is not a pre-requisite for granting of permits and quotas to commercial conservancies. The communal conservancy legislation and policy provides clearly that its purpose is to remove the discriminatory practices between the commercial and communal conservancies, which appears that it is a case of inconsistent application of the relevant legislation and policies. The Conservancies addressed a joint letter to the Ministry of Environment and Tourism requesting that their applications for hunting permits and quotas be considered without the submission of the management plans. The hunting quotas and permits were thereafter granted.

Workshops and conferences

CBNRM Regional Planning meeting

Gerson /Narib, a legal practitioner, and Werner Boesak, a candidate legal practitioner, both with the LAC, attended a CBNRM Regional Planning workshop held at Wêreldsend from 4 to 8 February 2001. This workshop, attended by about 130 delegates from a variety of organisations including MET, RISE, NACOBTA WWF-LIFE, IRDNC, NNF, NACSO, IBIS, DRFN, WILD Project, SRT, AfriCat, and by 14 unregistered and 8 registered conservancies, provided fertile learning ground for the two staff members of the LAC who are new to the CBNRM programme. The purpose of the workshop was to exchange ideas, plan for the future and work out strategies aimed at removing present and foreseen impediments to the CBNRM programme. The workshop was particularly instructive in that the two LAC legal staff members learned first-hand from the Conservancies and the NGOs involved not only about legal and other challenges to the CBNRM programme, but also about the whole idea behind and the workings of the CBNRM programme, including the opportunities that this programme creates for the conservancies and the communities.

Specific legal impediments or problems identified at the workshop were:

- (a) The legal status of the concession areas within conservancy boundaries, and in particular what should happen after the expiry of such concessions
- (b) Granting of PTOs within Conservancy boundaries by the Ministry of Environment and Tourism without regard to the rights and interest of the Conservancies
- (c) Granting of exploration and mining licenses by state agencies within Conservancy areas.

(continued on page 42)

STUDY ON SAN'S STATUS IN SOUTHERN AFRICA PAINTS A GRIM PICTURE

The Ombudswoman, Ms Bience Gawanas, officially launched a study on the status of the San on the sub-continent in November 2001. She reiterated the commitment of her office to ensure the protection and promotion of the rights of the San communities in Namibia. She promised to follow up on the recommendations made in the study in 2002.

Speaking at the launch of the five-volume report on the status of the San in southern Africa in Windhoek, the coordinator, James Suzman, summed up the findings as "not very flattering".

Suzman said the study showed that the San people of Namibia, Botswana, South Africa, Angola, Zimbabwe and Zambia remain trapped in a marginalised state, unable to make themselves heard like other groups.

In Namibia, the average human development levels (an indication of people's quality of life with regard to life expectancy, literacy, school enrolment and income) of the San is only a third of the average Namibian's. At the same time poverty levels are three times higher than the average Namibian. Being weak and marginalised the San are caught

in a trap, as they are unable to voice their concerns and change the state they find themselves in.

The San's position in all the countries where they live needs to be addressed across a broad range of sectors, accompanied by long-term platforms of cooperation between governments, NGOs involved with San, and donors.

The reports state that most of the region's 90,000 San people are struggling to adapt to a rapidly changing world in which they lack legal rights to land, are largely dependent on welfare or extremely poorly paid jobs, and lacked the skills needed to compete politically and economically.

The study was funded by the European Union. The Lac, which published the reports, played a central role in having the study carried out. The study followed from a decision at the Joint Assembly between the EU and the African-Caribbean-Pacific countries in Windhoek in March 1996 to have the conditions and prospects for the San looked into, in the light of special difficulties in integrating hunting and gathering peoples into a modern agricultural and industrial system.

[from LAC News, no. 7 2001]

The LEAD Project is looking into the environmental impact of informal settlements in urban areas

Members of the Kxoe community in Western Caprivi during consultations with staff of the LEAD Project



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Land Reform Lawyer's Workshop

Norman participated in the *Southern African Land Reform Lawyers' Workshop* held on Robben Island on 21-22 February 2001, hosted by the Land Project of the Legal Resources Centre of South Africa. Norman, who presented a paper entitled "*The applicability of the concept of aboriginal title in Namibia. The case of the Kxoe community in the West-Capri*", chaired a panel with Advocate Peter Hathorn and Henk Smith of the Legal Resources Centre, and Professor Tom Bennet from the University of Cape Town.

The workshop was particularly useful for the Project as it dealt with a number of themes directly applicable to the land reform process in Namibia, such as "*Mineral Rights for rural communities: New developments in Southern Africa*"; "*Communal Land Tenure Laws in Southern Africa*"; "*Social and Economic Rights: Land Rights and Housing Rights*" and "*Traditional Authorities, Local Government and Land*".

Roundtable discussions on Communal Land Reform

On 24 February 2001 the LAC organised a roundtable discussion with the theme "*Communal Land Reform*". Professor Chanock, of the La Trobe University in Australia was the lead discussant at the workshop. Discussions centred on the possible impact of the Communal Land Reform Bill on the Conservancy legislation and policy, particularly in relation to communal area Conservancies. Several people from CBNRM support organisations, members of parliament and high-ranking officials from the Ministries of Lands, Resettlement and Rehabilitation and Environment and Tourism participated.

Workshop on Women's rights to inherit property under customary law

The LAC hosted this year's annual workshop of the Southern African Legal Assistance Network (SALAN) (of which the LAC is a founding member) in March, with the theme of *Women's rights to inherit property under customary law*. Norman presented the cases of Kauapirura and Ashikoto. Several participants had discussions with Norman concerning the cases as they have already litigated similar cases in their countries (Zimbabwe, South Africa and Tanzania), which was very useful. To date, these participants are still corresponding with the Project providing guidance and references to case law, which are otherwise not available in Namibia.

One of the focus areas of the LEAD Project during 2001 was women's rights to inherit property in rural areas.



Lawyers' Reference Group on Aboriginal Title, Stellenbosch

The Project is part of the *Lawyers' Reference Group on Aboriginal Title*, a network of lawyers working on aboriginal land issues. The First Nations Development Institute from the USA hosts this reference group and is funded by the Ford Foundation. The Reference Group met for the first time in Stellenbosch, South Africa and held a workshop on 20-21 May 2001. Lesley Pinder, an exceptionally experienced lawyer who has argued several aboriginal cases in the USA and in Canada (she was one of the lead lawyers in the Canadian Supreme Court case of *Delgamuukw v The Queen* (1997) – the case that ruled decisively for recognition of aboriginal title in Canada), gave a presentation on how to build a case using several-hundred-year-old oral history as evidence. Clement and Norman give an overview of the legal problems of the Himba, San and Topnaar communities in Namibia and how the acknowledgment of their ancestral land claims can advance their quest for a better living standard.

Namibian Civil Society Conference on Land Reform

The Project and a number of NGOs organised a three-day conference on land reform in Namibia in October 2001. Over sixty civil society organisations were represented. Professor John Makumbe of the University of Zimbabwe was the keynote speaker and delivered a paper entitled *"The Role of Civil Society in Democracy and Development"*, with special focus on land reform in Southern Africa.

The objective of the Conference was for Namibian civil society actors to develop a common perspective to be able to participate in an informed way in the process of land reform in Namibia. A Conference report will be published in early 2002.

Council of Churches in Namibia's Symposium of Theologians on Land Reform

Norman was invited to attend a symposium of Theologians on Land Reform, organised by the Council of Churches in Namibia (CCN) and participated in a discussion on *"The Constitutionality of Namibia's land reform process"*. The discussions were favourably received and the CCN requested the Project to continue developing arguments on the constitutionality of the land reform process for the benefit of advocacy work of civil society.

National, Regional and International Networking

Namibian Association of CBNRM Support Organisations (NACSO)

The Legal Assistance Centre, through the LEAD Project, is a founding member of NACSO. NACSO brings a host of different non-governmental organisations and government together in support of CBNRM activities across the country. The Project provides the much-needed legal support to various communities working with CBNRM programmes, whilst the other organisations provide technical expertise and infrastructure support. Partial funding for the legal support to the conservancy development programme was secured through the Namibia Nature Foundation, which in turn received their funding from SIDA.

First Nations Development Institute and First Nations Worldwide

The Project will undertake an extensive Land and Law training for San communities, courtesy of the cooperation and working relationship between the Project and First Nations. First Nations has several years of experience of working with indigenous communities around the world, and we are happy to draw on their experience and expertise of their education programmes.

Lawyers Reference Group on Aboriginal Title

Another network through which the Project finds value is the Lawyers' Reference Group on Aboriginal Title hosted by First Nations. This brings together lawyers working on aboriginal issues, whether it is land claims or securing intellectual property of indigenous people.

Legal Resources Centre's Land Project, South Africa

The over 12 years of cooperation and networking between the Legal Assistance Centre and the Legal Resources Centre in South Africa still continues. The Project finds networking with this partner very useful as the LRC has extensive constitutional litigation experience, and are busy with litigation on a land claim, which is based on the concept of aboriginal title – the first in Southern Africa – a potential in Namibia. Gerson will be visiting the Legal Resources Centre's Pretoria, South Africa office for three weeks on a capacity building internship in March 2002.

Research

Regional Assessment of the Status of the San in Southern Africa

We are pleased that the two-year research report *Regional Assessment of the Status of the San in Southern Africa* has been completed and has been widely distributed. This comprehensive research study of the San people in Angola, Botswana, Namibia, South Africa, Zambia and Zimbabwe was commissioned by the European Union and the Legal Assistance Centre was appointed as the implementing agency. As a development issue, this naturally was dealt with by the Project and Dr James Suzman was appointed as the coordinator of the entire research project and as a researcher for the Namibia study.

The outcome of the report is a series of five reports. The first series serves as an introduction to the study as whole. The second, third and fourth are country-specific reports on the situation of the five countries. The fifth is the outcome of a specialist consultancy commissioned as part of the study to focus on gender issues in relation to the San people.

The study is a valuable tool for governments, NGOs and other development workers. The entire report will be available on the internet in 2002.

Gender and land reform in Namibia

The Gender Research & Advocacy Project with the LEAD Project conducted a research study aimed at assessing the impact of the land reform process of commercial agricultural land. The research will particularly look at whether land was redistributed by way of sale, lease or other means; how many land allocations had been done in the name of men *versus* women; whether, in law and in practice, the inheritance rights of dependents are protected when the person(s) in whose name(s) the land is allocated die(s). The research, which started in its earnest in June 2000, was completed at the end of November 2001 and will be available for distribution in early 2002.

The equal distribution of land and natural resources remains a serious challenge for Namibia. Villagers in northern Namibia go about their daily business



DISCRIMINATORY LAWS ABOUT INHERITANCE RIGHTS CHALLENGED

Two vestiges of discrimination against black Namibians and illegitimate children contained in laws inherited from the distant colonial past were tackled in a case that made its first appearance in the High Court.

Okahandja resident Apia Kauapirura took an important step towards making legal history in Namibia when she succeeded in being granted an order in the High Court in Windhoek to prevent the sale of a house that the late father of her two sons left behind when he died.

With Kauapirura's application, she launched a combined attack on the constitutionality of two controversial but nevertheless still valid parts of Namibian law:

A common law rule which says illegitimate children, unlike children born in wedlock, cannot inherit automatically from their father if he dies without leaving a will.

Provisions in the 73-year old Native Administration Proclamation of 1928 that determines that the estates of "natives" who die without leaving a will would not be administered as the estates of "white" or "coloured" people in Namibia.

Kauapirura (41) and the late Gerson Tjirera lived together as husband and wife for over ten years, but were never married. They had two sons together, now aged 10 and 3. At Tjirera's death, the

largest asset in his estate was a house he owned in Okahandja. He died without leaving a will.

As is the practice with the administration of the estates of "natives" who die intestate, an executor was appointed to handle the distribution of Tjirera's assets according to Herero customary law.

In this case, the executor was Petrus Kaunatjike, brother of the deceased. Relatives of the late Tjirera at first agreed that his house should be given to Kauapirura and her two sons. However, during 2000 she learned that Kaunatjike was planning to sell the house. When she confronted him about it, he responded that in terms of Herero customary practice he was, as Tjirera's eldest brother, entitled to inherit everything, and that he would proceed with the sale of the house. That would mean Tjirera's sons losing the single biggest asset their father had left, and they would be homeless, according to Kauapirura.

She further attacked the common law rule which holds that illegitimate children do not inherit from their father if he dies intestate. In contrast, children produced within a marriage, can inherit intestate from their father. This distinction is also unconstitutional since, among other things, it violates an illegitimate child's constitutional right to equality before the law and their right not to be discriminated against on grounds of their social status. The case will be heard in mid-2002.

Wills and Inheritance Booklet

Norman and other legal practitioners developed a booklet on Wills and Inheritance under the auspices of the Law Society of Namibia. The purpose of the booklet is to explain in plain language the different inheritance regimes applicable in Namibia and to encourage people to write wills to avoid dispossession of spouses (in particular) and children under customary law of inheritance.

8. MAKING THE LAW ACCESSIBLE TO COMMUNITIES

The Work of the Legal Education Project

The main purpose of the legal education project is to make the law more accessible to communities and to create awareness about the Namibian Constitution and human rights. This year the project implemented a national paralegal volunteer training project in all thirteen regions of Namibia.

Milly Jafta is the project coordinator and was assisted by the following staff members: Monica Nganjone, Julia Shuuya, Trudy Bock, Elly Shipiki, Alloysius Katzao, Ruth Hekanjo and Joshua Vaedwanawa.

Planned and requested workshops

The LEP conducted ninety-four workshops and meetings and reached more than 2500 participants countrywide. This represents an average of eight workshops/meetings per month. Fifty-four of these were legal education, human rights and gender workshops, conducted as part of the project's work plan and on request from the communities. The other workshops were conducted as part of the Community Paralegal Volunteer Training Project.

Impact training

As part of its strategic plan to make basic legal advice services available at first ports of call, the project embarked on a structured training programme to empower employees and members of other NGOs, CBOs and government ministries who render direct services to individual clients.

Under this programme, the LEP has trained four different groups:

- staff of the Ministry of Basic Education Sport and Culture
- two groups of staff from other ministries, NGOs and CBOs
- members of the Federation of People with Disabilities.

A total of more than 100 people in established organisations were trained under this programme. Most of the participants are already providing general advice services to their clients. The purpose of this training is to strengthen and add further value to their services. These participants will now be in a position to assist their clients with basic legal advice and other information and thus help to reduce logistical frustrations.

The training took place as follows:

■ Training for government community learning and development centres

Milly and Monica conducted on request a two-week Community Paralegal Training Course in July and September 2001 for the Ministry of Basic Education, Sport and Culture. This group consisted of two members from each of the Ministry's thirteen Community Learning and Development Centres around the country and two members from head office. The participants comprised fifteen men and thirteen women. Amongst them were local councillors and coordinators of the centres. The Ministry envisages that these centres would become multi-purpose centres where a variety of community services would be made available to the

communities.

■ Empowering NGOs and other first ports of call

Monica and Milly conducted a Community Paralegal Training Course in Grootfontein and trained twenty-eight participants from 22 October to 1 November 2001. The participants consisted of staff members of the Ministries of Women Affairs and Child Welfare, Health and Social Services, Higher Education, Training and Employment Creation (Youth Officers), the Chief Executive Officer and various local councillors from the Grootfontein Town Council, youth workers and community leaders.

Milly and Monica conducted Community Paralegal Training in Windhoek for various NGOs and Ministries from 12 to 22 November 2001. The thirty participants consisted of Social Workers from the Ministry of Health and Social Services, paralegals from the National Society for Human Rights, counsellors and representatives from the Katutura Multi-purpose Youth Resource Centre, Namibia Planned Parenthood Association, Namibian Men Planned Parenthood Network, Namibia Women's Organization, Khomas Women in Development, Sister Namibia, the Rainbow Project, Women Action for Development, Namibia National Federation for People with Disabilities, amongst others.

Workshops for marriage officers

During workshops in the north in 2000, the Legal Educators found that married women seeking divorce or whose husbands have passed away, seemed to be confused about the property regimes their marriages were contracted under. After consultation, the two Legal Educators, Monica Ngranjone and Ruth Hekanjo suspected that some of the Marriage Officers might not follow the provisions of the existing legislation to ensure that "Blacks" marrying in the north marry in community of property.

The current legal position is that all civil marriages south of the Old Police Zone are automatically in Community of Property, while marriages between "Blacks" north of the Police Zone are automatically Out of Community of Property. In order to discuss this problem in a strategic manner and to find some short-term solutions, pending the amendment of the discriminatory legislation, Ruth Hekanjo organized a workshop on "*property regimes, inheritance and will writing*".

The workshop was held from 15 to 17 April 2001 at the Multi-Purpose Youth Centre, Oshakati and attended by thirty-six participants and speakers. Of these, twenty were marriage officers, while the rest were social workers, traditional leaders and community workers. The workshop was co-facilitated by Magistrate P Noa, Dianne Hubbard, Elly Shipiki and Milly Jafta.

The following topics were covered:

- The Property Regime in the Old Police Zone
- The Married Person's Equality Act, 1996
- Inheritance
- Will Writing

As part of the project's Outreach Programme of finding new ways and new partners to help stop Violence against Women and Children, Milly has initiated and started a Pilot Project with Grade 7 male learners at the Moses van der Byl Primary School on 14 May 2001. The project is named *Project Regroup: Violence against women and children*.

This Project is a direct result of the *Essay Competition* that the Project conducted for Grade 12 male learners on Violence against Women and Children during 2000. From these essays it was learnt that young men seem to have problems with communication, especially in their communication with girls, they also seem to be ambiguous about how men should act towards women and they experienced difficulties with decision-making and conflict handling. Furthermore young boys seem to be increasingly in the news for violent crimes.

Identifying and winning over new partners in the fight against violence against women and children

The purpose of the project is to:

- get input from learners on how they see the problem of violence in the society in general and violence against women and children in particular
- together with them, develop strategies and ways to inform interventions for boys in this age group/ developmental stage
- to teach them some coping and decision-making skills

After consultation it was decided to conduct the working sessions over a period of eight weeks with a group of twenty boys at a time. The first phase of the project, which aimed to reach five groups of twenty boys each in Windhoek, could not be finalised as planned due to involvement of the Legal Educators in the Community Paralegal Volunteer Training.

Milly has started with the Project Regroup in the first half of the year. The first group of twenty boys from the Moses van der Byl Primary School however completed their sessions and received their certificates on October 2001. Working with these young boys has again underlined the urgency to promote prevention amongst young children – especially boys.

Reaching out to some of the most vulnerable and marginalised groups in society

The project as part of its policy of *Inclusion*, has made special efforts to include some of the most vulnerable and marginalised groups in its programmes.

■ People living with disabilities

Discussions between the Chairperson of the

Federation for People with Disabilities and Milly for the running of a paralegal training workshop for people with disabilities started in 2000. Although LEP was eager to provide the training, it did not have the funds to conduct such a workshop due to its high per unit cost. At the end of June 2001, the project obtained funds and the first-ever legal education workshop for people with disabilities was conducted.

Milly and Monica conducted the two-week Community Paralegal Training Workshop in August and October 2001. Twenty participants (12 women and eight men) from the following organisations, affiliated to the Federation attended the workshop, attended: Association for People with Physical Disabilities; Association for Women with Disabilities; Association for the Hearing Impaired; Association for the Visually Impaired; and the Association for Parents of Children with Disabilities. Other participants were some of the staff of the Rehabilitation Centre of the Ministry of Lands, Resettlement and Rehabilitation.

The workshop methodology had to be adjusted and the facilitators relied a great deal on the participants to set the pace and for guidance and assistance. Sign language translators, tape recorders and translation were used to maximise the benefit of the workshop. Topics covered in the workshop were specially focused on the needs of the group. These included topics like the National Policy on Disability; Government Social Pensions; the rights of children and especially their right to inclusive and mainstream education, etc. The workshop was truly a learning experience for both the participants and the facilitators.

Members of the Federation of People with Disabilities together with Deputy Minister of Lands and Resettlement, Honourable Katali, second from left, and LAC staff members



On 6 and 7 November 2001, Milly and Monica conducted an Advance Community Paralegal Workshop with the People living with Disabilities. Eighteen participants-eight and ten men and women respectively- attended the workshop. The project has undertaken to assist the Federation to set up a limited Advice Service at the Disability Resource Centre in Katutura.

■ **Gam and Tsumkwe communities**

The Legal Education Project has also for the first time included a group of ten participants from the Gam and Tsumkwe Communities in their training from 22 October to 1 November 2001 in Grootfontein. The participants, an NGO and Social Workers working in these two communities have requested further training for more people from these two communities.

■ **Sexual minorities**

Although not planned, the inclusion of one member each from Sister Namibia and the Rainbow Project in the workshop that took place in November 2001, created the opportunity for participants to ask each other relevant questions, for debates and to seek clarification on different issues in the controlled workshop environment. These two organisations work towards protecting the human rights of sexual minorities. This created the ideal opportunity to discuss issues like *tolerance, respect for minority rights, etc* as prerequisites for democracy, peace and justice and opening the channels of communication between individuals and groups with opposing views.

Community Paralegal Volunteer Training

Under the capable leadership of Mr Elly Shipiki the legal educators of the Legal Education Project (LEP) have traveled throughout the country to train paralegals and also assist them with the difficult challenges peculiar to each region in Namibia. By the end of the year a total of 256 paralegals were empowered with legal skills and knowledge to provide basic legal advice to communities.

Before the project could be implemented the LEP staff held Community Consultative and Selection Meetings to inform communities about the project, to popularise the idea of community self-help, to select suitable participants for the training and to jointly decide on suitable training dates. Most of these meetings were held in January and February.

After the meetings the training started in earnest. Phase One of the training consisted of an Introductory Course of two weeks, which was held one week at a time with a break in between to allow participants to digest and practise the information and skills obtained. In order to meet the deadline for the finalisation of Phase One, two teams of two members each were conducting the sixteen workshops over a period of three months. The two-week Introductory Course was conducted for participants from seven regions, namely Oshikoto; Oshana; Caprivi; Kavango; Kunene; Erongo and Otjuesondjupa. To save costs some the paralegals of some towns and villages were combined.

The period under review focussed on introductory courses in law. The courses offered ranged from topics such as the role of a para-legal, the Namibian legal system, the Namibian Constitution and human rights, the basic difference between civil and criminal law, labour law, HIV/Aids and the law and land rights. The training programme content was basically made up of topics which came out of consultations with communities. The topics were prepared in order to cater for the needs of the communities so that they can assert their rights in terms of the law.

During the finalisation of the planning of the second week of the Introductory Course, problems were experienced. Some participants could not attend on the dates planned for their regional workshops due to other commitments. Various strategies were considered to ensure that as many as possible of the participants complete the second week. However due to resource constraints, it was not always possible to accommodate these participants in workshops in other regions and away from their homes.

Second-week trainings sessions were conducted in towns and villages. To reduce costs a number of paralegals from different towns and villages were trained together.

One of the objectives of the project is the setting up of local community structures from which paralegals could operate and which are accessible to the local community. It was therefore necessary to provide basic administrative skills and organisational training to the different groups.

In some towns, such as Walvis Bay, Rundu and Katutura, the local paralegal structures have set up an advice office from which they operate. Other areas have different dynamics and although they have not set up advice offices, paralegals give advice on an individual basis and have regular group meetings.

One of the major challenges for the project during 2002 is the finalisation of Advanced courses and direct assistance to paralegal groups to set up viable structures in their communities.

Training of Legal Educators

Another key activity of the project is to equip Legal Educators with proper skills and knowledge to conduct effective training courses. The legal educators involved in the project attended their planned half-yearly training from 28 May to 01 June 2001 in Windhoek. The following topics were covered:

- Training of trainers
- AIDS and the Law
- The Labour Act, 1992
- Family Law

Newly appointed staff were also briefed on the Performance Appraisal System by management at the request of the project.

A consultation and planning meeting was held from the 27 to 28 of June at which the training schedule and training programme was discussed and adopted. This also served as a valuable training session and equipped participants with planning tools.

Visits and follow-up training

To maintain the momentum and to provide on-the-job support, several trips were undertaken to meet with paralegals, to sort out local organisational problems and to introduce them to the broader community. One of the areas that required particular attention was the Walvis Bay Community Paralegal Office. The project assisted them to obtain office space in the newly established Multi-purpose Centre in Kuisebmond.

Visits and follow-up training will be intensified during 2002.

Materials development and publications

After a long discussion on the appropriateness of training materials, the project developed a Basic Skills and Reference Manual for Paralegals. The manual has been submitted to various paralegal groups and other interested staff members for comment before the final version will be published in the beginning of 2002. The manual explains the basic roles of paralegals, discusses and explains a number of administrative skills and has a directory of important references.

The project has also developed a Data Base for the Community Paralegal Volunteers. The information available includes contact details of trainees, as well as their training records. It is envisaged that it will serve as a resource for the LAC as well as other organisations.

The project used the existing materials developed by other projects of the LAC on gender equality, the constitution and human rights, and new legislation that are passed from time to time.

Promotion and recognition of Community Paralegals

Another important component of the project is the establishment of a paralegal association that could unite paralegals and advocate and lobby on their behalf. The first step to realise this objective

was the National Paralegal Conference that took place from 3 to 4 December 2001 in Windhoek. The purpose of the conference was to discuss the possibility of establishing a Paralegal Association, to share experiences and to look at the future of paralegalism in Namibia. Forty-three representatives from all regions attended this very important conference held at the Harmony Centre. Elly Shipiki officially opened the conference and reminded participants of the importance of the conference and urged them to actively participate in the deliberations in order to ensure a successful outcome. He restated the purpose of the conference as a platform for paralegals to learn from one another through the sharing of their respective experiences and to explore the way forward for paralegals to become more effective in their communities and to gain recognition for their work.

First for LAC

Another first for the LAC and LEP is the making available of legal education materials in Braille. The LEP, with the assistance of Lynita Conradie of the LAC, has completed workshop handouts in Braille. The LEP has also obtained permission from Out of Africa Publishers to translate their three publications *Law for All* into Braille. The Braille translations have been funded by the Austrian Development Cooperation. These materials will also be distributed to Schools for the Blind, The Association for the Visually Impaired, and the various Disability Resource Centres around the country.

The LEP is also trying to get funds to have more of the legal education materials made available in Braille and is also considering making tape and video recordings of legal education materials.

In October 2001, Milly organised a visit and accompanied participants with disabilities to the National Assembly to see how laws are made. Most of the participants had never visited Parliament, due to the expense involved in getting to Windhoek and the physical barriers that make it almost impossible to get into the public gallery. Since the visit was arranged beforehand with the Speaker's office, parliamentary staff made arrangements to assist the disabled to get in and out of the public gallery. During the visit, the Corruption Bill was tabled, and participants could observe part of the process of lawmaking as taught in the workshop. The visit was important as lawmakers could experience firsthand the problems people with disabilities have in accessing public buildings. It was also significant that the Speaker used the opportunity to point out the inaccessibility of the National Assembly to people with disabilities and called on his colleagues in the House to support him when he requested funding to make the National Assembly accessible to all.

Community paralegal volunteers from the Kavango Region, with LAC staff and Lari Kangas from the Finnish Embassy in Windhoek



9. CONCLUSION

This was a very eventful year and it is interesting to note that the Centre has explored different means and methods to raise greater awareness about human rights and the protection of human dignity.

There remain many challenges and obstacles on the road to building a culture of human rights in Namibia. Fortunately many organisations and institutions have united in this very important campaign and it is clear that the impact has been felt throughout Namibia. The social and economic inequalities in Namibia are, however, undermining our achievements and there is a need to place greater emphasis on the redistribution of wealth and resources to reduce poverty and despair.

We believe that international events and phenomena, in particular globalisation and the "war on terrorism" are undermining the role of the United Nations and the impact of international human rights instruments. There is therefore a need to strengthen our ties with international organisations to reduce the negative impact of international events on our own efforts to create a better society in Namibia and the sub-region.

The redistribution of wealth and resources to reduce poverty remains the greatest challenge to achieve equality, freedom and justice in Namibia





LEGAL ASSISTANCE CENTRE

OFFICE HOURS

Monday - Friday

08h00 - 13h00

14h00 - 17h00



**THE LEGAL ASSISTANCE TRUST OF NAMIBIA
CONSOLIDATED ANNUAL FINANCIAL STATEMENTS (abstract)
FOR THE YEAR ENDED 31 DECEMBER 2001**

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ADMINISTRATION

Trustees: D F Smuts (Chairperson)
H Angula
C Daniels
Hon W Emvula
G Nakazibwe- Sekandi
Dr T Tueumuna
B Ulenga
B Gawanas (appointed 1 January 2001)
S Akweenda (appointed 1 January 2001)
H Kaiyamo (appointed 1 January 2001)

Director: C Daniels

Auditors: Stier Henke Associates

STATEMENT BY THE TRUSTEES

The consolidated annual financial statements set out on pages 3 to 15 have been approved by the Board of Trustees and are signed on their behalf by:



C DANIELS
WINDHOEK
5 February 2002



D F SMUTS

REPORT OF THE INDEPENDENT AUDITORS

To the trustees of

THE LEGAL ASSISTANCE TRUST OF NAMIBIA

We have audited the consolidated annual financial statements of The Legal Assistance Trust of Namibia set out on pages 54 to 60 for the year ended 31 December 2001. These financial statements are the responsibility of the Board of Directors. Our responsibility is to express an opinion on these financial statements based on our audit.

Scope

We conducted our audit in accordance with statements of Namibian Auditing Standards. Those standards require that we plan and perform the audit to obtain reasonable assurance that the financial statements are free of material misstatements. An audit includes:

- ◆ examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements;
- ◆ assessing the accounting principles used and significant estimates made by management; and
- ◆ evaluating the overall financial statement presentation.

We believe that our audit provides a reasonable basis for our opinion.

Audit opinion

In our opinion, these financial statements fairly present, in all material respects, the financial position of The Legal Assistance Trust at 31 December 2001 and the results of its operations for the year then ended in accordance with Namibian generally accepted accounting.

Stier Henke Associates

STIER HENKE ASSOCIATES
CHARTERED ACCOUNTANTS (NAMIBIA)

WINDHOEK
5 February 2002

CONSOLIDATED BALANCE SHEET AS AT 31 DECEMBER 2001

	Note	2001 N\$	2000 N\$
ASSETS			
NON-CURRENT ASSETS			
Property, motor vehicles and equipment	3	<u>2 628 219</u>	<u>2 480 498</u>
CURRENT ASSETS			
Trade and other receivables		177 219	88 580
Cash and cash equivalents		<u>2 716 437</u>	<u>2 328 336</u>
		2 893 656	2 416 916
TOTAL ASSETS		<u>5 521 875</u>	<u>4 897 414</u>
EQUITY AND LIABILITIES			
CAPITAL AND RESERVES			
Accumulated funds	2	<u>3 622 595</u>	<u>4 068 532</u>
CURRENT LIABILITIES			
Bank overdraft		17 636	-
Trade and other payables		515 533	301 457
Donations received in advance	4	<u>1 366 111</u>	<u>527 425</u>
		<u>1 899 280</u>	<u>828 882</u>
TOTAL EQUITY AND LIABILITIES		<u>5 521 875</u>	<u>4 897 414</u>

CONSOLIDATED INCOME STATEMENT

	Note	2001 N\$	2000 N\$
INCOME			
Windhoek Office – core unit		4 118 161	3 647 284
Walvis Bay Advice Office		-	175 808
Keetmanshoop Advice Office		-	267 100
Katutura Advice Office		-	<u>613 028</u>
	5	<u>4 118 161</u>	<u>4 703 220</u>
EXPENDITURE			
Windhoek Office – core unit		3 262 991	1 958 085
Walvis Bay Advice Office		-	338 126
Keetmanshoop Advice office		-	320 364
Katutura Advice Office		-	<u>511 123</u>
		<u>3 262 991</u>	<u>3 127 698</u>
SURPLUS FOR THE YEAR	6	<u>855 170</u>	<u>1 575 522</u>
PROJECT DEFICIT WRITTEN OFF	9	(689 088)	(304 887)
ACCUMULATED FUNDS AT THE BEGINNING OF THE YEAR		<u>2 686 454</u>	<u>1 415 819</u>
ACCUMULATED FUNDS AT THE END OF THE YEAR		2 852 536	2 686 454
ACCUMULATED SURPLUS - PROJECTS	7	<u>770 059</u>	<u>1 382 078</u>
CONSOLIDATED ACCUMULATED SURPLUS AT THE END OF THE YEAR		<u>3 622 595</u>	<u>4 068 532</u>

	<u>Buildings</u> N\$	<u>Motor vehicles</u> N\$	<u>Computer and office equipment</u> N\$	<u>Furniture & fittings</u> N\$	<u>Library</u> N\$	<u>Total</u> N\$
For the year ended 31/12/2000						
Opening carrying amount	1 522 025	199 849	224 544	33 281	123 200	2 102 899
Assets transferred from Human Rights Trust	387 873	-	22 508	1 636	174	412 191
Additions	-	-	178 503	11 783	10 300	200 586
Disposals	-	-	(7 052)	(335)	-	(7 387)
Depreciation	<u>-</u>	<u>(77 735)</u>	<u>(116 692)</u>	<u>(1 423)</u>	<u>(31 941)</u>	<u>(227 791)</u>
Closing carrying amount	<u>1 909 898</u>	<u>122 114</u>	<u>301 811</u>	<u>44 942</u>	<u>101 733</u>	<u>2 480 498</u>
At 31/12/2000						
At cost	1 909 898	798 276	1 060 386	262 186	319 638	4 350 384
Accumulated depreciation	<u>-</u>	<u>(676 162)</u>	<u>(758 575)</u>	<u>(217 244)</u>	<u>(217 905)</u>	<u>(1 869 886)</u>
	<u>1 909 898</u>	<u>122 114</u>	<u>301 811</u>	<u>44 942</u>	<u>101 733</u>	<u>2 480 498</u>
Depreciation rate		25%	20%	20%	10%	

	<u>2001</u> N\$	<u>2000</u> N\$
3. PROPERTY, MOTOR VEHICLES AND EQUIPMENT (continued)		
Buildings, Ongwediva	<u>387 873</u>	<u>387 873</u>
Land and buildings, erf no 74, Windhoek		
- at cost 1993	709 621	709 621
Improvements at cost		
- 1993	167 736	167 736
- 1994	5 791	5 791
- 1995	157 916	157 916
- 1996	12 307	12 307
- 2000	466 126	466 126
- 2001	<u>2 528</u>	<u>2 528</u>
	<u>1 522 025</u>	<u>1 522 025</u>
	<u>1 909 898</u>	<u>1 909 898</u>
Land and buildings at valuation by Administrators	<u>2 000 000</u>	<u>2 000 000</u>

NOTES TO THE CONSOLIDATED ANNUAL FINANCIAL STATEMENTS

1. ACCOUNTING POLICIES

The annual financial statements are prepared on the historical cost basis. The following are the principal accounting policies adopted by the trust, which are consistent with those applied in prior years:

Property, motor vehicles and equipment

With the exception of land and buildings, which are not depreciated, depreciation is calculated to write off the cost of motor vehicles and equipment on the straight-line basis over their expected useful lives.

Projects

All project balance sheet items (inclusive of property, motor vehicles and equipment / current assets / liabilities) have been included in the consolidated balance sheet and their surpluses / deficits as a supplementary item in the income statement.

Donations

Amounts received locally and from abroad are accounted for on a cash basis except where there is a positive commitment to fund a specific project. Such donations may be accrued or deferred.

Investment income

Interest on investments is accounted for on an accrual basis.

2. ACCUMULATED FUNDS

Windhoek Office

LAC – Projects

2001 N\$	2000 N\$
3 090 578	2 686 454
532 017	1 382 078
<u>3 622 595</u>	<u>4 068 532</u>

3. PROPERTY, MOTOR VEHICLES AND EQUIPMENT

For the year ended
31/12/2001

Opening carrying
amount

Additions

Depreciation

Closing carrying
amount

At 31/12/2001

At cost

Accumulated
depreciation

<u>Buildings</u> N\$	<u>Motor vehicles</u> N\$	<u>Computer and office equipment</u> N\$	<u>Furniture & fittings</u> N\$	<u>Library</u> N\$	<u>Total</u> N\$
1 909 898	122 114	301 811	44 942	101 733	2 480 498
-	122 563	322 785	15 505	3 023	463 876
-	(91 835)	(169 953)	(20 700)	(33 667)	(316 155)
<u>1 909 898</u>	<u>152 742</u>	<u>454 643</u>	<u>39 747</u>	<u>71 089</u>	<u>2 628 219</u>
1 909 898	771 339	1 378 699	275 768	322 660	4 658 364
-	(618 497)	(924 056)	(236 021)	(251 471)	(2 030 145)
<u>1 909 898</u>	<u>152 742</u>	<u>454 643</u>	<u>39 747</u>	<u>71 089</u>	<u>2 628 219</u>

4. DONATIONS RECEIVED IN ADVANCE

	2001 N\$	2000 N\$
United Nations – Violence Against Women	373 985	-
Ford Foundation – Aids Law Unit	787 836	354 201
Human Rights and Constitutional Unit	204 290	173 224
	<u>1 366 111</u>	<u>527 425</u>

5. INCOME

Barden International	5 000	-
British High Commission	564 205	166 710
Bank Windhoek	25 000	-
Canadian Lawyers' Association	1 200	-
Embassy of Sweden	2 104 532	2 434 560
Evangelische Zentralstelle für Entwicklungshilfe e.V.	-	242 129
German Development Service	17 500	-
Legal Practitioners Fidelity Fund	-	266 960
Masilahi Fishing company (Pty) Ltd	10 000	-
NAMDEB	10 000	-
Namibia Association of Norway	-	260 039
Namibian Women's Manifesto Network	30 000	-
National Democratic Institute	10 000	10 000
Open Society Initiative for Southern Africa	-	602 087
Pupkewitz Holdings	1 000	500
The Bridge	132 372	68 948
UNAM	5 000	-
UNICEF	-	50 000
US Embassy – Malawi	84 368	-
US Aid	42 618	-
	<u>3 042 795</u>	<u>4 101 933</u>
OTHER INCOME	<u>1 075 366</u>	<u>601 287</u>
	<u>4 118 161</u>	<u>4 703 220</u>

6. SURPLUS FOR THE YEAR

Is stated after charging/(crediting):

Auditors remuneration	61 080	53 700
- audit fees - current year	3 000	1 480
- audit fees - prior year underprovision	64 080	55 180
Depreciation	316 155	227 791
Interest received	(74 995)	(180 993)
Interest paid	866	1 543
Profit on disposal of motor vehicles and equipment	(51 663)	(16 073)
Rent received	(218 872)	(103 548)

	<u>2001</u> N\$	<u>2000</u> N\$
7. ACCUMULATED SURPLUS PROJECTS		
Women's Property and Inheritance Rights – DAI	49 191	-
Aids Law Unit – FHI	153 529	-
Law reports	-	13 566
Aids Law Unit	120 482	24 718
San Project	-	134 622
Lead Project	217 332	647 832
Gender Research – Nord/Süd	(58 578)	259 903
Juvenile Justice – Nord/Süd	232 748	226 450
Scholarship Funds	<u>55 355</u>	<u>74 987</u>
	<u>770 059</u>	<u>1 382 078</u>

The Legal Assistance Trust (via The Legal Assistance Centre - Windhoek) manages the projects and controls the disbursements. All surpluses may be subject to refund.

8. INCOME - EARNING CAPITAL RESERVE FUND

The Ford Foundation has approved a grant of US\$ 1 000 000 to the Legal Assistance Trust of Namibia. The principal amount of this grant may not be expended for a period of three years ended 1 January 1998. The LAT may expend for its core operating expenses so much of the net appreciation, realised or unrealised, of the fair market value of the assets of the Fund over the historic dollar value of the Fund. The Southern African Legal Services and Legal Education Project, Inc ("SALSLEP") is at the date of this report wholly responsible for the administration of this fund. Net income of US\$ 48 574 (2000: US\$ 59 367) was earned. The market value of the capital fund was US\$1 417 018 as at 31 December 2001 (2000: US\$1 440 509 as at 31 December 2000). No drawings were made against the fund by the LAT during the year under review. The market value of the investment of the fund depreciated during the year with US\$ 72 075.

	<u>2001</u> N\$	<u>2000</u> N\$
9. PROJECTS FUNDED BY LAC WINDHOEK		
Community Paralegal Volunteer Training	238 042	-
Human Rights and Constitutional Unit	145 056	117 786
Scholarship Fund – Norad	-	732
Human Rights Trust – Rundu Office	-	186 369
Law Reports	145 854	-
San project	<u>160 136</u>	<u>-</u>
	<u>689 088</u>	<u>304 887</u>