

2002
Annual Report



Legal Assistance Centre

Legal Assistance Centre



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	2002 N\$	2001 NS
EXPENDITURE		
Aids Law Unit	1,842,810	1,048,378
Community Paralegal Training Project	785,681	925,001
Gender Research & Advocacy Project (Development Alternatives Incorporated)	190,757	30,109
Gender Research & Advocacy Project	1,754,072	1,737,442
Land, Environment & Development	1,195,578	1,069,837
Human Rights & Constitutional Unit	1,684,501	1,350,087
Juvenile Justice Project	1,084,946	1,089,617
Scholarship Fund	48,324	20,295
Windhoek office	4,646,730	3,262,991
TOTAL	13,233,399	10,533,757

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FOREWORD

This annual report deals with the work of the Legal Assistance Centre in 2002. It was another year of commitment to the human rights principles upon which the Centre was founded nearly 15 years ago. We celebrate that milestone in mid 2003.

Central to pursuing these principles, one of the key challenges which will continue to confront the Centre over the next few years is playing an active role in the development of a vibrant civil society which in turn pursues these principles of human rights and democracy in partnership with the relevant shareholders, including government.

In the varying facets of its work, the Centre has sought to cement cooperative ties with government. Close and constructive cooperation characterises the Centre's relationship with government in a wide range of areas, such as juvenile justice, law reform, policy development and the training of law enforcement officers. There have at times been differences as well – of a professional nature, primarily concerning the protection of human rights. These arise in the course of representing communities and clients and are a necessary and healthy component and consequence of the democratic process and the rule of law upon which our Constitution is premised.

The Centre continues to play an active role in promoting the realisation of our constitutional democracy. The year under review saw the Centre succeeding in ground-breaking litigation, establishing the right of accused persons to state funded legal representation, where the right to a fair trial would be jeopardised in the absence of representation. The Centre has, for instance, also challenged the authority and practices employed of traditional leaders, where these violate the constitutional rights of citizens falling under their jurisdiction. The case of Anna Shingenge has drawn the attention of the nation to the suffering still meted out to marginalized and defenceless women in the name of customary law.

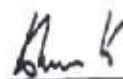
The Centre's research and advocacy work has primarily focused attention on domestic violence, the exploitation and discrimination against commercial sex workers, the rights of children and the urgent need to speed up law reform so that the equality provisions in the Constitution become a reality for the women of Namibia.

The LAC has also mobilised marginalized sectors of our society, such as people living with HIV and Aids to assert their basic human rights, including access to treatment and an end to discrimination against them as a result of their status. The LAC continues to address human rights violations perpetrated against marginalized communities, such as the San and has started a comprehensive human rights and capacity building programme in these communities.

The Centre also continues to implement innovative programmes to ensure that children in conflict with the law are treated humanely and that they are re-integrated into society as both confident and responsible citizens. The LAC's community paralegal training programme has brought justice closer to the communities in almost all towns and villages of Namibia. The objective of the civic and voters education programme is to enhance democracy, the rule of law and to give all citizens and communities a chance to develop into well-informed participants in our constitutional democracy.

On behalf of my fellow trustees, our warm thanks go to Clement Daniels and the staff of the Centre for their hard work and dedicated commitment. We congratulate them on their achievements over the past year. I also express our thanks and appreciation to our donor partners as well as the Centre's partners in government and civil society organisations and volunteers for their continuing support and cooperation – all much valued and essential ingredients to the work of the Centre.

Finally, my thanks also go to my fellow trustees for their invaluable input, and their support and ongoing commitment to the LAC.



David Smuts
Chairperson



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.



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

OVERVIEW OF THE WORK OF THE LAC DURING 2002

INTRODUCTION

In comparison to previous years, Namibia's human rights situation has improved this year, despite some negative political developments that might affect the country's long-term democratic stability. The year 2002 remained a challenging one for defenders and promoters of human rights.

There were fewer verbal attacks by government officials on human rights organisations, minorities and the judiciary, and a decrease in violations of civil and political rights. Government officials have made positive remarks about the role of civil society organisations that work to improve democracy and human rights in the country. There was a concerted effort to involve organisations like the LAC in training programmes for the police and government officials who are responsible for protecting and promoting human rights.

The most surprising and talked about setback was the negative responses of male parliamentarians to the introduction of the Domestic Violence Bill in Parliament towards the end of 2002. Other negative developments included the unceremonious removal of the former Prime Minister, Mr. Hage Geingob from his position, increased assaults on criminal suspects by the police in different towns,

lack of transparency in the replacement of the Prosecutor General, the delay in the release of the Dordabis detainees and the delays in the Caprivi treason trial.

It is however, heartening to notice an increase in people's awareness about human rights and their readiness to assert their rights, despite difficulties they face.

The LAC continues to play a pivotal role in providing access to justice and creating and maintaining a human rights culture in Namibia. The organisation renders direct legal services to clients and communities, and assists a number of service and developmental organisations in dealing with a broad-spectrum of legal and socio-economic challenges. The LAC has increased its cooperation with government departments to make the law more accessible. We furthermore participate in a network of local and international organisations related to the protection and promotion of human rights.

ORGANISATION & STAFF

The LAC operates from its main office in Windhoek and has three satellite offices situated in Katutura, Keetmanshoop and Ongwediva. The organisation has a staff of 42 full time members, who are legal practitioners, social workers, researchers, legal educators, candidate legal practi-



The commemoration of Human Rights Day this year was marked by about 500 marchers carrying placards with topical political and social messages down Independence Avenue in Windhoek.

tioners and administrative support staff. The LAC's work is divided into six units, which each specialises in different legal and human rights programmes. The six units are: Human Rights and Constitutional Litigation Unit, Aids Law Unit, Gender Research and Advocacy Unit, Legal Education Unit, Land, Environment and Development Unit and the Juvenile Justice Unit.

SUMMARY OF MAIN ACTIVITIES

HUMAN RIGHTS LITIGATION

The LAC litigates on matters that will have an impact not only on the individuals involved, but also on other people who find themselves in the same position as the client.

For example, the Supreme Court's confirmation of the High Court ruling relating to the right to legal representation of the Caprivi detainees indicated to government that the rights of suspects must be respected, even if they are accused of high treason, which is considered by many governments to be the height of betrayal. The LAC continues with civil claims relating to torture of the Caprivi detainees as well as torture claims by other criminal suspects in police custody. It is

unfortunate that we still attend to so many matters relating to assaults and unlawful detention by the Namibian Police. Our resources could be better utilised on matters relating to social and economic justice for the poor and marginalised.

By taking on the case of Ruby Kalomo, we hope to pave the way for all illegitimate children so that they may inherit in testate from their biological parents. The LAC furthermore deals with a number of cases relating to women and children's rights to inherit in terms of customary laws. This endeavour has unfortunately brought our clients and us in conflict with traditional authorities. But as a free and independent nation we cannot allow a system, in which the majority of the population are denied their rights as citizens and must live as perpetual "subjects" of traditional leaders, to continue.

Many cases dealt with the constitutionality of the Native Administration Proclamation 15 of 1928, which are blatantly racist and mostly disadvantage women and girls when it comes to inheritance under customary law.

EDUCATION & PUBLIC AWARENESS

The in-service training of candidate legal practitioners has been a commitment of the LAC for many years. Their admission to the legal profession is always a highlight.



More than 3 000 people participate yearly in educational activities of the LAC. We offer human rights training to prison warders, police officers, NDF officers and officials dealing with the protection of natural resources.

The LAC's question and answer column in *the Namibian*, and its in-house newsletter, *LAC News*, are both informative and educational of nature. We also produce other educational materials in different languages for general public consumption, and more academic research publications for policy makers and public debate.

The training of community paralegal volunteers, which started in 2001, is moving ahead at full speed. These volunteers provide indispensable legal advice and referral services in their local communities. In the past two years more than 280 paralegals, which include people with disabilities and minorities, such as the San, have been trained. The Namibia Paralegal Association, which acts as an advocacy body for paralegals, was formally launched in October 2002.

The LAC furthermore trains candidate legal practitioners. Human rights lawyering in Namibia is still a novel profession and by training candidates, it is hoped that more legal practitioners will choose this path in their future careers. Also, by training its own candidates, the LAC contributes towards opening up the profession to previously disadvantaged persons who would otherwise have found it very difficult to enter the legal profession.

Our annual commemorations of International Day against Torture and Human Rights Day aim to increase public awareness of human rights issues. This year's Human Rights Day celebration had a particular gender focus because it happened at the time when the Combating of Domestic Violence Bill was before the national Assembly.

GENDER EQUALITY

The LAC is active in the struggle to foster gender and sexual equality in Namibia. After years of struggle, gender-related legislation has suddenly started to move forward in batches. The following gender-related bills have either been before Parliament this year, or are in advanced stages of drafting: Communal Land Reform Act (passed by Na-

tional Assembly); Maintenance Act (before the National Assembly); Combating of Domestic Violence Act (passed by the National Assembly); draft Divorce Act (subcommittee draft has been approved in principle by full Law Reform and Development Commission); draft Child Care and Protection Act (to go to Parliament in 2003); draft Children's Status Act (to go to Parliament in 2003); draft Vulnerable Witnesses Act (to go to Parliament in 2003); draft Recognition of Customary Marriages Act (with Law Reform and Development Commission); draft 50/50 Bill (affirmative action for women in political bodies, now in the midst of nationwide lobbying campaign).

HIV/AIDS

The Aids Law Unit is dealing with several cases relating to discrimination on the basis of HIV/AIDS in respect of breaches of confidentiality by health care workers, access to employment and to insurance, harassment on the basis of HIV status and civil liability of the Ministry of Prisons / Ministry of Home Affairs in respect of infection of an awaiting trial prisoner.

In addition, the unit runs a legal advice clinic once a week for people living with and affected by HIV/AIDS. During 2002, work on the development of a new HIV/AIDS policy for the entire education sector, ranging from pre-school to tertiary education progressed. The Aids Law Unit chairs the working group established by the two Ministries of Education for the purpose of developing this policy, and acts as the secretariat for the working group.

The unit provides assistance to employers and trade unions in developing appropriate HIV/AIDS policies in the workplace.

The LAC is conducting research about discrimination on the basis of HIV status in access to insurance and medical aid and the right to health as contained in the Constitution and in international agreements to which Namibia is a party. The results will help us to decide on whether to launch a test case to challenge the constitutionality of such discrimination and government's failure to provide access to affordable mother to child transmission prevention medication. The Treatment Access Fo-

rum (TAF), initiated by the Aids Law Unit is working on a strategic plan of action, together with AIDS service organisations, trade unions and churches.

LAND RIGHTS

During the period under review, the LAC's LEAD Project was inundated with requests for assistance in a wide range of land related legal matters. Women brought most of the matters, which shows that Namibia still has a long way to go to ensure that the rights of women are properly protected. Land remains one of the most valuable commodities for poor and marginalised rural communities and is often a source of conflict. Unless these conflicts are properly managed it can have negative consequences for sustainable rural development and poverty alleviation. LEAD fulfills an effective role in preventing and managing community conflicts.

The long awaited Communal Land Reform Act was finally passed and it will hopefully lead to a more equitable and transparent land administration and allocation system in rural areas.

The LAC is active in ensuring rural communities' access to land and natural resources. The matter of the Purros community is a case in point. Successful legal action was brought on behalf of this community for claiming back their property, namely a tourist camp, after it was "privatised" by a local businessman.

JUVENILE JUSTICE

The Juvenile Justice Project renders services to children in trouble with the law and in 2002 played a key role in transferring its functions to government. It is envisaged that government will ultimately take full responsibility for this project at the end of 2004.

Crime education among the youth has focused on provisions in the Criminal Procedure Act, consequences of having a criminal record, due process rights and constitutional rights. This training is combined with peer counselling.

The project runs three diversion programmes for youth in conflict with the law: (1) Pre-trial Com-

munity Service - Twenty-four children were referred for community service at two old age homes in Windhoek. This programme does not only look into the execution of labour, but is also an opportunity for the child to gain skills/knowledge by participating in certain sessions of the Life Skills Programme. Most regions use the Pre-trial Community Service as a diversion option, but they all experience the same problem of there not being enough placement agencies.

(2) Life Skills Programme - Eighty-one children successfully completed this programme in 2002, which is supposed to be taken over by the Ministry of Basic Education: Directorate Youth Development, but due to a lack of human resources on their side, we are still responsible for it.

(3) The Journey Programme - Its objective is to empower and equip children, who are at high risk of re-offending, with skills so that they can assume responsibility for their lives and actions. Consultants from South Africa facilitated a pilot programme in March. Nine children were recruited and in August a second group participated. The pilot programme was evaluated and the recommendations were incorporated into the second programme.

FUNDING

The LAC remains dependent on donor funding due to the nature of its client base and the public interest services it provides. The following donor partners assisted us financially during 2002:

Africa Groups of Sweden, Australian Agency for International Development, Barlow World, Bischofliches Hilfswerk (Misereor), Canadian Lawyers' Association, Development Alternatives Incorporated, Embassy of Finland, Embassy of Sweden (Sida), Evangelischer Entwicklungsdienst, European Commission, Family Health International, Ford Foundation, German Development Service, HIVOS, Horizon T3000, Legal Shield, North/South Institute for Development, Pupkewitz Holdings, Royal Netherlands Embassy, Standard Bank of Namibia, The Bridge, UNESCO, UNICEF, the US Embassy and the World Health Organisation.

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

THE WORK OF THE AIDS LAW UNIT, ALSO KNOWN AS THE ALU

The ALU's main objective is to promote and protect the human rights of people living with HIV/AIDS in Namibia. It works closely together with other AIDS Service Organisations (ASOs) with regard to legal advice, advocacy and training. During the period under review the unit was staffed by Michaela Clayton (Coordinator), Ruusa Shipiki (left the ALU in April 2002), Tenu Avafia, Delme Cupido (joined the ALU in June 2002), Collette Campher and Sunita Steenbakker (VSO Volunteer – left in May 2002).

RESEARCH, POLICY FORMULATION AND LAW REFORM



Michaela Clayton, coordinator, at the ALU's stall in Barcelona

Work on the development of a new policy on HIV/AIDS for the entire education sector, ranging from pre-school to tertiary education progressed. The ALU chairs the working group established by these two Ministries for the purpose of developing this policy and acts as the secretariat for the working group. The working group has met regularly during the year and Michaela presented a first draft of the policy at an education sector HIV forum meeting on 13 February 2002. The draft has also been distributed to the regions. Regional consultative meetings with stakeholders were held in Katima Mulilo, Rundu, Oshakati, Keetmanshoop, Swakopmund and Windhoek in April and May 2002. The final draft of the policy was formulated on the basis of input received from stakeholders. This draft was presented at a final consultative meeting of stakeholders in Windhoek on 19 June 2002. Inputs received at this meeting were incorporated into the final draft, which has been submitted to the Joint Committee on HIV/AIDS of the two Ministries of Education for adoption.

The Ministry of Works, Transport and Communication has approached the ALU to assist with the development of an HIV/AIDS policy

for this sector. Michaela delivered a presentation on the legal aspects of HIV in the workplace and HIV/AIDS policy development to the HIV/AIDS Committee of the Ministry on 12 June 2002.

The ALU provides assistance to employers and trade unions in developing appropriate HIV/AIDS policies in the workplace. In this regard Michaela assisted the Barloworld group of companies during the year with the formulation of workplace policies on HIV/AIDS. To the management cadres of BCL, Barloworld Equipment, Plascon Paints and Club Motors Michaela delivered presentations on the legal and policy frameworks regarding HIV/AIDS in the workplace. Tenu has assisted the National Union of Namibian Workers and Namwater with the development of an HIV/AIDS policy for the workplace. The ALU has advised Namdeb on policy and legal issues relating to the pro-

vision of ARVs (anti-retroviral drugs) to staff. It has assisted NACSO (Namibian Association of CBNRM Organisations) with the formulation of an HIV policy for their membership.

Tenu Avafia is conducting research on discrimination on the basis of HIV status in access to insurances and medical aids. The results will assist the ALU in deciding whether to launch a test case challenging the constitutionality of such discrimination.

Tenu is also conducting research on the right to health as contained in the Constitution and in international agreements to which Namibia is a party. The results will assist the ALU in deciding on whether to launch a test case challenging the constitutionality of government's failure to provide access to affordable mother to child transmission prevention medication.

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, access to employment and to insurance, harassment on the basis of HIV status and civil liability of the Ministry of Prisons / Ministry of Home Affairs in respect of infection of an awaiting trial prisoner.

The unit runs a legal advice clinic for people living with and affected by HIV/AIDS at Catholic AIDS Action in Katutura every Thursday from 10h00 to 11h30. The clinic was staffed alternatively by Ruusa Shipiki (replaced by Delme Cupido) and Tenu Avafia. 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 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 work on advocacy, edu-



The struggle for affordable access to treatment – the messages on this Coke bottle at the Barcelona World Conference on AIDS say it all

cation and on the promotion of a non-discriminatory approach to HIV/AIDS progresses, demand for this type of assistance will increase.

TWO OF THE LITIGATION CASES CURRENTLY BEING ATTENDED TO ARE:

TESTING WITHOUT INFORMED CONSENT AND BREACH OF CONFIDENTIALITY

Tenu and Delme travelled to Ongwediva on 16 August to consult with a large number of lodge workers who had been tested for HIV without their knowledge or consent. After the results had been obtained, their employer was informed of their statuses. It is envisaged that summons will be issued shortly against the employer who requested the testing and the doctor who conducted it.

BREACH OF CONFIDENTIALITY

Delme is representing a young professional who was required to go for an HIV test by his employer without being counselled and without his permission being obtained. The case is at its initial stage.

Both these cases are pursued in the hopes that medical doctors will be encouraged to give appropriate pre- and post test counselling and that results will be given to the person who undertook the test and not to a third party. Despite the existence of guidelines and the constitutional provision guaranteeing a right to confidentiality, examples have shown that there are still doctors who do not respect doctor-patient confidentiality.

ADVOCACY

The Treatment Access Forum (TAF), initiated by the ALU continues to address the issue of access to treatment for HIV/AIDS in Namibia. On 12 March 2002, the unit hosted a consultative meeting in Windhoek with representatives of ASOs (AIDS Service Organisations), trade unions and churches to agree on a strategic plan of action in respect of access to affordable treatment for HIV/AIDS and access of orphans and other vulnerable children to education.

In January 2002, Michaela prepared written submissions on behalf of NANGOF on the Defence Amendment Bill. This Bill seeks to amend the provisions of the Defence Act that re-

late to recruitment. It 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. It thus effectively precludes the NDF from employing any person who is HIV positive. It also 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.

On 30 January 2002, Michaela presented these submissions at public hearings convened by the National Council on the Bill. Despite this work, the National Council has approved the Bill.

The unit works with people living with HIV and AIDS helping them to develop their own lobbying and advocacy skills. At the advocacy training workshop for people living with HIV/AIDS held in September 2001, issues identified for further attention in terms of advocacy and lobbying were: access to treatment, home based care, fundraising and counselling. One of the results of the workshop was the formation of subcommittees with the tasks to make plans for lobbying and advocacy in respect of each of these issues. During 2002, staff members of the ALU assisted the subcommittees in setting themselves up. As a result, the first meeting of the chairs

of the subcommittees was held in Windhoek on 4 March 2002.

In order to raise awareness about the relationship between HIV and human rights amongst the youth, a national essay competition was organised, which drew a large number of entries. The two winning entries in both age categories were acknowledged at a function hosted by Standard Bank on 13 August 2002 and each winner received a prize donated by Standard Bank. The winning entries were published in the youth supplement of the Namibian newspaper.

The unit hosted an advocacy and lobbying training meeting in August. Thirty people from different regions in Namibia attended. They represented Lironga Eparu, the Namibian Police, the Ministries of Education, Health and Social Services, Rössing Foundation and other NGOs. The meeting focused on stigma and discrimination in the workplace, confidentiality, access to treatment and the need for advocacy training around rights issues affecting people living with HIV/AIDS. Participants identified access to treatment as one of the most crucial current issues. A committee was therefore established to follow up on access to treatment initiatives in the country.

On 30 August, the ALU hosted a meeting together with SAFAIDS (Southern Africa AIDS/HIV Information Dissemination Service) and provided feedback to Namibian NGOs about the Barcelona Conference. The meeting identified ways of taking the issues highlighted at the conference forward in Namibia.

On 9 October, a TAF meeting was held as a follow up to the 21 August meeting. TAF was fortunate

to have Dr. Marta Darder from Médecins Sans Frontières present. She talked about her experiences in setting up a treatment programme in one of South Africa's biggest and poorest townships, Khayalitsha. The Ministry of Health and Social Services had also confirmed their participation but unfortunately the official did not appear. The approximately 100 participants were disappointed and angered by the failure of the Ministry to attend, as the intention was to brainstorm with the Ministry on how to collaborate with NGOs. A petition was signed by participants and handed over to the Minister, who failed to accept it.

Nonetheless, the meeting was constructive as participants heard that it was possible to successfully introduce ARVs (anti-retrovirals) into areas where there were less than perfect medical facilities, such as in Khayalitsha. The T-shirts that were to form part of the treatment literacy campaign were introduced and distributed. Resolutions were taken to produce material in the form of posters and booklets to raise awareness around access to anti-retroviral drugs.

A treatment literacy campaign has been initiated by the ALU to raise awareness and understanding about HIV/AIDS treatment as a human right. This has taken form in the production and distribution of T-shirts, posters and booklets on access to treatment as well as the production of a series of radio programmes on access to treatment that will be broadcast on NBC radio. This has been made possible by funding from Family Health International, German Development Service and the Africa Group of Sweden.

EDUCATION AND TRAINING

Annually the unit undertakes a series of regional workshops with a view to raising awareness and understanding about HIV/AIDS, law and human rights. During 2002 the workshops have been designed to provide participants with skills and information on a number of legal issues around HIV/AIDS including:

- HIV/AIDS in the workplace;
- Issues of confidentiality and testing around HIV and AIDS, and a brief examination of the status of willful transmission of HIV/AIDS in criminal law;
- A discussion on the law of succession in Namibia and will writing;
- Access to combination therapy anti-retroviral medication; and the government's mother to child transmission programme;
- Stigma and discrimination; and
- HIV/AIDS and social benefits such as insurance and medical aid.

In addition, the ALU, in keeping with its plan of collaborating with partner AIDS service organisations, and in an attempt to strengthen advocacy and lobbying skills, has also committed to meet with members of Lironga Eparu. These meetings take place where there is an established Lironga Eparu branch and usually happen the day after the main HIV/AIDS and the law workshop. The meetings usually concentrate on issues important to people living with HIV/AIDS, such as stigma, discrimination and the difficulties of lobbying for resources and services that are necessary within their communities for their empowerment.

PUBLICATIONS

During 2002, the unit produced the following publications and pamphlets:

- Booklet and training manual on HIV/AIDS, wills and inheritance, which were made possible with financial assistance from UNICEF.
- Pamphlets on the work of the ALU and on HIV and pregnancy. Reprints of the pamphlet on HIV and pregnancy in English and Oshiwambo have been made possible with funding from French Co-operation.
- Training manual on MTCT (mother to child transmission), advocacy and lobbying and HIV/AIDS in Namibia for distribution to VSO volunteers for use in the field.
- Work is in progress on the development of a paralegal training manual on HIV/AIDS and the law in Namibia.
- Pamphlet on HIV/AIDS in the workplace for farmers at the request of the Namibian Agricultural Union.
- Series of articles in question and answer format on anti-retrovirals, MTCT and PEP, which have been published in the Namibian newspaper.

NETWORKING

Staff participated in a number of regional and global initiatives related to the work of the ALU. Since they are too nu-

merous to mention all, only a few highlights are mentioned here:

- Training has been given to the newly established Zambian AIDS Research and Advocacy Network (ZARAN) on HIV/AIDS and human rights. Law students and legal practitioners in Zambia established ZARAN to address stigma and discrimination because of HIV/AIDS. It also provides a legal service for people living with HIV/AIDS.
- Unit members have attended a conference in South Africa organised by COSATU and the Treatment Action Campaign to share our experiences on access to treatment for HIV in Namibia and to learn from the South African experience.
- A unit member has attended a meeting in Cape Town, hosted by the AIDS Legal Network, Médecins sans Frontières and TAC on the need for a continental treatment access movement. Activists from South Africa, Malawi, Zimbabwe, Nigeria, Tan-

*Training Manual
for Trainers on
Will Writing and
Inheritance in Namibia*



Trainers have found our manual on will writing and inheritance very useful and they have used it widely in workshops across the country during 2002.

zania, Swaziland, Botswana, Ghana and other African countries attended. The meeting formed PATAM (Pan African Treatment Access Movement) and a day of action to advance the struggle for access to affordable anti-retroviral medication was declared for 9 October 2002.

- In October, the ALU gave a presentation on HIV/AIDS and the Right to Nutrition at a workshop organised by the Community Law Centre of the University of the Western Cape.
- Members of the ALU attended the International AIDS Conference in Barcelona, Spain in July.
- The ALU and the AIDS Law Project of South Africa have co-hosted a meeting of organisations, which work on HIV/AIDS and human rights in the SADC region. It was attended by 60 participants, representing 10 SADC countries. The meeting established a regional alliance of organisations working on HIV/AIDS and Human Rights. Its functions will be to facilitate sharing of information and expertise between members, act as a regional alert network to respond to human rights infringements in the region, organise and facilitate training on HIV/AIDS and Human Rights

for members, disseminate information on regional developments on HIV/AIDS and Human Rights and organise annual meetings on HIV/AIDS and Human rights in the region. The alliance will be co-ordinated by a secretariat hosted by the ALU.

- The coordinator attended an African expert meeting in Nairobi convened by the UNHCHR in September to consider recommendations for implementing the Programme of Action adopted at the Durban World Conference on Racism. At this meeting Michaela served as an expert on implementing the programme in so far as it relates to health and human rights.
- A staff member participated in a number of seminars in Montreal and Ottawa on access to global affordable treatment. This was a great learning experience as there were representatives from Aids Service Organisations from Latin and South America, Europe, North America and Africa.
- Ongoing institutional support in the form of legal advice has been given to other AIDS Service Organisations and NACOP during the year.
- During the period under review unit staff have participated in various radio and television programmes on HIV/AIDS related issues, including the criminalisation of wilful transmission of HIV.
- During the period under review the coordinator has served on the advisory boards of OSISA and VSO RAISA. She is also the Chair of the Board of Trustees of the AIDS Care Trust of Namibia and a member of the board of trustees of Lironga Eparu, the national association of PLWHAs in Namibia.

More and more Namibians are becoming aware of the human rights issue attached to HIV/AIDS.



Other training sessions and presentations conducted on a range of topics:

- Presentation to the Namibian Nursing Association on the legal and policy framework on HIV/AIDS pertaining to nurses, health care workers and patients in Windhoek.
- Panel discussion on HIV/AIDS and human rights hosted by the ALU at the National Gallery of Namibia as part of activities held around an art exhibition which focused on HIV and rights. Four presentations on this theme and the work of the ALU were made to schoolchildren who visited the exhibit at the National Gallery.
- Training session for media practitioners on HIV/AIDS and gender violence.
- Presentation to the SADC Parliamentary Forum meeting on HIV/AIDS about the importance of a human rights based approach to HIV/AIDS and on the role of parliamentarians at national level in the development of laws and policies that support this approach.
- Training in collaboration with the AIDS Care Trust at the Katutura State Hospital for 35 nurses and social workers on confidentiality and testing.
- Seminar in Rehoboth in collaboration with Phillipi Trust Namibia on will writing for 15 trainee counsellors.
- Training for 150 school principals on the HIV/AIDS Charter of Rights and the rights of teachers and learners.
- Training for senior police officials on writing a will.
- Presentation to USAID and US Embassy staff on the legal and human rights aspects of HIV and rape.
- Training of peer educators at the Namibian Police Training College on the legal and policy framework with regard to HIV/AIDS, HIV/AIDS and human rights, confidentiality and HIV and rape.
- Training at Phillipi Trust Namibia on confidentiality and notification for trainee counsellors.
- Workshop on the law of succession, wills and inheritance for about 50 pensioners of the NG church.
- Training at the Namibian Police Training College for peer educators on HIV and human rights, HIV in the workplace, confidentiality and will writing.
- Presentation on HIV and human rights at a workshop on HIV organised by the Ministry of Mines and Energy.
- Keynote presentation at a seminar on economic liberalisation and human rights on the topic of HIV/AIDS and social inequalities.
- Training session on access to treatment organised by the Red Cross of Namibia for its trainee counsellors.
- Presentation on HIV/AIDS and sex work at a workshop on commercial sex work organised by the Gender Research and Advocacy Project.
- Participate in a panel discussion held at the Bank of Namibia's headquarters for information science professionals on how to improve the collection and distribution of information material on HIV and AIDS.
- Presentation on HIV/AIDS in the workplace for staff of the NHE. The workshop was part of a bigger programme by the NHE to train peer counsellors in its workplace.
- Presentation on will writing for civil servants of the Ministry of Women and Children's Affairs and the Ministry of Health and Social Services.
- In collaboration with AIDS Care Trust, training on HIV/AIDS, law and rights for peer educators employed at Standard Bank and Namwater Bulk Water Supply.
- Presentations on the legal and rights aspects of HIV/AIDS in the workplace to top and middle management of the Barloworld Namibia group, comprising Plascon Paints, BCI Club Motors and Namtrac.

THE STRUGGLE AGAINST GENDER DISCRIMINATION AND GENDER-BASED VIOLENCE

THE WORK OF THE GENDER RESEARCH AND ADVOCACY PROJECT, ALSO KNOWN AS GR & AP

The primary objective of the project is to contribute to the law reform process in Namibia, so that our laws and practices are brought in line with the gender clauses in the Constitution. This we aim to do through research, advocacy, lobbying and networking.

In 2002, GR & AP was staffed by Dianne Hubbard as the coordinator, Evelyn Zimba (who took over from Leigh-Anne Agnew in March as trainee legal researcher), Naomi Kisting (who took over from Collette Campher in March as project assistant) and Jodi Tarter (who joined us as an intern in August for six months). Willem Odendaal spent the year on unpaid study leave and informed us at the end of October that he wasn't going to return to the LAC. Interviews for a new person to fill this post will be conducted early in 2003.

As in previous years, we expanded our capacity with consultants – Nicky Marais (lay-out, illustration, publication assistance and finalisation of school murals on domestic violence), Quiet Storm Film Productions (sex work documentary, feature film on domestic vio-

lence and domestic violence shorts), Wendy Wilson (protocols for the law on domestic violence), Elizabeth Cassidy (a lecturer in Constitutional Law at UNAM who assisted with comparative law research on marital property and cohabitation, partly on a volunteer basis) and Melinda Maasdorp (lecturer in sociology at UNAM who assisted with content analysis of field data on marital property and cohabitation).

MAINTENANCE

ADVOCACY

The Maintenance Bill introduced into Parliament in February 2002 reflects the input of the LAC at all stages of the long drafting process. The second reading speech by the Deputy Minister of Justice (26 Feb 2002) cited the LAC's research as being the starting point for the bill.

The coordinator gave several media interviews on this bill, and called the attention of various MPs, Ministers, government officials and NGOs to a flawed provision in the bill which may prejudice the interests of children (concerning the right of employers to deduct commissions from maintenance payments where wages are attached). The project also provided information to an opposition MP for a speech in Parliament on the Bill, including information on the problematic provision. The lobbying on this point seems to have been successful as the Ministry of Justice has confirmed that the offending provision will be removed from the bill.

The GR & AP prepared submissions for the Parliamentary Committee which is holding hearings on the Maintenance Bill and advised other NGOs on submissions on the bill. These submissions were formally presented at hearings in Windhoek in June. (The committee also held hearings in Katimo Mulilo, Rundu, Tsumeb, Oshakati, Outapi, Keetmanshoop, Mariental, Rehoboth, Gobabis, Otjiwarongo and Swakopmund.)

Recommendations of the committee incorporated the amendment proposed by GR&AP to the final draft bill, along with a number of other proposed amendments. Once the bill is passed, we will develop educational material on its provisions, both for the general public and for maintenance officers.

The national context

After years of struggle, gender-related legislation has suddenly started to move forward in batches. In the period under review, the following gender-related bills are either before Parliament, or are in advanced stages of drafting:

- Communal Land Reform Act (passed by National Assembly)
- Maintenance Act (before the National Assembly)
- Combating of Domestic Violence Act (before the National Assembly)
- draft Divorce Act (sub-committee draft approved in principle by full Law Reform and Development Commission)
- draft Child Care and Protection Act (to go to Parliament in early 2003)
- draft Children's Status Act (to go to Parliament in early 2003)
- draft Vulnerable Witnesses Act (delayed at ministry level; lobbying underway)
- draft Recognition of Customary Marriages Act (with Law Reform and Development Commission)
- draft 50/50 Bill (affirmative action for women in political bodies, now in the midst of nationwide lobbying campaign).

This means that the "gender agenda" for 2002-03 is fairly crowded, and the lobbying capacity of women's groups is saturated at present. Therefore more attention in early 2003 will be devoted to continued lobbying and follow-up work on the topics listed above than on placing new topics on the table.

One disappointment at the national level is that the Gender Commission, promised as part of the National Gender Policy, has still not materialised. This was meant to be an overarching monitoring body similar to the South African Gender Commission, and it would probably give increased visibility and coordination on gender issues. We continue to lobby on this point with the MWACW.

RAPE

PROTOCOLS

Five of the six rape protocols have been approved by the relevant professions. The Prosecutor-General initially said his profession would prefer to use internal guidelines which would not be available to the public, but this decision was reconsidered at a meeting with the GR & AP. The prosecutors were concerned that the protocols may be abused by defence counsel in cross-examination, but agreed to review the package and make suggestions for preventing this problem rather than withdrawing from the process altogether. A revised protocol was accepted by all parties after negotiation. The prosecutors advised that the protocols should be re-named "guidelines" to help circumvent anticipated problems.

The only outstanding protocol is the one relating to the medical profession. Several meetings have been held with representatives of the Ministry of Health and Social Services to resolve the outstanding issues. Availability of personnel has been the major problem. We worked closely with the Office of the Prosecutor-General to revise the J-88 form, which is used to record information from the medical examination of a rape complainant. Revisions to the form were discussed with police, prosecutors and medical personnel, and the inputs were forwarded to the Prosecutor-General for incorporation. We have begun independent monitoring to see if the revised forms have been made widely available.

WORKSHOPS AND CONFERENCES

The coordinator attended a workshop in South Africa from 8-12 August, hosted by Amnesty International together with a South African NGO, the independent Medico-Legal Unit, where she spoke on LAC's work in respect of rape and domestic violence. The purpose was to examine violence against women and children in Southern and East Africa, particularly with regard to access to health care and justice – including care, treatment and forensic evidence.

ASSISTANCE TO CLIENTS

In June, we received a report that a 13-year-old victim of a gang rape in Aranos was being threatened by one of the accused who was out on bail. Her efforts to report this problem locally produced no effect. We approached the prosecutor directly with this problem, and bail was eventually revoked in respect of the accused in question (*State v Saul & Britz*, Aranos Case No. 40/02).

ADVOCACY AND EDUCATIONAL MATERIAL

The *Guide* and *Summary* to the *Combating of Rape Act* have been translated into Afrikaans, Oshiwambo, Herero, Nama-Damara, Rukwangali and Lozi. The Ministry of Basic Education apparently use the manual extensively in their teacher training work. Staff has also given radio interviews to explain certain provisions in the Act.

After the chairperson of the men's group NAMEC was acquitted on a charge that he raped his stepdaughter, a number of people questioned the fairness of the new law. GR&AP circulated an e-mail to interested persons to clarify legal issues implicated in this debate.

DOMESTIC VIOLENCE

ADVOCACY

The Combating of Domestic Violence Bill introduced into Parliament in October 2002 is very close to the proposal put forward by GR&AP several years ago. We were involved with the process right up to the time the bill was introduced into the Na-

tional Assembly, and our advocacy efforts have been very successful.

GR&AP representatives attended the second reading debates in October 2002, and were disappointed to find that the topic was being treated in a very cavalier fashion by many of our parliamentarians. We gave input into a speech by an opposition MP. We also prepared a simplified summary of the bill which was distributed to all members of the National Assembly, and were happy to see from the visitor's gallery that a number of MPs were referring to this document during the debates.

The *Namibian* and *Sister Magazine* used an in-depth article written on the bill by the coordinator. She also presented a summary of the bill to 75 grassroots women at a workshop organised by WAD in November. The coordinator participated in a panel discussion on the bill during Human Rights Awareness Week in November.

DRAFT PROTOCOLS

Draft protocols in terms of the forthcoming Domestic Violence Act have been prepared for police, social workers and counsellors, the medical profession, prosecutors, and magistrates. A guideline setting out the rights of suspected perpetrators will also be prepared. Wendy Wilson assisted with this project, as she did in respect of the rape protocols.

The first drafts were discussed with 60 representatives of all five targeted occupational groups at a workshop held in June. The police sent representatives from every region in the country, along with their Legal Advisor and the Director of the Police Training College. Feedback on the proposed protocols was excellent and was incorporated into the drafts before the next round of consultations.

DOMESTIC VIOLENCE FILM "LOVE AND RESPECT"

There was a delay in broadcasting the domestic violence indigenous language films (Afrikaans, Nama/Damara, Herero and Oshiwambo) because of objections from NBC concerning the absence of English subtitles. Negotiations were successful, and all five films have been broadcasted. Public response has been very positive. Some of the comments made were:

At last a film in our own language.

Because of that (the film) we understood the message.

That was the best Namibian film we have seen.

NBC must show it again so that my husband can see it.

We have received feedback from at least 150 people, with an overwhelmingly positive response. Videos of the different language versions of the film are being distributed, and demand has been high. The films are being used in workshops by groups such as Women's Solidarity and the regional offices of National Women's Voice (comprised of regional chapters of WAD). NBC has scheduled the films for re-screening early in 2003 in light of the recent emphasis on programmes with local content.

RADIO DRAMAS

Disarray at NBC delayed the broadcast of the radio serials completed in 2002. The dramas (in Afrikaans, Nama/Damara, Oshi-wambo and Herero) were scheduled for airing on the different language services near the end of the year, fortuitously coinciding with the Parliamentary discussion of the Combating of Domestic Violence Bill. We will make sure that the whole series is broadcasted.

SCHOOL MURALS

The 8th and final school mural on domestic violence was formally handed over to the headmistress of Centaurus High School on 13 March. More murals were completed than originally budgeted for because of the willingness of those involved to cut corners on their own costs to stretch the budget as far as possible. Most of the schools have interesting plans for using the murals, as the basis for class writing assignments, or as the focus for school assemblies. We have found that this has been a very successful way of calling attention to an issue, particu-

larly in the rural areas. We would like to employ it again on other gender issues.

NEW FILMS

A brainstorming session to discuss the UNIFEM-funded films was held in March and attended by 20 people. A script-writing team of 3 women and 1 man was chosen. On the basis of this consultation, we decided to produce one feature length film and a series of shorts on child abuse (along the lines of our maintenance shorts), instead of the three planned 30-minute films, as a way to use the budgeted money for the greatest effect.

The film, entitled "Whispers in the Wind", ties the theme of domestic violence to the issues of child abuse and HIV/AIDS. The script went through several drafts and was reviewed by the AIDS Law Unit on HIV matters. Filming took place in Groot Aub. The film has been completed and was shown on NBC in November. Because of a shortage of funds, no launch event was organised, but we arranged a feature in *The Weekender* to publicise the premiere.



The film 'Love and Respect' has been very well received by Namibian audiences

MORE ACTIVITIES ON VIOLENCE AGAINST WOMEN

EDUCATIONAL INPUTS

The GR&AP presented several sessions at a media workshop on gender violence in February. Our Guides to the MPEA (Married persons Equality Act) and the Combating of Rape Act were distributed, and were very well received. The domestic violence film 'Love and Respect' was screened and participants said they identified with the Namibian characters and settings.

The GR & AP gave a lecture on the Combating of Rape Act at the Patrick Iyambo Police Training College in August. Officers from different regions requested more training sessions for other officers in their regions. The *Guide and Summary to the Combating of Rape Act* was given to the police officers.

We gave two lectures at the Police College on the Combating of the Rape Act and the Combating of Domestic Violence Bill, including tips for investigating officers in dealing with domestic violence cases.

FORENSIC KITS

At the workshops on the Domestic Violence Bill, questions were

raised about the use of forensic evidence kits in rape and domestic violence cases. These concerns were passed on to the National Forensic Laboratory, and Dr Ludick arranged for a team from the laboratory to visit all 123 regions to ensure that the necessary kits are available and properly understood at all WCPUs (Women and Child Protection Units) and police stations. The laboratory also arranged regular liaison with appointed representatives of each police station to ensure that the crime kits will remain available.

NATIONAL COORDINATING COMMITTEE ON VIOLENCE

The Ministry of Women Affairs held a meeting with stakeholders to discuss the problem of violence in Namibian society – in general, and particularly against women. The meeting suggested a high-level coordinating committee to bring together government, NGO and private sector representatives to improve coordination of activities and follow-through. At the Minister's request, we assisted in drafting terms of reference for such a body, which the Minister would have submitted to Cabinet. By the end of the year under review such a body has not been established.

CHILDREN'S LEGISLATION

ADVOCACY

The GR&AP sits on a small task force convened by the Ministry of Women Affairs to refine the draft Child Care and Protection Act and the draft Children's Status Act. The project has informally served as the secretariat for these meetings by

Artists and learners pose proudly in front of the mural at Centaurus High School with Dianne Hubbard, GR&AP coordinator.



assisting with the agenda and compiling the group's decisions for use by the legal drafters.

We have successfully lobbied the Ministry to undertake additional consultation on the most controversial and potentially problematic parts of the draft legislation. We prepared background documents for consultations with youth, consultations with adoptive parents and a general consultative workshop on the draft Children's Status Act. We also drafted a newspaper article on the issue of responsibility for step-children, in the hope of stimulating public debate on this issue. Radio interviews on legal issues relating to step children were given in several languages.

The general consultative workshop on the draft Children's Status Act in April was marked by a very productive discussion by a small but diverse group. The draft was significantly altered for the better. The GR&AP summarised the decisions taken at the meeting for the Ministry.

Consultations with adoptive parents took place in July. At the request of the Ministry, the coordinator gave an input on their behalf at a national conference on Orphans and Vulnerable Children in June. Dianne also reviewed successive drafts of the government's OVC policy and made recommendations.

RESEARCH

The project reviewed the mammoth report of the South African Law Commission on child law reform (some 1300 pages) because of the significant overlap in issues. This report drew our attention to issues in the Namibian draft bills which require further consideration. We summarised these issues for the task force, and provided additional research on them.



Among others, the following topics were covered in short briefing papers prepared by the GR&AP for the Task Force:

- adoption,
- age of majority,
- children with special needs (sex workers, children in child labour, refugee and immigrant children, street children, children who are victims of sexual exploitation such as pornography and trafficking,
- guardianship after death of parents or sole guardian,
- harmful social and cultural practices,
- international child abduction,
- mandatory versus voluntary reporting of child abuse,
- representation and procedures in children's court,
- step-children,
- surrogacy
- general issues pertaining to the Child Care and Protection Act,
- general issues pertaining to the Children's Status Act.

The AIDS Law Unit provided input on HIV-related issues. A package of children's legislation will hopefully be finalised for introduction to Parliament in 2003.

WORKSHOPS AND CONFERENCES

The coordinator gave a paper on Children's Law Reform in Namibia

The school murals have been very effective in calling attention to the issue of violence against women, particularly in rural areas.

at a workshop in Cape Town. The paper, which included information on the forthcoming Juvenile Justice Bill and the Maintenance Bill as well as the two more general pieces of children's legislation, was very well-received. The conference was extremely useful. For example, information about proposed reforms to South Africa's Rule 43 on interim relief in divorce cases was subsequently used as a model for proposed Namibian reforms of our similar Rule 43.

GR & AP attended a meeting on the National Programme of Action for Children that was organised by the Ministry of Women Affairs and Child Welfare, in August. The meeting discussed mechanisms for monitoring implementation of the National Programme of Action. The plan is to establish three subcommittees – one on early childhood development, one on orphans and other vulnerable children, and one on child development (which is charged with lobbying and monitoring the implementation of child legislation and policy, amongst other things).

VULNERABLE WITNESSES

ADVOCACY

The Vulnerable Witnesses Bill, which is in its final stage, has been held back by the Ministry of Justice, reportedly to await the complete overhaul of the Criminal Procedure Act. We have asked other NGOs and institutions to assist with calls for its speedy passage. We have alerted the Minister of Women Affairs and Child Welfare to this problem, and

met with representatives of the Office of the Prosecutor-General to discuss possible ways of moving the bill forward. Unfortunately, none of these efforts have been successful. Lobbying will continue in 2003.

DIVORCE

ADVOCACY

The GR & AP was a member of the LRDC Subcommittee on Divorce. GR&AP regularly provided research input and in June this subcommittee finalised a draft bill and explanatory memorandum for submission to the full LRDC. The bill follows the basic outline proposed by the GR&AP in its research paper on divorce, which the subcommittee used as its key reference point. The bill was discussed by the full LRDC in October, where it was reportedly approved in principle. The draft bill is expected to be circulated by the LRDC for comment from interested parties in due course.

In the wake of a complaint we made to the Law Society in 2001, the society followed our suggestion to send a circular to its members clarifying the meaning of "desertion" as a grounds for divorce. Our goal was to stop legal practitioners from erroneously advising clients who are victims of domestic abuse that they risk losing the divorce action if they leave the common home.

MARITAL PROPERTY AND COHABITATION

RESEARCH

This project aims to produce two research publications with proposals for law reform – one on cohabitation and one on marital property. Extensive field research was conducted, partly as a joint effort by LAC and UNAM's Gender Unit. In-depth interviews on cohabitation and marital property were conducted by GR&AP staff and UNAM law students. These interviews included a focus on Muslim families, as Muslim marriages are not recognised under Namibian civil law on marriage. We engaged a consultant to perform a content analysis of the field research and to draft chapters for the reports summarising the field research data.

ADVOCACY

As part of the first phase of the marital property project, an article on marital property regimes in the north was published

in *The Namibian*. We received enquiries about this article, as well as requests for copies of it. For example, we have received telephone calls from two marriage officers based in the North with specific legal queries (one being the question of what regime applies when a black person marries a white person north of the old red line, where the "Native Administration Proclamation" of 1915 still applies).

The coordinator gave an interview on remaining racial discrimination in the laws on marital property which was aired on NBC in October.

ADVICE

The project advised a Namibian woman who cohabitates with a German national who owns a farm in Namibia. He had promised to marry her, but decided not to. In the meantime they had a son, and he pressured the woman not to take up a job. We provided a summary of her legal rights in the event that the man decided to leave her. This case provided a good illustration of the vulnerability of many women in cohabitation relationships involving children.

SEX WORK

RESEARCH

A major piece of research entitled "Whose Body Is It?" was completed in August. The full report and a separate short summary of the research findings were published and launched in October.

'NOT A LIFE YOU ASK FOR'

We commissioned *Quiet Storm Films* to produce a television documentary on human rights and sex work, based on 20 interviews with sex workers in Windhoek and 11 interviews with sex workers in Walvis Bay. (Attempts to interview sex workers in the North fell through on two separate occasions, despite advance arrangements.)

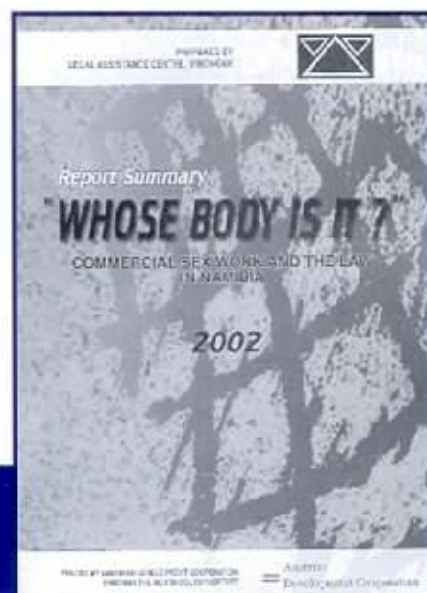
The idea behind the film was to allow sex workers, as a vulnerable and marginalised group, to put their concerns in their own words for the benefit of policy-makers. Some people

were interviewed anonymously, with their faces hidden, whilst others were comfortable with having their identities revealed. The interviewees recounted heartbreaking stories of desperation, and we interviewed several family groups where mother and daughters were all involved in sex work.

Both the Namibian Police and the Windhoek Municipal Police refused to be interviewed for the film, despite the fact that several of the interviews contain allegations of abuse by officers from these forces. It also proved impossible to obtain interviews with senior government officials, although a regional representative of the Ministry of Women Affairs and Child Welfare spoke on camera, along with the General Secretary of the Council of Churches in Namibia.

The documentary, entitled "*Not a Life You Ask For*" was shown at a public launch on 3 October, and broadcasted on NBC on 10 November. Public response has been very

The Gender Unit has completed a study and outsourced a documentary video on sex work and the law in Namibia.



positive, with many people saying that the film has opened their eyes.

LAUNCH AND WORKSHOP

The launch of the sex work research and documentary was held on 3 October and attended by some 250 guests, including 12 sex workers representing the local sex workers group *Stand Together*.

An accompanying workshop on 4 December highlighted the human rights issues facing sex workers in Namibia. It was aimed at policy-makers and groups engaged in support work and was attended by 50 persons, including 12 sex workers.

In addition, meetings were held between SWEAT (Sex Worker Education and Advocacy Task Force - Cape Town), local sex workers and specialised support groups.

MAINTENANCE

The project assisted one sex worker to enforce a maintenance order for her six children, by means of a civil writ of attachment. Through GR&AP intervention, a donor has assisted this sex worker with building materials for a small shop in the hopes that she (and her eldest daughter) will be able to leave sex work. Sadly, one of the six children in the family died of malnutrition at mid-year.

OUTCOMES

Law reform on sex work is not likely to happen in the short term. Nevertheless, we believe that it is important to contribute to an informed debate on this issue with an

eye on long-term developments. The following short-term outcomes have been observed since the launch of the research and film in early October:

- Several organisations have begun to develop plans for increased support work among sex workers.

- In November, we participated in a workshop on Child Abuse and Child Trafficking. GR&AP will send two representatives to an interim committee on child abuse and child trafficking in Windhoek.

- The police have expressed their commitment to follow up on complaints about improper behaviour by law enforcement officers. A letter was sent to the Legal Adviser of NAMPOL to clarify the procedures for making such complaints about police. GR&AP has offered to assist any sex worker who would like to make such a complaint.

- The GR&AP facilitated a workshop on commercial sex work in Namibia organised by the Women's Voice Centre in November.

- The project arranged for a UNICEF consultant, who is conducting a study on vulnerable children and orphans, to meet with the "Stand Together" group of sex workers who wanted to give input on the relation between school fees and their financial problems.

- LAC will seek funding to Namibianise a booklet on sex worker rights produced by SWEAT, for distribution to sex workers and support groups.

- At our suggestion, the task force on children's legislation has agreed to recommend a provision which would prohibit social workers from finding parents unfit solely on the grounds of their occupation (be it legal or illegal), rather than basing their recommendation on the actual impact of the situation on the child. This would protect sex workers from being disadvantaged by unfounded assumptions about their parenting abilities.

50/50 CAMPAIGN

The 50/50 campaign is an initiative of the Namibian Women's Manifesto Network (NWMN), which is a loose structure bringing together women leaders from towns and villages all over Namibia to lobby for the implementation of a 50% representation of women in all political positions. The GR&AP was commissioned by the NWMN to carry out comparative research on this issue and to prepare a draft "50/50 Bill".

In follow-up activity this year, Dianne gave an interview for an NBC programme on this topic and participated in a panel discussion in another NBC programme.

SEXUAL HARASSMENT

Our volunteer's main task during her internship has been to draft a paper on comparative legal approaches to sexual harassment, with an emphasis on codes of conduct which can be promoted amongst employers. This research is scheduled for completion in 2003. It has become a very timely topic, as more and more incidences of sexual harassment come out in the open.

LAND

RESEARCH

Our long-awaited publication on commercial land resettlement projects, *"One day we will all be equal..."*, finally arrived from the printer in early 2002. LEAD and GR&AP launched the publication jointly in April, with a speech by the Deputy Minister of the Ministry of Women Affairs and Child Welfare. There has been a strong demand for the publication, which proved to be a timely addition to intensified national discussions on land policy.

ADVOCACY

The Communal Land Reform Act, passed by Parliament at long last, satisfactorily incorporates most of the gender issues lobbied for by GR&AP over the last few years – affirmative action for women on the Land Boards and equal treatment of widows and widowers in respect of the right to remain on communal land after the death of the spouse to whom the land was allocated. However, equalisation of the rights of male and female children to remain on the land in the absence of a surviving spouse was not addressed by the new law, which defers to custom on this point. This issue will need to be addressed in the context of more general law reform on inheritance if no court case forces the point in advance of such reform.

Publications

Professor Sidney L. Harring and Willem Odendaal. *"One day we will all be equal...": A Socio-Legal Perspective on the Namibian Land Reform and Resettlement Process*

Dianne Hubbard. *Children's Law Reform in Namibia* (conference paper)

The Combating of Domestic Violence Bill Simplified

Twelve briefing papers on child law issues:

- ♣ *Age of majority*
- ♣ *Corporal punishment*
- ♣ *Children with special needs*
- ♣ *General issues concerning the Child Care and Protection Act*
- ♣ *Representation in children's court*
- ♣ *Harmful social and cultural practices*
- ♣ *Reporting of child abuse*
- ♣ *Guardianship*
- ♣ *International abduction*
- ♣ *Adoption*
- ♣ *Step-children*
- ♣ *Surrogacy*

Submissions on Maintenance Bill (report for Parliamentary Committee on Human Resources and Gender Equality, re-printed in *Sister* magazine in several languages).

Report Summary, *"Whose Body Is It?": Commercial Sex Work and The Law in Namibia*

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

THE WORK OF THE HUMAN RIGHTS AND CONSTITUTIONAL UNIT, ALSO KNOWN AS HURICON

The unit focuses on the promotion of a human rights culture in Namibia, litigates public interest and human rights cases and train candidate legal practitioners. Because the unit is approached on an almost daily basis with requests for legal assistance it is necessary to carefully select the cases taken on to ensure maximum impact. A holistic approach with regular lawyers' meetings to discuss new cases helps us to do our work effectively. Despite increased litigation, the unit is instrumental in keeping the profile of human rights high.

Toni Hancox is the Coordinator of the unit. Other staff members are Lynita Conradie, Evelyn Zimba (who passed the legal practitioners' qualifying examination in April and who moved to the Gender Unit later in the year), Linda Dumba (new candidate legal practitioner) and

Beatrix Greyvenstein (who was appointed in March and who took over the Caprivi files), Werner Boesak took over from Delme Cupido as junior legal practitioner.

LITIGATION

The unit finalised 31 files and opened a further 57 files during the year. At present, the unit is dealing with 350 matters.

During the period under review, one matter handled by an attorney within the unit was allowed to prescribe. The client was informed accordingly and advised to obtain outside legal advice. At the same time, notice was given in respect of our professional indemnity insurance. As we were aware that the client did not have the funds to obtain further legal assistance, the insurance company was approached in view of obtaining an *ex gratia* payment. Feedback in this regard is awaited. The



Police brutality is unfortunately still an issue Huricon has to deal with now and again.

coordinator conducts monthly file inventories during which all candidates' files are perused and no similar occurrence has taken place.

Some of the more interesting cases dealt with by the unit are referred to below:

CAPRIVI DETAINEES

Because the Caprivi events, which occurred in August 1999, are well known, it will be unnecessary to repeat what lead to the civil actions against the government. These civil actions remain a logistical nightmare as most of the prisoners are in custody in Grootfontein. A few are in custody in Windhoek and those released are mostly in the Caprivi but also in Oshakati. It is not possible to set all of these cases down for trial simultaneously (although the pleadings are now closed) because such a trial could last a few years. Most of the clients must also still stand trial in a criminal court. Although these matters are the responsibility of one legal practitioner in the unit, all staff members assist when the need arises. Due to the nature of the cases there are periods of extreme activity followed by quieter times.

A decision was made to brief outside counsel, who is quite experienced in cross-examination, to assist in some of the cases. Counsel is assisted by Lynita Conradie, part-time counsel for the unit. The idea is that security force members will be cross-examined extensively during trial, which might persuade government to settle the remaining cases without going to trial. Pre-trial conferences have been finalised in seven matters and two have been set down for trial in May 2003.

Two counsel in the Supreme Court argued government's appeal concerning the detainees' right to legal representation in March 2002. Government's main arguments were that legal aid is a social benefit, which the government aspires to grant its citizens but that this did not elevate legal aid to a constitutional right.

Counsel for the detainees argued that the right to a fair trial, which is a constitutional right, embodies within it the right to state-funded legal representation, if necessary. Counsel further noted that if the government's argument were to be accepted, it would in effect mean that during pre-independence and therefore pre-constitution days, the detainees would have been better off than they are today since during that time they would have been afforded *pro deo* representation at the cost of the state.

The matter elicited much interest both within and outside Namibia. For the first time in the legal history of Namibia, a five-judge bench heard the matter. Judgement was handed

down on 7 June 2002. Government's appeal was dismissed with costs and it was directed to provide legal aid to the detainees. Subsequent hereto, it appeared that clients would still not be rendered effective legal representation since three very junior legal aid counsels were appointed. The unit intervened and, perhaps as a direct result of this, the Legal Aid Directorate appointed two senior counsel to assist in the screening process. Furthermore, since payment for costs has not been forthcoming from government, a bill of costs has been forwarded.

Also in relation to the Caprivi issue, a *mandamus* application was drafted to force the Prosecutor-General to either prosecute those accused of torturing and assaulting the Caprivi detainees, alternatively issuing a certificate of *nolle prosequi* to enable a private prosecution to take place. Unfortunately, the applicant no longer wants to continue with the application and the matter has been put on hold. Lastly, the unit is litigating for damages on behalf of 12 detainees after other prisoners assaulted them. The matters have been consolidated and the trial has been partly heard.

JOSEPH M SHIKONGO AND THE RIGHTS OF CHILDREN BORN OUT OF WEDLOCK

Mr. Shikongo instructed us to obtain custody for him of his 7-year old daughter who was born outside marriage. Although we have had similar cases in the past, the matters have either been settled out of court or clients have decided not to proceed. It means that fathers with children born out of wedlock still have

no rights of access or custody in terms of our law.

The facts of the matter are as follow:

Mr Shikongo had a relationship with Sarah Veldskoen. A daughter was born in 1995 out of their relationship. Shortly after her birth, Shikongo and Sarah sent their daughter to live with Sarah's parents, Mr and Mrs Veldskoen, in Karasburg for a while.

Sarah unfortunately died in a car accident in 1999 before they could get married. Client maintained contact with his daughter and an agreement was reached that she should remain with her grandparents until she reached school-going age, whereafter she would live with her father in Windhoek.

During 2001, client's daughter lived with him and attended pre-primary school in Windhoek. At the end of that year she left to visit her grandparents and since then client has not seen her. He later discovered that a Children's Court in Karasburg granted an order in February 2001 giving custody of his daughter to Mr and Mrs Veldskoen. It was alleged that Mr Shikongo "leads a life of his own", "does not pay any maintenance" and "shows no interest in the child".

Settlement negotiations have failed and welfare reports are now awaited, whereafter a decision will be made together with client as to what course of action should be taken. We could apply for an amendment of the Children's Court Order which would mean that a social worker would have to declare that circumstances have changed to such an extent that it would be in the child's best interests to live with her father. Alternatively, application

could be made to the High Court declaring certain sections of the Children's Act of 1960 as unconstitutional.

R SIKUNDA AND FOUR OTHERS/L MUHIGIRWA

In this case, which has been argued several times in the past two years, the appeal court this year ruled that the Security Commission, which declared Mr. Sikunda (Snr) (and therefore also our clients) *persona non grata* was not properly constituted at the time and therefore dismissed government's appeal. Huricon then requested the government attorneys to confirm that their clients would no longer oppose our application in the light of the above mentioned judgement. Settlement was reached whereby government in writing conceded that the Security Commission was not properly constituted at the time they recommended clients' removal from Namibia and therefore such recommendation was null and void. Furthermore, clients each received a letter confirming that no decision was ever taken by government to declare them *persona non grata*.

The issue of costs has, however, not been settled. Government has been called upon to attend at the Office of the Registrar of the High Court in order to obtain a date to argue costs.

AURELIO SAMAKUPA SONDJAMBA

Client is one of the detainees at Dordabis. The unit has advised government that, in our opinion, client should be released immediately since it was found in the Supreme Court in the Sikunda Snr. matter that the Security Commission was not properly constituted at the time it purportedly declared the Dordabis detainees as *persona non grata*. We will, in all probability, bring an application for client's release.

THE 'CHAINS' SAGA

Pursuant to a 1999 Supreme Court judgement about the unconstitutionality of placing prisoners in leg irons or chains, the unit attempted to settle the claims of sixteen prisoners who were claiming damages for being placed in leg irons or chains. The government, however, 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. One of these matters, the case of Norman Engelbrecht, went to trial in October 2000. Acting on the contention of the government, the court requested that only argument on the issue of whether the government is liable would be heard.

The court subsequently ruled that government was liable and the issue of quantum had to be decided. The court ordered that N\$15 000 be paid to the plaintiff and also ordered the payment of costs on an attorney/client scale. The unit had government's appeal set aside because it was defective and out of time.

Government then filed another notice of appeal, properly worded this time, but it was even more out of time. The appeal was initially set down for hearing in October 2001 before the full bench of the High Court. Since then the law was amended to exclude appeals to the full bench. All pending appeals were then transferred to the Supreme Court and the matter was to be argued on 5 April 2002.

Some days prior to the hearing, the government attorneys approached the unit with a view to settle the matter. They were of the opinion that in light of a Supreme Court decision (the *Myburgh* matter) they had prospects of success on appeal. In *Myburgh*, the Supreme Court ruled that unconstitutional common law that is deemed to be so, is so from the date of inception of the constitution. But statutory law must first be declared to be unconstitutional by a court.

Furthermore, it appeared from the record that the court did not allow the government attorney to call witnesses before pronouncing on liability and moving on to the issue of quantum. It was contended by us that even if the matter should proceed *de novo*, the government would have difficulty with their case since they had admitted that the chaining was effected as punishment. This was conceded by the government's attorney. The matter was thereafter favourably settled.

RUBY KALOMO

By taking on this case, the unit hopes to pave the way for children born out of a marriage to inherit intestate from their biological parents. In terms of our law, such children do not inherit. Although his parents never married, Ruby Kalomo's father treated him as his son. He paid for his schooling and maintained Ruby throughout his life. Unfortunately his father never made a will.

When his father passed away, the unit approached the executor of the estate requesting that client be considered as a lawful heir to the estate. The only other heir was a daughter, the respondent, living in Germany. No offer came forth and the unit subsequently brought an application to establish or found jurisdiction, thereby allowing client to proceed with an action against his half-sister. A rule *nisi* was issued attaching the estate's assets and the matter was subsequently opposed.

The matter was argued on 27 April 2001 and on that day, the respondent's counsel raised a point *in limine* arguing that the procedure followed by client had been incorrect in that a Declarator should have been applied for initially. The court disagreed and dismissed the point *in limine*. The merits of the matter were argued in March 2002. The rule *nisi* was confirmed which gave the court jurisdiction over the matter. Client was given 30 days in which to issue summons and this was duly attended to.

MICHAEL MÜLLER

Michael Müller has applied to the High Court for an order authorising him to assume his wife's surname (Engelhard) without complying with any formalities. It is possible under Namibian law for a wife to change her surname to her husband's without any formalities, but a man has to seek permission, pay a fee and comply with some further require-



The Constitutional
and
Human Rights Unit
(HURICON)



Legal Assistance Centre
Windhoek

ments. Mr. Müller contended that he was being unfairly discriminated against on the basis of his sex, which is prohibited under the Namibian Bill of Rights. The High Court has dismissed Mr. Müller's application. Mr. Müller then appealed and it was heard on 15 April 1999 at which time it was dismissed. The unit communicated with the Human Rights Committee in Geneva in this regard and the matter came before the committee in March 2002. The committee confirmed that both client and his wife had been victims of unfair discrimination. The government was given 90 days to furnish the committee with information about measures taken to give effect to the committee's views. We are still awaiting such information.

WILMA ISAACKS

Client came to the unit with a N\$50,00 telecard. On the telecard was a photo of herself and her grandmother with the caption: "Nama – the famous red people of Namibia. Namas are descendents of former Herero prisoners-of-war who retained their group identity and adopted the Nama language and culture."

Clients claimed they hadn't given their permission for the photographs to be used and denied the statement made on the telecard. They said their kin, as a result of the text on the card, treated them as pariahs. It subsequently transpired that the photographs had been purchased from an advertising agency that had, in turn, purchased them from a freelance photographer. And so each party tried to place liability on the other. Settlement negotiations with

the advertising agency failed and it was decided to institute action against Telecom Namibia since they were solely responsible for utilising the photographs together with the offensive caption.

Telecom Namibia defended the matter and subsequently joined the advertising agency as a third party. At the close of pleadings an exception was filed by Telecom Namibia stating that the wording on the card did not disclose defamatory remarks *per se*. Before the exception could be argued, we were informed that there was a chance the matter may be settled. We are awaiting settlement proposals.

CHRISTOFIN SAWAS

The Windhoek Municipal Police and Special Field Force arrested 16 persons on 27 March 2002 around the city centre in a clean up operation. They were charged with loitering and soliciting. The LAC got word of the arrests and set out to the police station to negotiate their release on a warning or bail before the start of a long weekend. The investigating officer was reluctant at first to consider bail. After our persistent efforts and appeals to his senior officers, he had to concede and granted everyone bail of N\$ 100,00.

What made the granting of bail a pressing issue was the fact that a pregnant girl was also detained, another had a breastfeeding baby with her and there was an elderly woman whose minor children would have suffered from hunger at home over the weekend were she not released.

Werner appeared in court on their behalf on April 2 and 3, and arranged postponements of their cases. It also transpired that 18 other people were arrested in January, prior to these arrests, as part of the clean up operation. Werner made an appearance on behalf of them *en masse* for a postponement until 16th May 2002.

It is the unit's contention that the laws, in terms of which these people were charged, were applied unfairly and violated their constitutional rights, in that persons were arbitrarily arrested without proper cause or justification. In fact, one of the arrested persons is a nurse at the Central Hospital. This has been verified. This lady indicated that she was waiting for a taxi after having been to a gambling house when she was arrested. The principle argument in an envisaged application to the High Court will be that the charges of loitering and soliciting are vague and/or overbroad in their application and that anybody may fall victim to contravening those sections at any given moment.

MEDICAL NEGLIGENCE

Since our decision to deal with matters of medical negligence, requests for assistance have been flooding in. The unit is presently dealing with numerous medical negligence cases. Three are referred to below:

MAGARETHE GURUSES

Magarethe Guruses was admitted to the Katutura State Hospital on 23 March 2002. The client, who was in the sixth month of her pregnancy, had a natural abortion. The doctor told the client that the baby would not have lived because its lungs were weak. This the client understood. The client was released from hospital after the abortion without her uterus being properly scraped by the medical staff.

Whilst at home she became very sick. The client could not eat and constantly vomited. She noticed that her stomach was swollen. At Katutura Hospital the doctors decided to operate on her and they diagnosed a septic abdomen because the uterus was not properly scraped. Huricon is in the process of obtaining all the medical records and information necessary to enable us to proceed with a claim herein.

ANNA KANDALI

Client's 5 month old baby died in the Katutura Hospital after his arm was amputated because the bandages holding a drip in place were too tight and caused gangrene. The medical reports have been obtained and the matter have been referred to the Medical Board for investigation. A decision will then be made on whether to litigate.

INTERVENTIONS THAT HAVE NOT RESULTED IN LITIGATION

JOHN THABO POTHELE

The LAC was approached in April 2002 to assist a citizen of Lesotho, Mr. John Thabo Potele, who had been arrested, tried and found guilty of an immigration offence. It appeared that, after Mr. Pothele was found guilty, he duly paid the fine stipulated in his sentence. Officials from the Ministry of Prisons and Correctional Services, however, continued to detain him further for almost two months, apparently at the instance of immigration officials. Through our intervention, we were able to

secure Mr. Pothele's release into the custody of his father, a naturalised Namibian, and are in the process of assisting him to return to his native country.

COLLIN DIERGAARDT

Mr. Diergaardt was declared a State President's Patient over a year before his mother came to Huricon for assistance. She told us that she did not have any success in having him released into her custody. A lengthy battle between the unit and the Prosecutor-General followed whereby we insisted that he was the official *curator-ad-litem* for State President's Patients and he denied this. A Medical Board was finally convened and after hearing evidence from Collin Diergaardt's doctor, and receiving confirmation from the Prosecutor-General that the crime with which Diergaardt was charged was not a violent crime, the board recommended his conditional release to the Minister of Home Affairs.

In terms of existing legislation, the Minister has to confirm such recommendation. Then followed the thankless task of attempting to persuade Home Affairs to deal with this matter as expeditiously as possible and after a final ultimatum was issued, the son was finally released into the care of his mother.

LAURENTIUS DICKSON

The unit intervened in the imminent deportation of client who had entered the country illegally and later obtained documents in a fraudulent manner. Mr. Dickson married a Namibian citizen but was later found guilty of fraud by a court

of law. He paid a fine and the unit contended that this did not preclude him from obtaining Namibian citizenship on the basis of his lawful marriage. Government agreed to stay deportation proceedings until they had further investigated the matter and client was advised to apply for citizenship in the interim.

ANTONIO NZITA BENJAMIN

Client had refugee status in Namibia but failed to report to the immigration officer when crossing the border at Ariamsvlei. He was arrested and subsequently paid a fine. Nevertheless, client was detained at Windhoek Central Prison pending an appearance before the immigration tribunal to determine whether he should be deported. The unit requested the Ministry of Home Affairs to release client immediately and to undertake not to deport him to his country of origin in accordance with the principle of *non-refoulement*. Client was released and we were informed that the immigration directorate has no authority to deport refugees in Namibia since the latter are protected by the Refugee Recognition Act, Act No. 2 of 1999.

TRAINING

The unit continues to recruit and train candidate legal practitioners. By training our own candidate legal practitioners, Huricon helps to open up the profession to previously disadvantaged persons who would have found it very difficult to enter the legal profession otherwise. During 2002, two candidate legal practitioners completed their studies with the Justice Training Centre and were admitted as legal practitioners. The candidates must complete a one year course at the Justice Training Centre and obtain practical training from their attachment with the unit. The training necessitates constant supervision on the part of the admitted legal practitioners, partly because they must sign all pleadings drafted by candidates.

During the period under review the unit implemented lawyers' meetings, which are held every two months with all legal practitioners at the LAC to ensure that important changes in the law and definitive court cases are brought to the attention of all candidates and legal practitioners. It is also here where decisions are made as to what cases should be taken aboard.

ADVOCACY

CRIMINALLY MENTALLY ILL

Recommendations for amending legislation governing the detention of criminally mentally ill persons were forwarded to the Attorney General during the year. In the existing law there is no legal provision, which allows the family of a patient, or for a patient personally, to approach the court for a review of his/her case. There is also no provision ordering regular assessments to be made and the reality is that many of these patients

Two happy winners of our essay competition on torture, which was organised as a special event to mark International Day Against Torture, pictured with Clement Daniels and Toni Hancox.



languish in prison for indeterminate periods of time. A consultant engaged by the unit produced a written study of the relevant international human rights standards and legislation adopted in other countries. Should the legislature accept the unit's recommendations it will bring the treatment of such patients into the new century.

The unit's leading role in the annual commemorations of International Day against Torture and Human Rights Week and Human Rights Day serve the purpose of educating the public and highlighting the importance of human rights.

SCREENING

By providing free legal services to the most vulnerable groups in our society (and therefore, per implication, those groups whose rights are more often violated), the unit has made great strides in upholding the rule of law in Namibia. Throughout the year legal practitioners of the LAC screen clients with the view to identify truly important cases and needy clients. In the course of such screening, a service offering general advice is also made available. Despite the fact that screening is a very time-consuming and sometimes frustrating task, it is perceived as extremely necessary in view of the unit's need to focus its direction. The screening process affords needy clients a forum for being heard even if the only action taken thereafter is to refer clients to the relevant offices of those who can assist.

SUPPORT TO OTHER ORGANISATIONS

The coordinator is a trustee of the Hoofbeats Trust, Archillen Gawanab Trust and Maria Geelbooi Trust. She is also the Secretary of the newly established Professional Arbitration and Mediation Association of Namibia (PAMAN) and served on the Law Society's committee on the International Criminal Court. Delme is still serving on the board of directors of the Refugee Hope foundation, an NGO that aims to improve the plight of refugees in Namibia.

Publications and other activities

- A first draft of a booklet on torture was finalised.
- The coordinator finalised a working document to be used for training of prisoners. The training has been postponed to 2003 at the request of prison authorities.
- Beatrix drafted portions of a booklet, which will be used for training staff of the Ministry of Regional and Local Government and Housing, about the laws governing this ministry. Beatrix will also assist with the training in 2003.
- Many of the human rights cases taken on are about assaults perpetrated by police officers and defence force members whilst performing in the line of duty. The unit expends much effort in providing human rights training to such ministries.
- The unit made submissions to parliament on the Anti-Corruption Bill during the period under review.
- The unit wrote a shadow report to the government's report under the International Covenant for Civil and Political Rights.
- The unit produced a pamphlet on its work, which will be launched early next year.
- The unit participated in the celebrations of Human Rights Week in November and organised the events of Human Rights Day on 10 December.

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

THE WORK OF THE JUVENILE JUSTICE PROJECT, ALSO KNOWN AS THE JJP

The aim of the project is to provide a comprehensive national system of restorative justice for children who come into conflict with the law. Since its implementation in 1995, the JJP has worked to ensure that there is political will and policies in place so that government can take full responsibility for this project from 2003 onwards. In the period under review the JJP therefore focused on phasing out activities such as facilitation of the Life Skills Programme. Meetings were held with the stakeholders, and a phasing out plan was set up.

Celeste Zaahl is the coordinator. Other staff includes Senorita Gases (replaced by Mona-lisa Zatzirua during the year), Wilma Izaaks (left in September) and Amelia Dumba replaced Ricardo Mukonda. The social work intern this year was Vilyo Ndaopipiwa.

ASSESSMENTS OR SCREENINGS

According to the phasing out plan social workers from the Ministry of Health & Social Services were

meant to take over more screening days from June, and from September they would have been solely responsible for assessments. Although they complained about it, they made staff available. The completion of the forms is still a challenge, since incomplete forms reflect inaccurate statistical information. A meeting with the Chief Medical Officer was held and he promised to look into measurements on how to curb this problem.

The children assessed from January until October were 348. Sixty nine were girls and 279 were boys. One hundred and seventy-four were school going and 125 had been arrested before. Fifty-one parents indicated that they experienced behavioural problems with these children such as discipline, fights/aggressiveness, stealing from home, on the streets and mixing with peers who have a negative influence on them. One hundred and seventeen children were diverted, and the others are prosecuted due to the seriousness of the crimes.

The monitoring forms indicated that 168 of the children were kept at Wanaheda Police Station. During a Juvenile Justice Forum meeting attended by children who went through the system, most said they preferred to stay at Katutura or Windhoek Police Station. It is not over crowded, they felt that they received special attention and said they were not exposed to physical or sexual abuse.

Only 36 children were released in their parents' care, while the case information forms showed that 57 were less serious offences. The parents of 63 children were not informed about the arrest of their children. Sixty-eight children indicated verbal and physical abuse by police officers during arrest and 33 at the charge office by police officers. Security officials verbally and physically abused 27 children. Fellow detainees also physically abused children, as indicated by 34 children respectively.

About 200 children were detained with adults. Complaints about food, soap and bedding facilities were still high. Eighteen children appeared in court for the first time within one to six months after arrest. This shows the necessity that JJP staff are more involved in monitoring the rights of children during the pre-trial stage. There seems to be a need for more training of police and security officers on the treatment of juvenile offenders.

A big concern came to the fore when we realised that the Ministry's social workers asked volunteers to do assessments. This situation was discussed in-depth but the problem still con-

tinued. Considering the purpose of assessment, it would create a big loophole in the whole system if this doesn't stop. Specific problems raised by the social workers were a lack of human resources, high caseloads and the lack of permanent offices to do assessments. Arrangements were made with prosecutors in the regions for assessments on specific days, and permission was obtained to use their offices for screening. It is a priority of the JJP staff to focus on assessment and diversion options in the regions. For this reason social workers are still assisted by JJP staff.

DIVERSION OPTIONS

PRE-TRIAL COMMUNITY SERVICE

It must still be determined who will be responsible for this function next year. Twenty-four children were referred for community service. Placement agencies are two old age homes in Windhoek. The aims of this diversion option are that it should provide some form of labour, be an opportunity for the child to learn a new skill/knowledge and include sessions of the life skills programme. In most of the regions the pre-trial community service is used as a diversion option. All of them experience the same problem of there not being enough placement agencies.

THE LIFE SKILLS PROGRAMME

Eighty-one children successfully completed the programme. This function is meant to be taken over by the Ministry of Higher Education, Directorate Youth Development. Due to a lack of

human resources on their side the JJP is still responsible for the programme. Work on getting the Ministry to move ahead with the take-over continues.

The programme is not used effectively in some regions due to the vastness of the country. Karasburg, Walvis Bay, Swakopmund, Keetmanshoop, Rundu (through Childline/Lifeline) and Windhoek are applying it successfully.

THE JOURNEY PROGRAMME

This programme aims to empower and equip children, who are at high risk of re-offending, with skills so that they can assume responsibility for their own lives and actions. Consultants from NICRO (National Institute for Crime Prevention and Reintegration of Offenders) and EDUCO, both in South Africa, facilitated the pilot programme in March.

Nine children were recruited for it. A second group started in August, and JJP staff was responsible for facilitating the life skills programme and the soft skills of the wilderness component. A registration package was designed that included the assessment, medical and indemnity forms and an equipment list. The pilot programme was evalu-



Youth in conflict with the law, who meet certain criteria can participate in the Journey Programme, which aims to divert them from re-offending.

ated and recommendations were taken aboard in the second programme.

The recommendations included:

- At least 2 people must do the selection, including the person responsible for the programme;
- Only youth offenders at high risk of re-offending or offending and who are out of school should be considered;
- Proper planning should be done well in advance;
- Feed children at the placement agent;
- Provide transport to and from the placement agent;
- Match expectations of placement agents with what will be beneficial for the children;
- Identify more placement agencies;
- Identify an organisation that could do the outdoor component (hard skills);
- Facilitate the life skills programme at one venue;
- Find a suitable venue for the wilderness component;

- Arrange medical examinations by a state doctor;
- Facilitators should speak the language of the children or have an interpreter available;
- Follow up service should be available;
- Get cooperation from magistrates so that they will be willing to divert children who may benefit from this programme;
- The JJP volunteers should get involved in the supervision where PTCS is done in a group, and a need for an incentive for this exercise should be considered by JJP.

RECRUITMENT AND SELECTION OF PARTICIPANTS

The social workers responsible for the initial assessment of children at the courts were informed about the Journey Programme, the selection criteria and the commencement date. The names of 16 candidates were given to them so that they could do the assessment and selection. Eleven children were selected. The social worker that was going to be responsible for that particular journey did the selection. This is meant to enable him to bond with the children from the beginning, for him to gain knowledge of the backgrounds of the children and to ensure a programme that would really cater for the needs of those children. The following selection criteria were used:

- ♣ offenders between the ages of 14 and 17,
- ♣ offenders who are out of school or a school drop-out,
- ♣ offenders who are at risk of committing crime again even if diverted to other diversion options,
- ♣ the victim of the crime must agree to the conditions of diversion, in cases other than shoplifting,



Wilderness Therapy is probably the toughest yet most endearing part of the Journey Programme

- ✦ the child must not be addicted to dependency substances,
- ✦ the crime committed should not be of such a nature that it cannot be diverted,
- ✦ the child and his/her parents/guardians must be willing to be interviewed by the social workers.

LIFE SKILLS COMPONENT

The aims of this component are to provide the young people with skills which may help them cope with challenges in their environment, give them opportunities to express their ideas/opinions/feelings, encourage self-respect/self-worth and respect for others, and improve communication between parents and their children.

Ricardo Mukonda and the two volunteers connected to the JJP facilitated the life skills component. At first a meeting was held with the children and their parents to inform them again of the aims of the programme, the court requirements and the different components. Although facilitated in English and Afrikaans, the latter was used more since the children could express themselves better in Afrikaans. The topics included crime awareness, self-concept, and types of behaviour, decision-making, norms/laws/values, and communication in the family.

WILDERNESS THERAPY (OUTDOOR COMPONENT)

Ricardo Mukonda, the two volunteers and Leon Visser from Youth in Adventure were the facilitating team for the Wilderness Therapy that took place at Midgard Lodge. The learning focused on teamwork, trust building, self-reflection, sexuality, vision of the self and the future.

COMMUNITY SERVICE

Community service was done at Tabitha and Katutura Old Age Homes over a period of four weeks. The two volunteers from JJP supervised this exercise. JJP organised food and transport for the children. Community service is seen as an exercise to repay the community for committing the crime.

SKILLS TRAINING

Basic bricklaying and plastering took place at the Windhoek Vocational Training Centre. The training package included the fundamentals of bricklaying, measuring instruments, introduction to different bonds, handling of tools and equipment, setting out measurements, safe working procedures, laying of floors, plastering and basics about face bricks and tiling.

The centre promised to provide us with a list of possible organisations for attachment of the children where they can do their practical implementation.

CRIME EDUCATION

The aim of this activity is to educate the youth in the country about crime. Training focused on certain provisions in the Criminal Procedure Act, consequences of having a criminal record, due process rights and constitutional rights. The training is combined with peer counselling. Regional committees are established to co-ordinate activities on regional level and to gather statistics from police. Currently there are six regional committees in Namibia.

At schools, committees were established to serve as a link between the youth and guidance teachers on social problems. Sustainability of this programme needs attention, and unfortunately the planned national workshop did not take place. A decision was made to train guidance teachers at schools so that they can render greater support to children in need. In collaboration with the Legal Education Unit at LAC, we will look into crime education as part of the curriculum. There is possible collaboration with UNICEF in work they do in the Kavango region.

MONITORING CHILDREN'S RIGHTS

Several meetings were held with the Station Commander and the Acting Station Commander of the Wanaheda Police station to discuss the issuing of J127 forms to juve-

nile offenders. This form gives the mandate to police officers to release juveniles charged with minor offences in parental care after arrest. Officers at the Wanaheda police station discontinued the use of this form after reported abuse. After input by the police officers, application of the form was extended to adult female offenders with toddlers who are charged with minor offences. Mandate was given to Warrant Officer Cloete to issue the J127. Problems that must still be solved are cleaning materials for the cells, transport, the payment of the television licence and fair distribution of food.

CAPACITY BUILDING

Due to the eminent phasing out process a lot of attention was given to assessments, follow-up visits and training sessions in the regions. The aim was to ascertain where our regional partners were with the process and to determine what additional training needs they had. We established that role players were still not clear on their functions. Juvenile

Justice Forums did not meet regularly because some social workers were transferred and some had resigned. Activities in some places had therefore come to a stand still.

Problems experienced in towns with arrests and detentions, assessments, diversions, the courts, monitoring and evaluation and the juvenile justice forums were similar. A report drafted on these matters will be forwarded to the Inter-Ministerial Committee and will be used by JJP staff when doing follow-up visits.

Some regions requested refresher courses and new Juvenile Justice Forums were established. The Caprivi and Kavango regions have not received proper attention due to the past military operations there. The situation has since improved and we have made plans to pay more attention to these regions.

A follow-up workshop with social workers, youth officers, police officers and the control prosecutor of Windhoek, which took place in October, focused on facilitation and communication skills for use in the Life Skills Programme, in the Restorative Justice Approach, and in the diversion programmes.

A workshop held in June discussed the published Guide for Juvenile Justice Workers in-depth, informed participants on the phasing out plan of the JJP, and explored diversion options through programmes run by the Directorate of Youth Development.

PUBLICATIONS

The project compiled a manual on the juvenile justice process, including the roles of screeners, youth officers, the police, the responsibilities of placement agencies, etc. With this manual role players now have a document on hand that would eliminate uncertainties. *Restorative Approach to Juvenile Justice in Namibia – a guide for juvenile justice workers* was launched during the above-mentioned workshop.

RESEARCH

The intern implemented all the methods of social work. His research was on the *Effectiveness of Juvenile Diversion Op-*



**Confront your secret fears and reveal your strengths –
the Journey Programme**

tions in Windhoek. He interviewed altogether 20 children, 12 boys and 8 girls. They were selected from the three diversion options currently active in Windhoek, being the Life Skills Programme, Pre-trial Community Service, and the Journey Programme. He made use of quantitative data and the simple random sampling method. The hypotheses of the study was that the diversion programmes do not focus enough on strengthening the parents/guardians relationship which should address the causes of re-offending, and that children commit offences because of their environment/housing circumstances.

The study concluded that the diversion programmes are effective because only a small number of children who went through the programmes re-offend. He found that the life skills programme is too short to address the issues properly.

The pre-trial community service option, which focuses on rendering services, does not inform children on other implications of being in conflict with the law. Most of the children committing crime are about 17 years of age, but the majority of children who are diverted are younger than 17 years.

Recommendations following from the research are:

- that the period of the LSP be extended,
- parents/guardians must be encouraged to attend more sessions with their children,
- the content of the LSP should be part of the school curriculum,
- the PTCS (Pre-Trial Community Service) should include some sessions of the LSP,
- the Journey Programme could address the needs of offending youth better if the skills training involve more options,
- sentenced juveniles should receive more attention during their time in prison,
- more places of safety should be established.

INTER-MINISTERIAL COMMITTEE (IMC)

This committee, which was established in 1999, aims to ensure government's responsiveness to the restorative justice approach for juvenile offenders. The members meet monthly to evaluate the progress of the Programme Manager, lobby for

law reform, and monitor the regional programmes. However, the process so far has been slow and there haven't been many developments. A consultant was subsequently contracted as technical assistant to the Programme Manager.

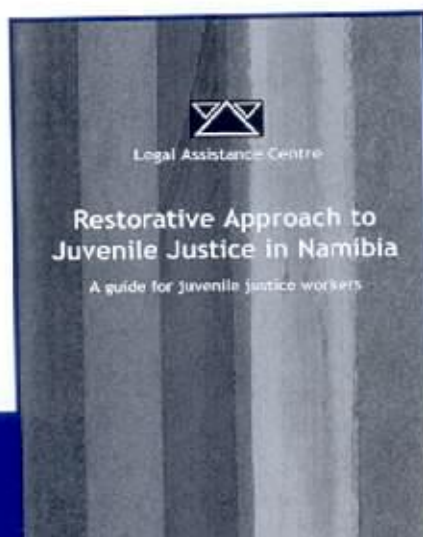
Progress on the prospective juvenile justice act was slow. A committee was formed to assist with finalising a draft bill in this regard. It should be ready for presentation to the line ministries in 2003.

ARREST AND AWAITING TRIAL

The responsible officials such as the police, the screeners (social workers), the prosecutor for juvenile court, youth officers and the volunteers have monthly meetings to sort out problems. Topics discussed were:

- (i) Uncertainties about the age of children, (adults abuse the system by lying about their age). Police officers, when informing parents

This manual for juvenile justice workers will go a long way in clarifying approaches, concepts and expectations.



about the arrest of a child, should ask the parent/guardian to provide proof of age, and use their own discretion in addition.

(ii) Parents/guardians were not traced for a whole month when the police officer responsible for juveniles was on leave. This led to over crowded cells and constant postponements of cases. After intervention, the particular station commander promised to solve the problem and prevent it from occurring again.

(iii) Juveniles complained about their food. It was decided that a police officer should be present when food is distributed to ensure that each receive the same amount of food.

(iv) We assisted new screeners at the court by familiarising them with the procedures and introducing them to the juvenile court personnel.

(v) The staff of JJP, including the promoters in the regions and the volunteers, do cell visits in order to determine whether parents/guardians are traced. We monitor the treatment of juveniles at the cells and the conditions of the cells.



JUVENILE JUSTICE FORUM (JJF)

At the JJF meetings role players are informed about decisions made at other meetings and about current developments on the Inter-Ministerial Committee. If problems can't be sorted out at the other meetings, it is discussed on this level and actions are taken.

However, the forums in the regions have not functioned well. We discovered it was due to uncertainties about the roles of each stakeholder. We are confident that the training guide for juvenile justice workers will help to clarify the different roles and help them to understand the importance of the forums.

The JJP has convened the JJF meetings in Windhoek all along. It was decided that the Directorate Youth Development will take over this role. The JJP will assist for a short period until they have established capacity. A decision was also made that COLS (Change for Life Style Home Project), whose volunteers visit the police cells, will assist the police officer on Wednesdays to take the children out so that they could do some indoor activities, and magazines would be given for them to read there. During a meeting with UNICEF, the idea of getting bicycles for the volunteers who trace parents was discussed as an urgent matter.

WORKSHOPS ATTENDED

DEVELOPMENTAL ASSESSMENT

Two JJP staff attended a workshop in Mariental for five days on Developmental Assessment. The workshop was facilitated by Johanna Prozesky (National Department of Social Development, Pretoria), Andre Viviers (Free State Provincial Department of Social Development, Bloemfontein) and Ruwayda Carloo (Western Cape Provincial Department of Social Services, Cape Town). It was attended by social workers from the

Celeste Zaahl, JJP coordinator and Mike Batley of the Restorative Justice Centre in South Africa facilitated the restorative justice workshop.

Ministry of Health and Social Services, Ministry of Prisons and Correctional Services, the Bridge (Hardap region) and LAC.

Developmental assessment is a framework for assessing children. The process involves the child, family, victim and community in a holistic way. Assessment is regarded as a process of evaluating the child's home circumstances and the circumstances surrounding the commission of offence, a tool to connect developmental needs and challenges to resources. The overall goal is to determine the least restrictive, most empowering environment and programme which is suitable to the child, family and the community.

The role of the probation officer in assessment and home-based programmes was addressed in-depth. Volunteers in South Africa are called family finders and their services are valued since their work involves tracing the parents and guardians of children who are awaiting trial. Assistant probation officers are responsible for fundraising, and supervision of sentenced and unsentenced youth in their homes. The workshop decided that four social workers will undergo a training of trainers programme in South Africa, after which they will train other social workers, develop the forms to suit the regions, pilot it for 2/3 months and have an evaluation on the effectiveness of the methods.

TRAINING OF TRAINERS

We attended the above workshop, and found it very useful. Price Waterhouse Coopers facilitated it, and the other two social workers at the JJP would like to attend a similar course next year.

The coordinator was invited by Panel Reform International to attend the workshop in Kenya in August. The French gov-

ernment and PRI (panel Reform International) intend to facilitate a process in certain African countries in order to improve the situations in prisons. A delegation will visit Namibia next year to finalise the process.

CONFERENCE IN NIGERIA

The coordinator presented a paper on juvenile justice in Namibia.

VISIT TO AUSTRALIA

A staff member attended this world conference on youth and family. The presentations focused on child sexual abuse, children as victims and perpetrators of crime, family therapy, juvenile justice, family group conferences, and children as part of decision making.

VISIT TO NICRO

A staff member attended a two-week attachment with NICRO to observe their implementation of the Journey Programme. She observed the life skills and outdoor facilitation. The other social worker will be attached to NICRO next year.



Participants who attended a workshop on facilitation skills and diversion options.

THE EQUITABLE REDISTRIBUTION OF LAND AND NATURAL RESOURCES

THE WORK OF THE LAND, ENVIRONMENT AND DEVELOPMENT PROJECT, ALSO KNOWN AS LEAD

The 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. The coordinator, Norman Tjombe, two project lawyers, Gerson Narib and Libertha

Kapere, and a project assistant, Ilda Lomba, staffed the LEAD project in 2002. Advocate Andrew Corbett, former director of the LAC, who is now in private practice at the Namibian Bar, rendered a valuable service as advocate to the project. Libertha was admitted as a legal practitioner at the High Court of Namibia in March.

LITIGATION AND LEGAL ADVICE

WOMEN AND CHILDREN'S RIGHTS TO INHERIT LAND UNDER CUSTOMARY LAW

We reported previously that LEAD has opened several cases concerning widows and female children and their rights to inherit land under customary law, but also under the system where the administration and distribution of assets of deceased estates of black people are not regulated. This trend continued during 2002.

The project has achieved remarkable successes and the number of cases indicates the prevalence of this problem. The project has also lobbied for urgent reforms to outdated colonial legislation, which effectively dispossess black women and children from property ownership. Unfortunately none of the potential test cases have been finalised in the courts.

The case of **Alma !Gontes**, which was supposed to go to court in September 2002, was partially settled and went before the court on 01 July 2002. A court order was obtained setting aside the appointment of persons other than the surviving spouse as executor in the estate of her later husband, and directing the Master of the High Court of Namibia to supervise the estate. This was a taste of victory for Alma and all those women who are similarly disposed.

Most cases taken on by LEAD in this regard revolve around constitutionality or, otherwise, around the **Native Administra-**



Alma !Gontes and her grandsons managed to secure their property with assistance from the LEAD project.

tion Proclamation of 1928, which are blatantly racist and its application put women and female children at a disadvantage. The cases also revolve around the customary laws of traditional communities. The customary laws, almost without exception, are gender biased and favour men to the disadvantage of women with regard to property. A case in point is that of **Hanna Nepembe**, which seeks to enforce the Ondonga customary law that entitles women to inherit from their deceased husbands.

The project has brought various motion proceedings, aimed at having some provisions of the Native Administration Proclamation 15 of 1928 declared unconstitutional.

DANIEL SHAPAKA

The project was instructed to bring eviction proceedings on behalf of a minor, Daniel Shapaka, who is an heir to his deceased father. The client claims the return of his inheritance, an immovable property situated in Katutura, from those who are illegally squatting therein. Both his mother and father are now deceased.

ELIZABETH HOESES

In this matter, his wife, Elizabeth Hoeses, survived the deceased. Two of the husband's nieces collected policy monies on behalf of our client, and refused to hand over such monies to her. They further chased her from the house. A relative of our client brought the matter to the project's attention and after a letter, threatening civil action against the nieces, the property and the money were handed back to our client.

EVALINE KANKUEMAH

This is another case involving the so-called 'black estate'. After the death of her mother, the oldest child of the deceased transferred the house belonging to the estate into her name and tried to chase her other siblings, including the above Evaline Kankuemah from the house. After legal intervention from our side, a settlement was reached that the house be sold and the proceeds be divided among all the children of the deceased.

The National Context

During the period under review, LEAD was inundated with requests for assistance in a wide range of land related legal matters. Women brought most of the matters, which shows that Namibia has still a way to go to ensure that the rights of women are properly protected. Land remains one of the most valuable commodities for poor and marginalised rural communities and is often a source of conflict. The project plays an effective role in preventing and managing community conflicts.

Accelerated urban migration has led to an influx of people to towns and cities throughout Namibia, which in turn places heavy strain on resources, such as serviced land and water. This is another source of conflict and exploitation and the project is directly involved in mediating in these conflicts.

HIV/Aids affects rural communities the hardest. This, combined with outdated and unfair succession legislation and practices increase the vulnerability of single mothers, female-headed households and orphans. Despite pronouncements by government and traditional leaders that property grabbing is unlawful, it continues to impoverish a large number of rural dwellers. The project litigates in these matters, and advocates for effective law reform in this area.

The land reform process is moving at a snail's pace and many see it as a potential source of conflict. The long awaited Communal Land Reform Act was finally passed in 2002 and it will hopefully lead to a more equitable and transparent land administration and allocation system in rural areas.

During the last months of 2002, we have seen an increase in tension and incidents of violence in the Omaheke region due to the land crisis there. This area has the potential to develop into one scarred with racial conflict, unless the land issues are properly addressed.

JOHANNA SEISTER

The project instituted action on behalf of a minor child, Johanna Seister, whose father had passed away. The mother of the deceased failed and/or refused to give the child, who was the only dependant of the deceased, any share in the estate. After the project addressed a letter to the deceased's mother, a settlement was reached in terms of which N\$37 000 was to be paid to the child. N\$26 000 was then paid into the account of the child's mother and she opened a study policy on behalf of her son. The remaining N\$11 000 shall be paid into a fixed deposit.

LEA NUSES

This matter involves a 'black estate' where the sister of the deceased was appointed as executrix after she misrepresented to the court that there were no surviving dependants.



She then sold the house belonging to the estate to a third party. The deceased left behind one minor child in the care of a guardian. LEAD is busy working out how the money will be paid back by the executrix who is willing to pay, although she has used a substantial amount already.

MARIANNA DUNARR

This matter involves a claim of an 'illegitimate' child against the estate of his late father. Standard Bank Trust, who handled the estate, refused to consider the minor child as a beneficiary of the estate. The project addressed various letter to Standard Bank Trust, which resulted in money being deposited into the Guardian's Fund at the Master of the High Court, to be paid out in monthly installments until the child reaches the age of majority.

ANNA SHINGENGE

The LAC obtained a High Court order for the release of Anna Shingenge, who was detained at the palace of King Jafet Munkundi of Ongandjera for seven months. Ms Shingenge was found guilty and sentenced to pay a fine of N\$6 000 for allegedly poisoning a 65-year old male villager. The fine was later reduced to N\$3 500. She could however, not pay this amount either and was ordered to stay at the king's palace at Uukwandongo in the Omusati region until her family raised the money. Ms Shingenge was subjected to forced labour, since she was required to work in the fields, tend the king's livestock, and cook and clean without payment, while her family tried to raise the funds for her release.

URBAN LAND AND HOUSING

Several municipalities and town councils manage housing projects together with community-based organisations. There are, however, frequent problems with the roles and responsibilities between council officials and these organisations, which sometimes lead to disputes. The project has been called on and successfully mediated in some of the disputes. But there are those that have resulted in one of the parties taking legal action.

Anna Shingenge back at her homestead and relieved about having been released after seven months of 'slave' labour at her king's palace.

To make matters worse, town councils are often inconsistent in dealing with these matters. Allegations of corruption and nepotism have also surfaced in these disputes.

HABITAT II HOUSING GROUP

LEAD acts as the legal representative of the Habitat II Housing Group, a group of low-income persons, who struggle against many odds to provide housing and shelter for themselves and their families. During 2002, LEAD was instructed to bring eviction proceedings against certain persons who appear to be unlawfully squatting on land belonging to the housing group. Summons was issued and served, and the matter is opposed. The case will proceed to court in 2003.

TOKYO STREET HOUSING COMMITTEE FOR THE HOMELESS

Investigation into the financial affairs of this building project has been completed. The previous managers of the project brought two court applications in an attempt to derail the investigation, but LEAD and lawyers representing the Municipality of Windhoek successfully opposed the applications. The investigation showed that losses of close to N\$400 000 were incurred. Was it not for the subsidy granted by the municipality, the Tokyo Street Housing Committee would have to be liquidated for being insolvent.

The housing project continues due to this subsidy, and the committee is expected to sign a new sales and loan agreement with the Municipality of Windhoek that we hope will lead to the completion of the houses for this low income group. LEAD is very much involved with this project, giving legal advice, drafting and analysing contracts and assisting with the financial investigation. Our association with this project is far from over, as there are still numerous legal issues, such as the recovery of the lost property, to be dealt with.

/OM KHAI COMMUNITY HOUSING PROJECT

In the mid-nineties, the Municipality of Windhoek allocated plots to this housing project for the construction of low-income

housing. In terms of the agreement /Om Khai had to collect monthly fees from its members to cover costs, such as water and electricity, and to use some of the money for building houses. Everything went well until municipal officials started interfering in the management of the project. The community alleged that some municipal officials wanted to reallocate the plots and accused the leadership of fraud and theft. They caused mistrust in the leadership and the eventual split of the organisation. One faction was allowed to remain on the plots, while the other faction was evicted. LEAD is busy with an investigation before legal action is contemplated.

COMMUNITY-BASED NATURAL RESOURCES MANAGEMENT

The project renders legal support to conservancies and their support organisations.



Ruth Hekandjo (standing) of the LAC's Ongwediva office follows up on a case on behalf of the LEAD project.

The case of the **Purros community**, which was reported on previously, was finalised during 2002. The motion proceedings brought on behalf of the Purros villagers were successful in that all the orders sought were granted. We are now seeking to enforce the eviction order of the High Court of Namibia, in order to properly restore the possession of the Purros campsites to the community.

In February 2002 we received instructions from the community of **Otjidakui**, in the northwestern region of Namibia, to institute legal action against an individual from their community who has fenced off a water-point situated on communal land. As a result the rest of the community have to use water far away from the village. This case has been set down for 24 April 2003.

LEAD has assisted with negotiations and the drafting of the **Ohirovipula Conservancy Joint Venture** agreement during the period under review. This agreement deals with the construction of an up-market lodge in the conservancy.

LEAD was further requested to draft 11 conservancy and other constitutions. We were requested to assist with drafting the constitution of the conservancy umbrella body, namely the **Northwestern Communal Conservancies Association**.

On 19 October 2002, the project attended a meeting between members of the community of **Fransfontein**, the **Swartbooi Traditional Authority**, representatives of the **Damara Traditional Authority** and representatives of the **MET (Ministry of Environment and Tourism)**. This meeting that was held at **Fransfontein, Kunene Region**, was aimed at finding common ground for the eventual recogni-

tion and registration of the **//Huab Conservancy**.

After much discussion, the meeting resolved that:

- ♣ the old application for recognition of the **//Huab Conservancy** be withdrawn, a new application be submitted, excluding the disputed farms,
- ♣ the constitution of the conservancy be amended to allow for persons who are residing in adjacent communal areas to apply for and be granted membership of the conservancy after same has been recognised,
- ♣ such amendment should allow for adjusting the boundaries of the conservancy as more and more people in adjacent communal land joins the conservancy,
- ♣ the LAC assists with amending the constitution,
- ♣ the LAC assists persons who reside in the adjacent areas and who want to join the conservancy, should they have any legal disputes.

In October, LEAD handed the amended draft constitution to **Rise Namibia (supporting NGO)** to present it to the conservancy committee. It is hoped that this brings the long awaited registration of the **//Huab Conservancy** to fruition.

LEAD has furthermore been requested to give a legal opinion on who entitled are to benefit from conservancy funds, and how benefits should be distributed in accordance with **CBNRM (Community-Based Natural Resource Management)** legislation and the respective conservancy constitutions. We were also asked to advise on the status of the **Petrified Forest**, a national monument situated in the geographical area of the **Doro !Nawas Conservancy**. The instructions stem from the longstanding dispute between the guides of the **Petrified Forest** and the **Doro !Nawas Conservancy**.

THE TOPNAAR COMMUNITY

This community, which resides in the **Namib Naukluft Nature Park**, has requested LEAD to look into protecting and strengthening their rights in the park. They intend to get a concession over the entire park so that they may gain economic returns from tourism and wildlife activities there. We have assisted the community to set up a representative community organisation, which will lobby government for greater access to the park's land and natural resources.

Similarly to the **Topnaars**, the **Kxoe (San) community in West-Capri** is in all earnest taking up pertinent issues such as their land and environmental rights within the **West-Capri Game Park**. LEAD, through its involvement with the community for the last six years, assist them to establish a representative community organisation, which will lobby government for their rights in the park.

It should be remembered that the government refused to recognise their Traditional Authority, and on top of that, gave jurisdiction and authority to the neighbouring Mbukushu Traditional Authority to manage the land, which has, since time immemorial and in the present day, been inhabited by the Kxoe community.

The entire area of the West Caprivi was also a war zone for the last two years after the thirty year-old Angolan civil war spilled into Namibia. Several hundreds of the Kxoe community fled into Botswana as a result. These factors all led to the community's current efforts to assert their rights.

THE !KUNG COMMUNITY AND ILLEGAL LAND OCCUPATIONS IN THEIR COMMUNAL AREA

We have previously reported on this matter, which involves the government's plan to set up a refugee camp in this area. We have obtained copies of studies that were conducted in the Western Bushmanland area. The studies had been commissioned by government ministries and agencies, and will assist LEAD in the preparation of this case. Senior Counsel has been briefed in this matter, which we consider being very complicated, and sensitive, and we are still working on the modalities of how we shall proceed with this case. We appreciate the urgency of the matter, but the case has various dimensions that need careful consideration.

WARMBAD HOT SPRINGS

We have also previously reported on this matter. The Namibia Development Trust (NDT) requested that we assist the community of Warmbad and the Warmbad Community-based

Tourism Enterprise to obtain community access to the Warmbad Hot Springs, which is currently owned by a certain George Swanson living in South Africa. The community's traditional leadership held meetings with the Minister of Environment & Tourism on 21 June 2002 concerning this issue, and the Minister received their recommendations favourably. It appears now that the erstwhile owner of the hot springs is willing to share and is considering an agreement with the community.

BLOUKRANS COMMUNITY

On 19 July 2002, the project was further instructed, via the offices of the Ministry of Environment and Tourism, to advise on the interpretation and implications of the termination clause of the joint venture agreement between the community and a certain investor, for the purposes of determining if the community had properly terminated this agreement. In August the project gave a written opinion of the possible interpretation of the termination clause, and the manner in which the community should proceed to properly terminate the joint venture agreement.



Deputy Minister of Women Affairs, Marlene Mugunda (third left) officially launched the publication "One day we will all be equal ...". With her are Norman Tjombe (LEAD coordinator, far left), Dianne Hubbard and Clement Daniels.

!XOO COMMUNITY VERSUS INTU AFRIKA (PTY) LTD.

On 27 August 2002, the case in which four members of the !Xoo (San)Community of Corridor 17, Omaheke Region, filed a claim against Intu Afrika (Pty) Ltd., proceeded to court. The matter was partly heard and was postponed to January 2003. The importance of cases like this cannot be over-emphasised. They serve not only as an example of justice for those who are directly involved, but also as education tools for rural and marginalised communities, indicating that they too can access justice and obtain redress from those who perpetrate wrongs against them.

RESEARCH & PUBLICATIONS

"ONE DAY WE WILL ALL BE EQUAL..."

The LAC undertook a study in 2000 to research the land reform and resettlement process from a socio-legal perspective. The study was published in 2002 under the title: *"One day we will all be equal..." A Socio-Legal Perspective on the Namibian Land Reform and Resettlement Process*.

The work was to assess the implementation of the Agricultural (Commercial) Land Reform Act, 6 of 1995, which provides for the acquisition of agricultural land by the Namibian government for the purposes of land reform, and for its redistribution to Namibians *"who do not own, or otherwise have the use of agricultural land, or adequate agricultural land, and foremost to those Namibian citizens who have been*

socially, economically or educationally disadvantaged by past discriminatory laws or practices".

It furthermore assessed gender implications of the land reform process. Professor Sidney Haring of the College of Law, West Virginia University, USA and Willem Odendaal of LAC were the primary researchers. Dianne Hubbard designed the scope of the research, whilst Willem Odendaal conducted the extensive field research.

A GUIDE TO THE COMMUNAL LAND REFORM ACT

During the period under review, the Communal Land Reform Act was passed by Parliament. LEAD has finalised a layman's guide to the Communal Land Reform Act, and only await the passing of its regulations and the appointment of the different land boards, before they too can be simplified for publishing. The guide, which will be published in all major languages in Namibia, will serve as a training manual, and can also be used as reference material.

ENVIRONMENTAL RIGHTS AND DEVELOPMENT

LEAD has commissioned several experts in the field of environment and development to write a publication with the theme: Environmental Rights and Development. Taking into consideration large projects on communal lands, such as the Epupa Hydro-electric Scheme and plans with the M'Kata refugee camp, it has become imperative that Namibians understand and debate issues such as the environmental rights of rural communities. The publication, which should be completed in early 2003, will hopefully inform such debates.

WOMEN'S RIGHTS TO INHERIT PROPERTY, CUSTOMARY LAW AND THE NAMIBIAN CONSTITUTION

LEAD has requested several academics, human rights lawyers and women's rights activists to write papers on women and property in relation to local customary practices and the Namibian Constitution. It will be ready for publication in 2003.

TRAINING & WORKSHOPS

SAN PUBLIC RELATIONS COURSE

Wimsa and Tucsini (two support organisations) developed and facilitated a public relations course for a number of San leaders during 2002. Gerson Narib of LEAD facilitated the law component of the course.

B.TECH IN LAND MANAGEMENT COURSE

The Polytechnic of Namibia has asked LEAD to assist with developing the curriculum for a new course, a Bachelor of Technology in Land Management. We have developed the module on "The Legal Framework of Land Management" and our final draft was accepted in April 2002.

COMMUNAL LAND REFORM ACT WORKSHOPS

Several workshops on the Communal Land Reform Act were conducted by LEAD during the period under review. Two were held with communal farmers from all the 13 regions, and two more with the traditional authorities in Opuwo and Okakarara respectively. In November, a workshop was conducted with a cluster of communal conservancies in the north-western region, at Wereld's End, Kunene Region.

More workshops are planned during the first half of the year 2003, with the following as the target groups: the San, Caprivi Traditional Authorities, Women in the North Central regions of Namibia, conservancies and support organisations and government officials.

POWERS AND FUNCTIONS OF TRADITIONAL AUTHORITIES, WATER POINT COMMITTEES AND CONSERVANCY COMMITTEES

Workshop of 24 October 2002 at Keetmanshoop

Implementation of the government's decentralisation policy created opportunities for communities in rural settings to take charge of their natural environment and of their development. With this came the adoption of the Water Supply and Sanitation Policy of 1993, the enactment of the Nature Conservation Amendment Act of 1996, Traditional Authorities Act of 2000 and the Communal Land Reform Act of 2002. The powers that these instruments bestow on various role players such as the conservancy committees and the water-point management committees are perceived to erode the influence of the traditional authorities on the communities under their jurisdiction.

It is against this background that LEAD presented a paper at a Keetmanshoop workshop in October. The paper indicated how the different roles could be harmonised.

INHERITANCE OF LAND AND OTHER PROPERTY, AND WOMEN'S RIGHTS UNDER CUSTOMARY LAW AND THE CONSTITUTION

LEAD, in collaboration with the National Society for Human Rights and the Namibia Development Trust, conducted

six workshops in Ohangwena, Kavango and Caprivi regions (two in each region) from July to December 2002 on the above themes. They were aimed at preparing women to be more active in advocacy campaigns around rights to inherit property under customary law.

NETWORKING

LEAD is a founding member of the **Namibian Association of CBNRM Support Organisations (NACSO)**. NACSO brings a host of NGOs and the government together in support of CBNRM activities across the country. LEAD provides the much-needed legal support to various communities working with CBNRM programmes, whilst the other organisations provide technical expertise and infrastructure support.

Another valuable network we utilise is the **Lawyers' Reference Group on Aboriginal Title** hosted by First Nations, based in the USA. This network brings together lawyers working on aboriginal title issues, whether it be land claims or securing intellectual property of indigenous people.

For more than 14 years now, the LAC and the **Legal Resources Centre** in South Africa has been cooperating on a number of land related cases. We find this networking very useful as the LRC has extensive constitutional litigation experience.

LEAD works closely with the **Namibia Development Trust** and its network of community based organisations throughout Namibia, in particular women's groups in northern Namibia.

MAKING THE LAW ACCESSIBLE TO COMMUNITIES

THE WORK OF THE LEGAL EDUCATION UNIT, ALSO KNOWN AS LEU

The aim of LEU is to make the law and knowledge of the law more accessible to communities. The project is primarily responsible for training around human rights, legal rights and gender equality issues.

During 2002 LEU focussed on:

- Human rights and gender awareness
- Community Paralegal training
- Rights of people with disabilities

During the year the project has reached out to thousands of people across the country. We have established strategic alliances and networks with a number of other organisations involved in civic education to ensure that our efforts and educational materials are multiplied.

There has been more cooperation between government officials, politicians and the LEU. These relationships have improved because of better marketing strategies and the involvement of community and traditional leaders in planning processes.

John Nakuta was appointed as coordinator in September after Milly Jafta had left the organisation. The coordinator of the Community Paralegal Training Project is Senorita Gases (replacing Elly Shipiki). The legal educators are Alloysius

Katzao (Keetmanshoop), Ruth Hekanjo and Joshus Vaendwanawa (Ongwediva), and Monica Nganjone and Trudie Bock (Windhoek). Julia Shuuya is still the Project Assistant.

We decided to effect some internal restructuring to streamline our activities and to make the unit more effective. The following individuals now coordinate the different sub-projects: Senorita - Community Paralegal Volunteer Training; Monica - Legal Education Project; Trudy - Voter Education Project. John remains overall responsible for coordinating and monitoring the work of each project.

ACTIVITIES OF THE KEETMANSHOOP OFFICE

The legal educator dealt with many labour related problems - especially involving farm workers and domestic workers - in the Karas and Hardap regions. His interventions served to educate the parties on the importance of respect for the law and equality. In many instances he acted as mediator in disputes pertaining to the Labour Act. He also conducted a series of three workshops with the different levels of employees at a private company. Thirteen personnel managers, supervisors and staff in their finance department attended the first workshop. Forty-five general workers and foremen jointly attended the other two workshops. This created an opportunity for the LEU to discuss directly with senior staff and workers provisions of the Labour Act and provided the opportunity for them to express their different interpretations of certain sections.

The unit held various community meetings to assess their training needs. The Aroab, Aussenkehr and Noordoewer communities requested a workshop on child abuse, child maintenance and alcohol abuse. A workshop was conducted at Bethanie on human rights and children's rights.

The LEU was also involved in the long awaited trial of four clients from Tses who sued the police for unlawful arrest and detention. Unfortunately, despite the three days set aside for the trial, the case was again postponed. Werner Boesak of the LAC represents the Tses-four.

The Keetmanshoop office piloted a Children's Rights Calendar Competition for primary schools in the Karas region.

Workshops conducted in the Hardap and Karas regions by the Keetmanshoop office

PLACE	TOPIC	TARGET GROUP	PARTICIPANTS
Aroab	Children's Rights, domestic & social problems	women's groups	42
Aussenkehr	Labour Act & conditions of employment	managers, shopstewards & supervisors	20
	Labour Act & conditions of employment	farmworkers	50
Bethanie	Paralegal training	selected group	14
Karasburg	Combating of Rape Act	community & women's groups	21
Karas Region	Calendar competition on Children's Rights	24 schools	800
Keetmanshoop	Brief about LAC and women's rights	women's group	11
	HIV/AIDS and the law	Catholic Aids Action	19
	HIV/AIDS and the law	government employees & Catholic Aids Action	20
	Alcohol & drug abuse at school	community leaders & teachers	21
	Right to liberty & fair trial	prosecutors, police, community activists	15
	HIV/AIDS & truck drivers	community leaders & union members	17

Primary school learners were invited to make pictures on themes from the Convention on the Rights of the Child. Twenty-four schools participated in the project and the calendars were printed and widely distributed.

THE ONGWEDIWA OFFICE

The two legal educators stationed here conducted 48 training workshops in the whole northern part of the country.

Altogether 1 782 people (689 men and 1 093 women) benefited from these LEU workshops. The two legal educators also conducted the community paralegal training in their six

operative regions. Volunteer paralegals were trained in phases 1 and 2 respectively. A total of 79 paralegals benefited from this.

The radio was also effectively used as a means to educate the broader public about legal issues in their local languages. To this end, live radio call-in programmes were used to educate the public on labour matters, domestic violence, maintenance and other gender related issues.

Workshops conducted by the Ongwediva LEP office

TOPIC	PLACES	TARGET GROUP	PARTICIPANTS
Human Rights and/or Constitution of Namibia	Olukondo	villagers	100
	Seven villages in Ruacana Constituency	villagers	286
	Omuthya	villagers	25
	Three villages in Ongenga constituency	villagers	123
Human Rights, how laws are made, government structures & labour laws	Caprivi & Kavango	At schools and community centres	127
	Gabriel Sen. Sec. School	class captains, SRC	22
	Oshakati Sen. Sec. School	class captains, SRC	28
	Tsumeb	shopstewards, unions	26
Marriage & Inheritance Laws and/or Will Writing	ELCIN Centre, Ongwediva	members of the parish	48
	Onandjaba Parish	members of the parish	78
	Onhelewa	villagers	79
	Okahenge & Ohangwena regions	villagers	35
	Mafwila Sec. School - Ngoma	teachers	16
	Divava	villagers	120
	Sauyemwa in Kavango	villagers	97
	Okamboola & Otjaandja-mwenyo Ruacana constituency	villagers	100
	Biro - Mukwe constituency	villagers	36
	Bagani	villagers	39
Married Persons Equality Act, Property Regimes and Inheritance	Ngandu Safari Lodge Rundu	pastors, priests, magistrate officers, social workers, police from the Women & Child Protection Unit & the Dept. of Women Affairs	15
Child Maintenance	Oneheke village - Omusati	fathers & single mothers	30
	Divundu	villagers	67
	Katima Mulilo	mothers of children with disabilities	25
	Sauyemwa - Rundu	villagers	20
Children's rights & How laws are made	Mafwila Sec. School - Ngoma	learners	45
Criminal Procedures	Rundu	Youth Against Crime	22

COMMUNITY PARALEGAL VOLUNTEER TRAINING

The Community Paralegal Volunteers Training Project (CPVT) has completed its second year of operation and the results are clearly visible in communities throughout Namibia. The main aim of this programme is to train volunteers who will in turn provide legal advice and referral services to poor and marginalised communities. The project spans over three years, from 2001 to 2003.

Training is set up to achieve the following:

- empower individuals in communities with the necessary skills and legal knowledge to provide a general legal advice service within their communities;
- train at least 240 Community Paralegal Volunteers by the end of 2003;
- strengthen the capacity of communities to lobby for public services and to participate in law reforms and policy developments affecting their areas;
- strengthen the capacity of communities to resolve family and community disputes in an effective and inexpensive manner;
- enhance the legal status of community paralegals and encourage the formation of a national paralegal association;
- raise public awareness of laws which have a significant gender impact and of the underlying issues they address;
- empower women through information and education on basic human rights and gender issues.

Altogether six outstanding Advanced Paralegal Training Workshops were conducted respectively in Walvis Bay,

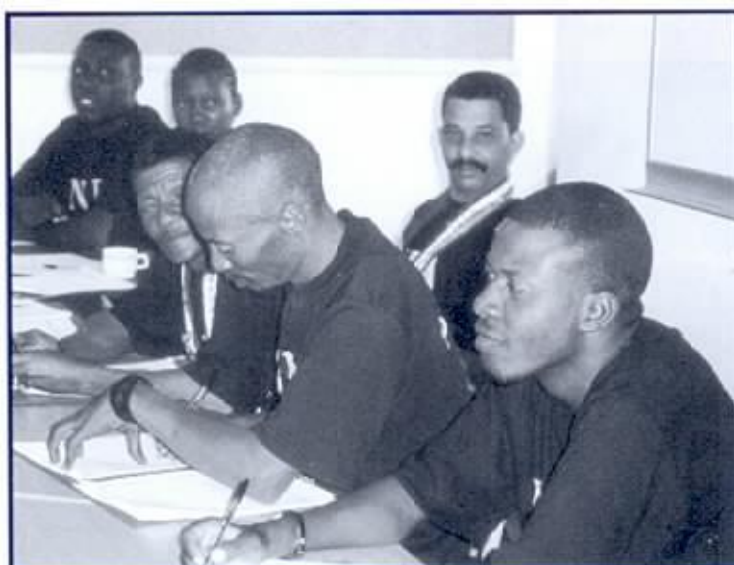
Otjiwarongo, Tsumeb, Khorixas and Karibib. The Karibib training was followed by the long outstanding graduation ceremony. The mayor of the town and other community leaders pledged their support to the work of the paralegals.

In November 18 volunteers from Omatjette, Omaruru, and Okombahe villages received introductory paralegal training. They have specifically requested to be trained by the LAC since these villages were previously left out of the training programme. They will receive advanced training during 2003.

In November an additional group of 16 community paralegals were trained in Windhoek. They received advanced training in December and will be incorporated into the existing Windhoek paralegal group.

REGIONAL VISITS AND FOLLOW-UP TRAINING

The focus of follow-up training for the community paralegals is on specific regional and practical needs and on strengthening their capacities. Regional visits were made during September and October and have given us an indication of the needs in each region and what we should focus on during follow-up training.



Volunteer paralegals busy defining the future of the National Paralegal Association (NPA)

These visits were helpful in the sense that communities could see tangible results from our joined efforts; it provided an opportunity for reflection, reassessment and appreciation for the time, money and resources invested in the process. It also provided the project with an opportunity to express our thanks for the efforts and commitment shown by volunteers in bringing the dream of providing access to justice to our communities. The following regions were visited: Erongo (six towns), Otjizondjupa (3 towns), Kunene (Opuwo & Khorixas), Omaheke (Gobabis) and Khomas (Windhoek).

COMMON PROBLEMS EXPERIENCED BY PARALEGALS:

- ♣ lack of efficient & effective communication, i.e. after training they do not hear from the project;
- ♣ they were not informed about setting up service points after the training, they were told that they were first ports of call;
- ♣ lack of commitment from some paralegals because of the lack of monetary incentives;
- ♣ lack of involvement from communities;
- ♣ lack of recognised structures; and
- ♣ that they still struggle to grasp legal issues in practice.

LESSONS LEARNED FROM REGIONAL VISITS

- ♣ the importance of finding workable lines of communication;
- ♣ the importance of follow-up support to paralegals;
- ♣ the need to develop a monitoring and support plan for service points;
- ♣ the need to incorporate more exercises and role modeling into the current training materials.

OVERVIEW OF PARALEGAL ACTIVITIES

The trained paralegals are active in their respective communities. But they need basic equipment and office space to be more effective. Most paralegal groups are in negotiations with local authorities and businesses to obtain such resources. The communities and authorities have shown a willingness to provide support, but sometimes it takes very long to actually get office space, transport and other logistical support. The efforts of paralegals are quite commendable and are highly appreciated by their communities.

The Multi-Purpose Centre in Kuisebmond has made office space available to the Walvis Bay Paralegals. They have been running the office for the past year on a part-time basis. They have elected a new management committee and adopted new structures and methods of work to improve their efficiency.

The paralegals in Rundu have also established a visible presence and are providing legal services from the trade union offices in the town. The paralegals in Katutura use the Catholic Church building from where they provide legal services and advice on HIV/Aids related problems. The paralegals in Swakopmund run an office from the Ministry of Women Af-

Blind people have their day in court. The LEU has trained about 70 people living with disabilities in the northern regions as paralegals.



fairs & Child Welfare. During the year under review they ran outreach workshops and training together with other local NGOs for people living in the informal settlements.

The Arandis paralegals operate from an informal office at the Town Council that has promised to provide them with their own office space in the near future. The group in Ondangwa has set up an office. The paralegals in Rehoboth operate from the Directorate of Youth Development's premises, while the paralegals linked to Women's Action for Development operate from their own premises in the same town.

The paralegals in Mariental have secured office space for a few days a week from The Bridge, a local NGO assisting prisoners and juveniles. Although very small, the paralegal group in Keetmanshoop operates from premises at the Community Learning Centre. They are probably the most effective in terms of resolving community problems.

Paralegal office in Omaruru

The Prime Minister, Theo Ben Gurirab, opened a paralegal office in Omaruru in November and at the occasion he said *"Namibians want more than access to the justice system: they want access to a justice system that provides them with fair and effective justice. All of us - the Government, the courts and the legal profession, have a shared responsibility to constantly re-examine our mindsets and practices to ensure that we are responsive to the needs and aspirations of Namibians. In some cases, this will mean doing things differently. One way of doing things is for the community to be innovative in finding creative ways of bringing services to those who desperately need them. The idea of establishing a legal advice office is therefore a commendable effort on the part of the leaders and the people of Omaruru"*.



The Regional Council in Otjizondjupa has promised the paralegal groups in Otjiwarango and Okakarara that they would be provided with office space. The Okakarara paralegals have been very active in promoting a culture of human rights through education in the region.

THE NAMIBIA PARALEGAL ASSOCIATION

The Namibia Paralegal Association (NPA) was formally launched in October 2002 at the founding AGM of the association. The AGM adopted its constitution and also elected its first Executive Committee of nine members. The association's logo was also adopted during this occasion. Regional paralegals (2 from each of the 13 regions), members of the outgoing Steering Committee, LAC staff and representatives from the donor community attended this historic event.

The AGM elected the first Executive Committee, with the following office bearers:

Peter Lyamine – President
Joey Swartz – Vice President
Pheny Kalumbu – Treasurer

The Prime Minister, seen here with the mayor of Omaruru at the opening of the paralegal office in Omaruru.

Sonny Ndalumbumo – Deputy Treasurer

Gerhard Tjinojiwa – Administrative Secretary

Frieda Nangolo – Deputy Administrative secretary

Lucas Kasera, Manfred Jacobs and Tandikira Kandukira as additional members.

The LEU hosted and facilitated the first meeting of the NPA Executive Committee in December. The purpose was to discuss the way forward for the association and work out a way in which they can cooperate with the LAC and other NGOs. It is clear that the NPA requires a lot of assistance to ensure that it remains relevant and accountable to the paralegals on the ground.

TRAINING PEOPLE WITH DISABILITIES

The purpose of training people living with disabilities is to enable them to help others with legal advice and to eradicate discrimination against people with disabilities. Training was implemented in the Kavango, Caprivi, Omusati, Oshana, and Ohangwena and Oshikoto regions of Northern Namibia. Ruth Hekanjo and Joshua Vaendwanawa of the Ongwediva office, were responsible for the training. Rauna Hashiana, a specialist in sign language and employed in the Ministry of Land, Resettlement and Rehabilitation assisted with interpreting for speech impaired people.

The training covered topics on human rights, the Namibian Constitution, child maintenance, family law, pieces of legislation dealing with gender rights and people with dis-

abilities, such as the Labour Act, Affirmative Action Act, Social Security Act and social and welfare grants available for people with disabilities. The introductory course was held in Oshakati in May and 20 people (11 men and 9 women) attended.

The second and third workshops were held in Rundu and Katima Mulilo in June. Thirteen participants attended each of the workshops. Further follow-up training were conducted between August and September and 44 participants attended the courses in Oshakati, Rundu and Katima Mulilo. More advanced courses were conducted during October and November in the same towns and a total of 70 people attended them.

The workshops were planned meticulously, taking into consideration the mobility and constraints of the participants. The workshops were a great success. The legal educators have also benefited tremendously from this work – it has created a greater sensitivity towards people with disabilities among them and also within the LAC.

The National Federation of People with Disabilities in Namibia has decided to launch their Paralegal Advice Desk on 10 June 2002 in commemoration of the International Day for People living with Disabilities. The LAC assisted with the launch and has volunteered to work together with them for a short period until the service was well established. The Paralegal Desk of the federation is the only one of its kind in the country, where people with special needs, like the hearing impaired would be helped. It is important for the LEU to learn best practices from this exercise, in order to help with setting up similar structures in other parts of the country.

The keynote speaker was Advocate Bience Gawanas, Ombudswoman and patron of the National Federation of People with Disabilities. She said people will only enforce their rights if they knew them and knew which institutions to approach when their rights have been violated. She further said that the Advice Desk of the Federation would greatly assist in translating human rights to make it relevant in practical ways in the every day lives of people with disabilities.

NETWORKING

Rendering support and forming strategic alliances with other NGOs is critical for the success of the LEU. To this end, LEU staff members had been assigned to represent the LAC on the following bodies: Committee for People with Disabilities under the auspices of the Office of the Prime Minister, Namibian Girl-Child Project, Human Rights Education Project, UNESCO, and Women and Child Protection Units.

REVISING LEU'S TRAINING MATERIAL

The previous LEU Coordinator and Monica have started with reviewing the contents of the LEU courses. The purpose was to ensure uniformity and minimum standards in the presentations of the different topics. This process has not been completed but is listed as a top priority amongst the activities for 2003. The present coordinator will spearhead this activity and would be assisted by Monica.

BRAILLE TRAINING MATERIAL

The draft Braille legal education materials were finalised and the LAC planned a launch of the material in June, but it was delayed because Advocate Lynita Conradie, who proofread and edited the Braille transcriptions of "Law for All" Volumes 1 (Introduction to Namibian Law), 2 (Criminal Law) and 3 (Family Law) found mistakes in the text and it had to be sent back to the printers for correction. The Braille transcriptions would be launched as soon as it is ready.

LEU secured funding from UNESCO for the Braille simplified version of the UN Declaration of Human Rights. Elcin Rehabilitation Centre in Oniipa has done the transcriptions and Lynita Conradie has proofread. It will hopefully be ready for distribution in 2003.

HUMAN RIGHTS DAY

The unit participated in organising activities to mark International and our National Human Rights Day in Windhoek on 10 December. The event, which was organised by a group of NGOs, was marked by a march of approximately 500 people from the Kudu Statue in Independence Avenue to Zoo Park.

Namibians celebrated human rights day

The LAC participated in organising activities that celebrated international and our national human rights day on 10 December in Windhoek. The event, which was organised by a group of NGOs, started off with a march by about 500 people who chanted slogans such as "Pass the Combating of Domestic Violence Bill" and "Stop evictions of senior citizens".

The main event was a public rally in Zoo Park, which was attended by more than a thousand people from all walks of life.

Jacqui Badcock read out the UN Secretary General, Kofi Annan's message, Ombudswoman Bience Gawanas spoke out against human rights abuses, as did representatives from Sister Namibia and the National Society for Human Rights (NSHR).

"Peace is not only the absence of war but also of poverty, hunger, violence and the destigmatisation of those affected and infected with HIV-AIDS," Gawanas said. She warned that the relevance of social, economic and cultural rights were not to be ignored as they were closely linked to civil and political rights. Gawanas called on the gathering to remember people who have no access to resources, those stigmatised because they have HIV-AIDS, and those crying for protection against violence and abuse.

Elizabeth Khaxas of Sister Namibia called on lawmakers to pass the Combating of Domestic Violence Bill - "As we celebrate this human rights day, let us remember those women who are tortured by husbands and boyfriends daily. Let us remember those women who are raped and battered. But let us not only remember, let us educate our people about the meanings of human rights, and let us ensure that all people are endowed with the personal autonomy which is fundamental to exercising one's rights and obligations," she said.



CONCLUSION

The LAC has achieved its objectives during 2002 with great success and we look forward to the challenges to make Namibia a true democracy, where human rights and the rule of law are protected.

Our work continues to have a positive impact on the human rights situation in the country. As the only public interest law organisation in Namibia, it is up to us to take on issues that are not always popular with the public at large, such as securing legal representation for the alleged Caprivi secessionists.

In conclusion, we believe that it is vitally important to continue defending human rights through litigation. The LAC is the only institution in Namibia that provides free legal services to members of the public for public interest litigation. The or-

ganisation therefore delivers an invaluable service to persons whose rights have been violated. No less important though is the use of alternative methods, such as education, lobbying, advocacy and law reform in protecting and promoting human rights.



***Educating
the youth
about
crime***

***Launching the
Namibia
Paralegal
Association***





The National Federation of People with Disabilities has launched a Paralegal Advice Desk at the federation's office in Okuryangava.

YOUR GUIDE ON HOW
TO WRITE A VALID
WILL



AIDS Law Unit
Legal Assistance Centre
2002

The LAC publishes several publications a year that simplify and explain important legal matters to ordinary people.

After twelve years of political independence, a law to curb violence against women, the Combating of Domestic Violence Bill, was finally introduced into parliament amid surprising opposition.



THE LEGAL ASSISTANCE TRUST OF NAMIBIA
CONSOLIDATED ANNUAL FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31 DECEMBER 2002

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, 4 February 2003



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 3 to 15 for the year ended 31 December 2002. These financial statements are the responsibility of the Board of Trustees. 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 2002 and the results of its operations for the year then ended in accordance with Namibian generally accepted accounting.

Supplementary information

The supplementary information set out on pages 16 to 28 does not form part of the annual financial statements and is presented as additional information only.



STIER HENKE ASSOCIATES
CHARTERED ACCOUNTANTS (NAMIBIA)
WINDHOEK, 4 February 2003

THE LEGAL ASSISTANCE TRUST OF NAMIBIA
CONSOLIDATED BALANCE SHEET AS AT 31 DECEMBER 2002

	2002 N\$	2001 N\$
ASSETS		
NON-CURRENT ASSETS		
Property, motor vehicles and equipment	2,495,350	2,628,219
CURRENT ASSETS		
Donations receivable	285,076	-
Trade and other receivables	240,087	177,219
Cash and cash equivalents	3,571,591	2,716,437
	4,096,754	2,893,656
TOTAL ASSETS	<u>6,592,104</u>	<u>5,521,875</u>
FUNDS AND LIABILITIES		
FUNDS AND RESERVES		
Accumulated funds	5,064,238	3,622,595
CURRENT LIABILITIES		
Bank overdraft	47,387	17,636
Trade and other payables	659,210	515,533
Donations received in advance	821,269	1,366,111
	1,527,866	1,899,280
TOTAL FUNDS AND LIABILITIES	<u>6,592,104</u>	<u>5,521,875</u>

CONSOLIDATED INCOME AND EXPENDITURE AS AT 31 DECEMBER 2002

INCOME		
DONATIONS RECEIVED IN ADVANCE		
Australian Agency for International Development	137,631	-
Embassy of Sweden - civic and voter education	386,474	-
Embassy of Sweden - 15th anniversary film	53,502	-
Ford Foundation - Aids law Unit	-	787,836
Human Rights and Constitutional Unit	-	204,290
Royal Netherlands Embassy - Human Rights Reports	243,662	-
United Nations - Violence Against Women	-	373,985
	<u>821,269</u>	<u>1,366,111</u>
DONATIONS		
Africa Groups of Sweden	57,000	-
Australian Agency for International Development	252,803	-
Barden International	-	5,000

	2002 N\$	2001 N\$
DONATIONS cont.		
British High Commission	-	564,205
Bank Windhoek	-	25,000
Barlow World	10,000	-
Bischofliches Hilfswerk Misereor	566,292	146,077
Canadian Lawyers' Association	10,445	1,200
Development Alternatives Incorporated	145,772	74,557
Embassy of Finland	217,500	250,000
Embassy of Sweden	2,817,816	2,104,532
Evangelischer Entwicklungsdienst (LEAD)	528,805	348,000
Evangelischer Entwicklungsdienst (CPVT)	370,838	285,546
European Commission - San Project	73,325	-
European Union	1,704,082	1,194,674
Family Health International	794,266	484,808
Ford Foundation	787,835	748,119
German Development Service	75,400	17,500
HIVOS	651,115	-
Horizon T 3000	357,429	-
Legal Shield	44,540	-
Masilahi Fishing Company (Pty) Ltd	-	10,000
NAMDEB	-	10,000
Namibian Women's Manifesto Network	-	30,000
Namibia Nature Foundation	178,672	284,889
National Democratic Institute	-	10,000
North/South Institute for Development (Juv. Justice)	1,020,000	1,181,069
North/South Institute for Development (Gender)	1,699,226	1,410,000
Pupkewitz Holdings	1,750	1,000
Royal Netherlands Embassy	258,700	-
Standard Bank of Namibia	3,000	-
The Bridge	44,819	132,372
UNAM	-	5,000
UNESCO	120,000	-
UNICEF	73,000	50,000
United Nations	373,985	-
US Embassy - International Day Against Torture	47,502	-
US Embassy - Malawi	-	84,368
USAID	-	42,618
VSOV	-	4,500
World Health Organisation	158,908	-
TOTAL	13,444,825	9,506,034