

Legal Assistance Centre

Annual Report 2007



Foreword Chairperson



When the Legal Assistance Centre (LAC) opened in 1988, it dedicated itself to providing legal access to people whose human rights were grossly violated and establishing a human rights culture in Namibia.

In its 19th year of existence, the LAC remains committed to creating a Namibian society where human rights are respected and where the law is applied as a means of securing rights and delivering justice. This report highlights another year in the life and work of the LAC. It shows the wide-ranging activities undertaken and pursued during 2007 to achieve the guiding principles of the LAC.

While the organisation has moved from an almost exclusive focus on gross human rights violations when it was set up, the goal of contributing to the establishment of a human rights culture in Namibia continues. As a leading Namibian NGO, the LAC is a multi-functional organisation. It serves as a policy think-tank, a training provider, a lobbying NGO, a public interest law firm and an advice office for matters on law and human rights.

The range of LAC beneficiaries highlighted in this report shows the continuing need for our work. The LAC works with parliament and government ministries, NGOs, rural communities, community-based organisations, women's groups, youth groups, professional organisations, educational institutions and individuals. It also continues to mobilise and assist marginalised people, including those living with HIV and AIDS, victims of violence, people threatened to be evicted from informal settlements and San communities without land rights.

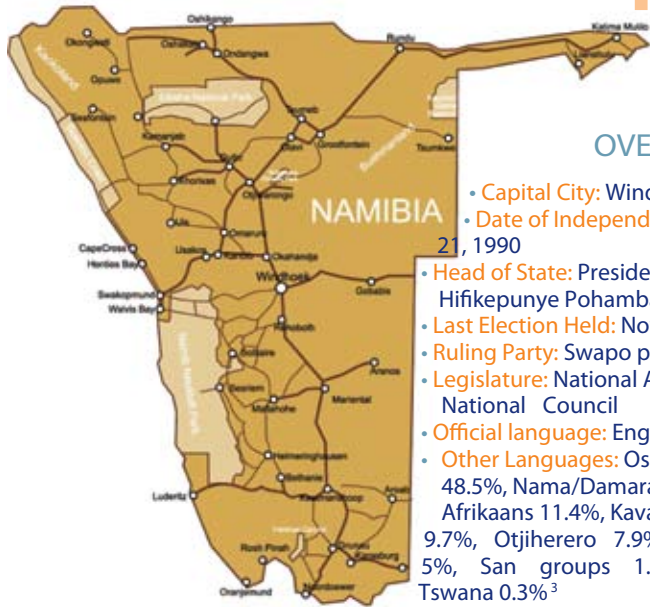
There is fortunately a growing appreciation from government for the role of civil society and organisations such as the LAC which have been involved in nation building after independence. Frequently research and advocacy undertaken by the LAC has helped to reform laws and even practices in Namibia. In this sense, the LAC plays a vital role, together with the independent media and our independent Court system in furthering this appreciation and understanding.

The trustees of the Legal Assistance Trust appreciate the tireless and stirring work of the LAC Director, Norman Tjombe for another fine year of leadership and achievement, as well as all LAC staff members for their commitment and dedication during the past year.

Finally, on behalf of the trustees and the LAC staff, our deep gratitude goes to our donor partners for enabling the LAC to continue its work. Without their generous and continued support, the LAC would not be able to operate and continue in its mandate of furthering a human rights culture in Namibia.

NAMIBIA

facts & figures



To get a better picture of the LAC's work, an overall view of Namibia is presented.

OVERVIEW

- Capital City: Windhoek
- Date of Independence: March 21, 1990
- Head of State: President Hifikepunye Pohamba
- Last Election Held: November 2004
- Ruling Party: Swapo party
- Legislature: National Assembly and National Council
- Official language: English
- Other Languages: Oshiwambo 48.5%, Nama/Damara 11.5%, Afrikaans 11.4%, Kavango groups 9.7%, Otjiherero 7.9%, Caprivan groups 5%, San groups 1.2%, German 1.1%, Tswana 0.3%³
- Total landmass: 824,000 km

POPULATION

- Total population, 2005: 2.03 million⁴
- Urban population: 33%³
- Population density: 2.2 people per square kilometre¹
- Average household size: 5 persons³
- Population, 2005, under 18: 993,000⁴

HIV & AIDS

- Estimated adult HIV prevalence rate (15+ years), end-2006: 19.6%⁴
- Estimated children, (0-17 years) orphaned by AIDS, 2005: 85,000⁴
- Percentage of people who reported using a condom during their last high-risk sexual encounter: 43% of women, 67% of men⁶
- The HIV prevalence ratio is in the 30-34 age group: 29.5%¹⁰
- HIV prevalence is unevenly distributed in the country with a 39.4% infection rate in Katima Mulilo in north east Namibia to a 7.9% infection rate in Opuwo in north west Namibia.¹⁰

WOMEN

- The percentage of female-headed households ranges between 50% in Oshikoto and 62% in Omusati Region, placing these regions well above the national average of 45%¹¹
- Percentage of ever-partnered women in Windhoek who report they have experienced physical and/or sexual violence: 36%⁶
- Percentage of Namibian men who agreed that wife-beating is justifiable for one or more reasons: 44%⁶
- There were 1184 reported rapes and attempted rapes in Namibia in 2005, which is equal to approximately 60 reported rapes for every 100 000 people in Namibia. A recent study found that the vast majority of rapes in Namibia – at least 67% – involve persons known to the victim.⁹
- One-fourth (25%) of the rapes in the large sample examined for the study involved family members, spouses or intimate partners (including past partners).⁹

LAND & ENVIRONMENT

- Percentage of population with access to safe water: 87%³
- Projected year Namibia is expected to face an absolute water scarcity: 2020⁶
- Number of Namibians involved in farming systems, both communal and commercial: 1,17 million¹³
- Percentage of Namibian households that depend primarily on agricultural income: 27%¹³
- Percentage of Namibia's total land dedicated to communal conservancies: 14.4%⁸

HEALTH

- Life expectancy at birth, 2005: 46 years⁴
- Percentage of population who reported they spent an entire day without eating: 43%⁶
- Five leading causes of death: HIV/AIDS, Diarrhea, Pulmonary TB, Pneumonia, Malaria⁶

ECONOMY

- Percentage of the Namibian population who live on US\$1 per day: 35% and on US\$2 per day: 56%⁷
- Economic growth from 2001-2006 per year: 4%¹
- Percentage of population, aged 15 and above, who were classified as unemployed in 2004: 37%¹²
- Percentage of population, age 20-24, who are unemployed: 42%⁶
- Share of the population in households that spend more than 60% of total income on food: 32%²

Footnotes:

- 1: UNICEF, 2007. Stemming the Tide: Can Namibia pre-empt the potential reversal in Primary Education achievements? Namibia: UNICEF
- 2: United Nations Development Programme, 2007. Trends in Human Development and Human Poverty in Namibia. Windhoek: UNDP
- 3: Government of the Republic of Namibia, 2003. Namibia 2001 Population and Housing Census, Central Bureau of Statistics. Windhoek.
- 4: UNICEF, 2007. Country Statistics. Windhoek: UNICEF.
- 5: WHO/UNICEF, 2005. World Malaria Report 2005, Namibia.
- 6: UN, 2004. United Nations Namibia, Common Country Assessment 2004.
- 7: United Nations Development Programme, Human Development Report 2006, page 293.
- 8: NACSO, 2007. Namibia's communal conservancies: a review of progress 2006. NACSO, Windhoek.
- 9: Legal Assistance Centre (LAC), 2006. Rape in Namibia: An assessment of the operation of the Combating of Rape Act 8 of 2000. Windhoek.
- 10: Namibia's Ministry of Health and Social Services, 2006. Report of the 2006 National HIV Sentinel Survey. Windhoek
- 11: Republic of Namibia, 2003. 2001 Population and Housing Census. National Report.
- 12: Ministry of Labour and Social Welfare, 2006. Namibian Labour Force Survey 2004: Report of Analysis.
- 13: Namibia National Farmers Union (NNFU), 2006. Farming Systems in Namibia. Windhoek.

Overview Director



Namibia faces some of the world's most appalling statistics: one in three adults are unemployed, more than half of the population lives on less than a US\$2 a day and the disparity between rich and poor is the greatest of any country across the globe.

As an organisation dedicated to creating a culture of human rights in Namibia, it's important to draw the link between human rights and poverty. Human rights abuses often attack the most vulnerable in society: those without economic means to defend themselves. The economically marginalized, who struggle to afford the most basic services, have little recourse to defend their human rights and human dignity.

At the Legal Assistance Centre, we aim to give a voice to those who would not otherwise be able to speak out about their rights. As a public interest law firm, we strive to make the law accessible to those with the least access through education, law reform, research, litigation, legal advice, representation and lobbying.

During 2007, the LAC continued to fight for human rights for all through numerous initiatives. Some of the highlights from 2007 include:

- Providing information to several hundred people on human rights, the Namibian Constitution and the various laws. These workshops, conducted in rural and urban communities, targeted marginalised people who are hungry for information and enthusiastic to acquire new skills which helps them assert their rights.

- Litigating on behalf of dozens of clients, who in one way or another, have had their rights violated. In one particular case, where a mentally challenged girl was raped while in the care of hostel supervisors, justice was served when the High Court found the Government liable for breach of duty of care by its officials. The Government was ordered to pay compensation to the girl and her caregiver. The

Government has appealed this judgement shortly afterward, with the appeal to be argued in the Supreme Court in 2008. The LAC will continue to represent the girl and her family as they search for justice.

- Conducted research on wide-ranging human rights issues, including the groundbreaking research on the San in Namibia, which were applauded by international humanitarian organisations. Minority Rights Group International who cited our reports in various publications. It is heartening to know that our research reports are being used by others in their work.

- Providing legal advice to hundreds of people who walked into our three offices with legal issues. In one example, the LAC helped the daughter of a woman who died of an HIV-related illness by settling an insurance claim that was initially denied. In another, the LAC helped mediate an inheritance matter where a widow's house and land was taken after her husband died. Through mediation with the traditional authority and the family, the woman got her land back.

I would like to personally thank the Trustees of the Legal Assistance Trust for their support and guidance during the last year. I would also like to thank our committed staff. It is gratifying to see that there are people who are committed to creating a culture of human rights in Namibia and working on behalf of the poor.

As always, the LAC applauds its donors who make the work possible and helps provide free services to those who can least afford them. While funding for human rights work in Namibia is becoming increasingly difficult to attract, this makes us doubly appreciative to those donors who continue to believe in the value of the LAC's work.

As we look towards 2008, we pledge to continue to serve the communities of Namibia as effectively as possible and to give a voice to those who would be otherwise voiceless.





Norman Tjombe
Director

LAC
staff

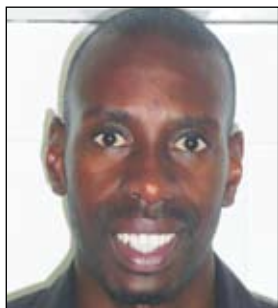


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Aids Law Unit (ALU)



BACKGROUND

The primary objective of the project is to promote a human rights based approach to HIV/AIDS in Namibia, focusing on both the infringement of civil and political rights on the basis of HIV status and the denial of socio-economic rights that contributes to vulnerability to HIV and negatively impacts on health outcomes.

The project addresses issues of discrimination and other rights issues pertaining to HIV/AIDS on a number of levels including, inter alia, litigation, research, policy formulation, education and advocacy with a view to placing HIV/AIDS on the agenda as a human rights issue and the provision of basic client services in terms of legal advice and assistance to people with HIV/AIDS.

Through these activities the project aims to enhance understanding and respect for the rights and requirements of people living with HIV/AIDS and to promote a human rights based approach to HIV/AIDS in Namibia.

As overall strategy to realize the aims and objectives of the project, the Unit has carried out various activities and programs such as litigation, legal advice provision, advocacy, training, education and awareness, treatment literacy etc.

For the period under review, the Unit has carried out the activities and programmes as detailed in this report.

POLICY FORMULATION AND LAW REFORM

The Unit formulated and facilitated the process of law reform and HIV/AIDS policy formulation both at

workplace and national level for different organisations locally and internationally.

LITIGATION AND LEGAL ADVICE

HIV/AIDS, being a multi-faceted disease, requires a multi-disciplinary approach in order to succeed. What sets the AIDS Law Unit apart from other HIV/AIDS service organizations is that it relies on legal instruments through a human rights based approach to deal with HIV/AIDS effectively. The Unit has provided services of litigation and advice to various target groups through referral of partner organisations and also to individual members of the public.

The project is dealing with several cases relating to discrimination on the basis of HIV/AIDS in respect of breaches of confidentiality by public servants entrusted with confidential information relating to HIV status, testing of employees for HIV without consent, access to employment and to insurance, harassment on the basis of HIV status, will writing, inheritance, medical negligence and guardianship.

Success Stories

One of the most important successes is that the Unit managed to secure a sum of money for the maintenance of three minor children born out of wedlock from three different mothers in a property grabbing matter; which monies have been paid into the guardian's fund at the Master of the High Court. A criminal case was opened against the executor of the estate in this regard. Case has therefore been partially settled.

The Unit has successfully settled a case where our client who was cohabitating with her deceased

Organisation assisted/ activity	Focus area	Audiences
NANASO/SAFAIDS forum	Laws and policies that exist in Namibia to address stigma and discrimination of HIV/AIDS in the religious, employment and health sectors	
Students of the International University of Management	HIV/AIDS and human rights, and the work of the ALU	Students
UNDP	Drafted tools and a guide to domesticate international human rights to address HIV/AIDS in Eastern and Southern Africa	
Journalist workshop by Institute for Democracy in SA, Polytechnic and Misa Namibia	Good governance and HIV/AIDS and the role of Media	25 Journalist
GRN	National policy on HIV and AIDS	
NABCOA	Workplace policy on HIV/AIDS	
Office of the Prime Minister	Charter on HIV/AIDS in the Workplace for public service	
Training workshop for Mauritius civil society activist	Human rights input into the HIV/AIDS Prevention Bill	Incl. attorney General, former ministers
Lecture for Social and Human Development Parliamentary Standing Committee	HIV/AIDS and Human Rights	7 plus vice chairperson of the national council
Namibian Newspaper	Article on National HIV/AIDS policy – placing HIV/AIDS as a notifiable disease	
National Planning Commission	HIV/AIDS policy meeting	

boyfriend was displaced from her home by deceased family, whilst carrying the deceased unborn child. After consultative meetings with the family and executor a settlement was reached and she was relocated to her home. Meetings were held with GIPF and we managed to secure a portion of the pension monies for the benefit of the unborn child.

It has also successfully settled a labour case where the employer after dismissing our client was refusing to release his pension. We addressed various letters to the employer and our client received his pension payments.

Cases currently being pursued, or which have been concluded:

The Project Lawyers dealt and or provided advice on the following cases/issues, among several others:

- Absence of the death certificate for the child to apply for an Orphans and Vulnerable Children (OVC) grant.
- A female client and her 5 siblings claiming that they were excluded from their father's will.
- A male client who claimed he was denied ARV's at the Katutura State Hospital.
- People buried in the plastic bags.
- A female client claiming to be threatened and insulted by a male because of her HIV status.

Stigma, discrimination and isolation of People Living with HIV/AIDS continue unabated, giving HIV/AIDS an inhuman face with a devastating impact. This can be reflected in some of the cases that the Project Lawyer worked on.

The Project Lawyer assisted a female client who was evicted by her husband after he found out about her HIV status. She applied for a protection order and after the protection order application, she moved back into the house. He threatened to kill himself if she doesn't leave his house. She moved out of the house and is currently staying with family members. The client is married in community of property and wants to claim for maintenance for herself and the child while the protection order is being considered. Arrangements have been made to assist the client with her maintenance claim and the protection order.

The Project Lawyer also went to various Namibian prisons to consult with inmates on some of the following issues:

1. A male client on ARV treatment claimed that police officers neglected to take him for his follow up appointments on time and that his passport was handled by all members of staff. The client also complained that he was not provided with the diet as prescribed by his doctor. Our client also insisted on voluntary counseling by outside counselors.
2. A male client, who is an inmate at the prison, was denied ARV treatment.
3. An inmate's status was disclosed by a nurse employed by the Ministry of Health without the client's informed consent. The nurse treated an inmate in front of a prison officer despite our client's insistence that he should not be present. She therefore indirectly disclosed his status to the officer without our client's informed consent. ALU has instituted complaint procedures on

behalf of the client with the Medical Superintendent of the Hospital and the Minister of Health.

Furthermore, the project was active in working with various organisations and institutions. A matter involving an insurance company and our client's daughter was settled. The company initially refused to pay our client's claim on the grounds that her daughter died of a HIV related illness. In the end, the benefit was paid into the guardian's fund at the Master's Office, for the benefit of the minor daughter.

Other examples include:

- Represented a client who was refused a student visa to study in Australia, on the grounds of her HIV status.
- Assisted a client whose status was disclosed by a matron at the Otjiwarongo State hospital. The case is ongoing.

We continue to provide a broad range of legal services to CBO's, NGO's, FBO's and support groups for people living with HIV/AIDS.

The AIDS Law Unit conducted onsite visits for various HIV/AIDS Support Groups – Tusano Project. The main component of AIDS Law Unit in the Tusano Project, with the exception of training, is to provide free legal advice and litigation services. The purpose of the onsite visits, to four communities, was to grant members of the Tusano support group an opportunity to raise any of their concern of a legal nature which they might experience. The details and nature of the cases are summarized in the table opposite.

Analytical description of the data:

The nature of cases might overlap to a greater extent. For example, lack of just administrative action might be a delay in processing of social grants application forms. On the other hand, social grants for OVC might also be interpreted as lack of maintenance. Human rights might cloud so many issues such as stigma, discrimination, labeling, rumors, gossips, etc.

WORKPLACE

It has become quite clear that the impact of HIV/AIDS is not only restricted to the health of individual only, but it stretch much broader than that. Employees are part of the community or society and what affect the society also affect them. As a result, it has become imperative for AIDS Law Unit to deal with HIV/AIDS from a human rights perspective in the workplace. This involves doing presentation on HIV/AIDS and Human rights in the workplace for management and also to train HIV/AIDS peer educators on HIV/AIDS and the law in the world of work.

Peer educators

On that basis, a session looking at how Namibian Labour Law can be used as instrument in addressing HIV/AIDS based discrimination in the workplace was facilitated. This session was entirely for Pick 'n Pay supermarket peer educators from different workplaces such as Oshakati, Ondangwa and Tsumeb.

Regional seminar

One of the main activities of AIDS Law Unit is to conduct regional seminar on HIV/AIDS and the law. The seminars, as the name suggest, is conducted in all thirteen political regions every year. It targets Regional Aids Coordinators, Constituency Aids Coordinators, traditional healers, traditional leaders,

youth organization, local community based and faith based organization working in areas of HIV/AIDS. The main content of the workshop addresses issues such as HIV/AIDS and Human rights in general, HIV testing and Confidentiality, right to access treatment, socio-economic rights, HIV/AIDS in the workplace, OVC policy, and social grants.

ADVOCACY

The undeniable link between HIV/AIDS and income insecurity has encouraged the project to be part of the

Basic Income grant coalition. The aim and objective of the Basic Income Grant is to lobby government to pay N\$100 every month to every citizen of the country from the age of 0 years till 65 years. During the past year, the BIG Coalition met with the speaker of the National Assembly, Honourable Dr. Theo Ben Gurirab, to promote the idea to stimulate the national debate on the BIG concept. Further, the BIG coalition met with the International Monetary Fund delegation from Washington which was visiting. The IMF delegation, known to be sceptics about the idea, endorsed the idea as long as it did not affect the micro-economic stability of the country.

TABULATED SUMMARY OF CASES

Table 1: Summary of cases from Tusano Support Group in Oshakati

Support Group	Nature of Case	Total Number	Gender	
OSHAKATI SUPPORT GROUP	Inheritance	2	-	2
	Social Grants	10	-	10
	Human Rights	13	3	10
	Administrative	1	1	-
	Maintenance	6	-	6
	Social Grants for OVC	11	-	11
	Denial of Treatment	-	-	-

Table 3: Summary of cases from Tusano Support Group in Katima

Support Group	Nature of Case	Total Number	Gender	
KATIMA SUPPORT GROUP	Inheritance	3	-	3
	Social Grants	11	1	10
	Human Rights	3	-	3
	Administrative	-	-	-
	Maintenance	1	-	1
	Social Grants for OVC	-	-	-
	Denial of Treatment	-	-	-

Table 2: Summary of cases from Tusano Support Group in Rundu

Support Group	Nature of Case	Total Number	Gender	
RUNDU SUPPORT GROUP	Inheritance	-	-	-
	Social Grants	7	1	6
	Human Rights	7	4	3
	Administrative	-	-	-
	Maintenance	1	-	1
	Social Grants for OVC	-	-	-
	Denial of Treatment	1	-	1

Table 3: Summary of cases from Tusano Support Group in Katima

Support Group	Nature of Case	Total Number	Gender	
WINDHOEK SUPPORT GROUP	Inheritance	3	-	3
	Social Grants	11	1	10
	Human Rights	3	-	3
	Administrative	-	-	-
	Maintenance	1	-	1
	Social Grants for OVC	-	-	-
	Denial of Treatment	-	-	-



Extract from Cases
The following is an extract from cases that emerged from the onsite visits:

“My boyfriend passed away in 2006. He left me with a 11 year old child. The family of my ex-boyfriend is refusing to give me the death certificate. This makes it impossible for me to apply for social grants or exemption from school development fund.”

Oshakati Support Group Member

The AIDS Law Unit was invited by a community-based youth organization known as Okarindi Kozonguvi in Otjozondjupa region. They held a week long HIV/AIDS awareness campaign for the community and the surrounding villages. During the week long commemoration, the project made various presentations on HIV/AIDS, Human Rights and the Law. Community members were amazed by new dimension of dealing with HIV/AIDS from the human rights based approach.

AIDS Law Unit also made a presentation at Yelula conference where various topics were covered such as human rights for PLWHA, stigma and discrimination HIV/AIDS in the workplace, and insurance, confidentiality, privacy and rights to access Anti-retroviral treatment (ARVs). The session was attended by about 200 people.

As part of the overall strategy to carry out advocacy of various issues surrounding HIV/AIDS, the project had a talk on NBC TV program known as Tupopyeni, where the talk centred around will writing and its importance in the context of HIV/AIDS.

In the wake of the polio outbreak, and at the request of clients and some of our partner organisations in Namibia, the project wrote a letter to the Ministry of Health seeking clarification on the effects of the polio vaccine on immuno-compromised individuals. The Ministry provided the requested information which we then relayed to our clients and partners.

EDUCATION AND AWARENESS RAISING

The project presented seminars on HIV/AIDS and the Law for several traditional authorities. These included:

- 23 participants of the Zeraeua and // Toadamen Traditional Authorities in Otjimbingue
- 20 participants in a Ongwediva workshop attended by traditional leaders from constituencies such as Ompundja, Oshakati East, Oshipumbu, Omulunga, Oshaaneko, Omusimboti, Oshinyadhila etc.

A workshop designed to empower the marginalised community on HIV/AIDS and Human rights was held for 59 participants at Rooidak and Omatako rest camp in Tsumkwe area.

WORKSHOPS AND TRAININGS

As part of strategy of creating human rights culture through-out the whole country, the Unit conducted various regional workshops focusing on Human rights and HIV/AIDS. The spatial and geographic location makes it impossible for the Unit to effectively identify and protect people's whose rights are violated. Therefore, it is critically important to empower people through education and training. Such training and education aim at empowering people to know their right, actions/conduct that constitutes rights violation and what steps to take to claim legal recourse or compensation. It is also crucial to educate the community and general public on various aspects of HIV/AIDS and Human rights. During 2007, the following workshops were presented:

Radio:

In order to be effective with education and training, it was thought appropriate to provide education on



various HIV/AIDS and Law issues through the radio. In partnership with Social Marketing Association (SMA), the AIDS Law Unit was provided a slot on every third Thursday of the month between 14h00 – 14h30, to provide education on topics such as The Namibian HIV Charter of Rights and stigma and discrimination.

OVC CARE AND SUPPORT TRAINING

HIV/AIDS has a devastating impact on the lives and wellbeing of orphans and vulnerable children (OVC). The disease robs children of their parents and ultimately love, care and protection. Proper adulthood requires proper childhood development. In the absence of parental protection, care and love, NGO's and government have to take the role and fill the gap. It is against this background that the Unit promotes and protects the rights of OVC to ensure that they are brought up in a conducive and enabling environment.

As an example of the AIDS Law Unit's work with OVC, the project assisted an orphaned child who had been expelled from school. The school was refusing to provide him with a progress report making it impossible for him to be registered at any other educational facility. The client also has problems with his current guardians, who are neglecting their duties in respect of his care and well being. We are assisting the client, with identifying an appropriate guardian, and will assist with the necessary court applications in this regard.

Further, project staff have been involved the National Plan of Action of OVC. They attended the following meetings in 2007:

- A one day meeting organised by UNICEF focusing on the draft cost estimate.
- The First Caprivi Regional Conference on OVC held in Katima Mulilo, under the auspices of the Ministry of Gender Equality and Child Welfare. The conference was attended by a number of OVC, their care givers and service providers. The coordinator made presentations on Will writing and Inheritance as an alternative means of securing the financial future of OVC's, as well as a means of securing safe and secure homes and guardianship. In addition the project coordinator made a presentation on the OVC policy.

The Unit commemorated the African Child Day on

the 16th June 2007 at SOS children village. The village provides shelter to 104 children who are mostly OVC. The Unit made a short presentation on the rights of the child and donated clothes and toys to the village on behalf of Toni Hancox, Project Coordinator for HURICON - Legal Assistance Centre.

PRODUCTION AND DISTRIBUTION OF EDUCATION AND TRAINING MATERIALS

The AIDS Law Unit has also distributed thousands of copies of various educational and training materials, such as the Charter of Rights, HIV/AIDS in the Workplace and Guide to Will Writing to municipalities and organisations such as:

- Amicaa
- Ondangwa Town Council
- Pots of Hope Women Empowerment Project
- Namibia Development Foundation
- Kenya Network of Women with HIV/AIDS
- AIDS Care Trust
- Catholic AIDS Action
- Walvis Bay Municipality
- NABCOA/ Walvis Bay Multi-Purpose Centre

WORKPLACE HIV POLICIES

The AIDS Law Unit worked with private, public and non-governmental organisation in assisting them with the development of HIV/AIDS workplace policies. The Unit was leading the debate on various legal issues and HIV/AIDS in the workplace.

During the period under review, the coordinator has reviewed HIV/AIDS workplace policy for Ministry of Lands and Resettlement. In a series of draft policy consultation meetings, the AIDS Law Unit held meetings with Ministry employees in the following districts:

- Otjiwarongo - Employees from Tsumeb, Khorixas and surrounding resettlements project farms
- Oshakati - Employees from Ondangwa, Ruacana, Outapi, Okahao and Oshakati head office
- Rundu - Employees from various district offices within Kavango region and Caprivi region.

All the input was incorporated into the draft policy which was then forwarded to the management for the adoption.

The Unit also reviewed a workplace policy for Desert Foundation of Namibian (DRFN) HIV/AIDS. The comments were forwarded to the Committee and requested for a consultative meeting with the employees.

While developing policies, the Unit also conducted presentations on HIV/AIDS and human rights in the workplace for management and also trained HIV/AIDS peer educators on HIV/AIDS and the law in the world of work. The AIDS Law Unit made presentations at the following conferences, among others:

- Ensuring Universal Access to AIDS Treatment Through Strengthened Health Systems sponsored by the Rockefeller Foundation and hosted by Gay Men's Health Crisis.
- NANASO in partnership with SAFAIDS at Polytechnic of Namibia - a presentation on HIV/AIDS discrimination from a legal perspective.
- Tusano Conference in Okahandja. (Gabes actively took part in organising the whole

conference and also presided and facilitated certain sessions.)

- NABCOA (Namibia Business Coalition on AIDS) focusing on HIV/AIDS in the workplace and Policy Development.

TREATMENT LITERACY CAMPAIGN

The Unit was engaging PLWHA to assess their needs and challenges especially when it comes to treatment provision and accessing affordable drugs. As a result, the Unit was carrying out Post Test Club needs assessment study. In three communities, Rundu, Katima and Windhoek, 75 people participated in the assessment study.

NETWORKING

Throughout 2007, a number of other meetings were attended by members of the AIDS Law Unit. They included meetings with:

- The Ministry of Labor and Social Welfare.
- Social Marketing Association
- Bernard Nordkamp Support Group
- PEACE Centre
- Ministry of Gender Equality and Child Welfare
- The UNDP, meeting in Johannesburg
- United Nations General Assembly Special Session (UNGASS) High Level Review in New York as part of the Namibian Government's delegation at the UNGASS negotiations

RESEARCH

Housing Rights of People Living with HIV/AIDS

The Unit conducted research on the housing rights of People Living with HIV/AIDS. The main focus of the research was to analyze whether the housing rights of People Living with HIV/AIDS have been realized by the Namibian Government, 17 years after independence.

Labor Law Analysis

The Project Lawyer was tasked with completing a legal analysis on the provisions of the Namibian Labour Bill, 2006 especially those relating to volunteers. The Project Lawyer reviewed the Bill itself, along with reports from the National Council and the explanatory note by the Ministry of Labour and Social Welfare. A final report was submitted.

Extract from Cases

The following is an extract from cases that emerged from the onsite visits:

"I was referred by a nurse to a social worker to apply for social grants. Instead the social worker just grabbed my medical passport and throws it back to me and said "You are healthy, and you can plough and cultivate, so please get out of my office". I don't have any option but to take drugs on empty stomach." Katima Support Group Member

STAFF

Windhoek office:

Amon Ngavetene - Project Coordinator
Gabriel Augustus - Legal Educator
Linda Dumba-Chicalu - Project Lawyer
Damoline Muruko - Project Lawyer
Basilina Ngairo - Project Assistant

Ongwediva Office:

Tonderai Bhatasara - Project Lawyer
Immanuel Iita - Legal Educator
Hermadine Kairimuti - Administrative Assistant

Keetmanshoop Office:

Aloysius Katzao - Legal Educator
Emerencia Helu - Administrative Assistant

Land, Environment & Development (LEAD)



BACKGROUND

LEAD's aim is to ensure marginalised groups' rights to communal land and security of tenure, by removing legal barriers hindering their access to these rights. We target rural populations who are socially, culturally and economically marginalised, such as farm workers, peasants and landless people, most of whom are women. We also render legal research, advice, litigation, education and training services to urban settler organisations such as housing rights and to government and civil society institutions dealing with land reform. As the only NGO project in Namibia focusing full time on land-related legal issues, LEAD plays a key role in the land reform programme debate. During 2007 LEAD focused on, among other issues, land reform in communal and commercial areas, community-based natural resource management, minority rights, farm workers' rights, gender and land rights, urban housing tenure rights and environmental rights

PROJECT DONORS

During 2007, LEAD continued to receive funding from long-term donor partner EED. A new funding agreement with EED commenced in October 2007. LEAD and the Gender Research and Advocacy (GR&AP) of the LAC will also receive joint funding from HIVOS until December 2008.

HORIZONT3000, a core donor of LEAD until the end of 2007, stopped funding the Project, because of an Austrian Government decision in 2006 to withdraw its overall NGO funding support to Southern African countries. SIDA/NNF funding support for the national conservancy support programme came to an end in June 2007. SIDA is closing its office in October 2008 and as a result is phasing out its funding support to the programme.

LEAD continues to receive funding for its San Human Rights Programme activities from the Embassy of Finland and the Namibian Association of Norway (NAMAS). NAMAS continues to support the San Human Rights Programme in 2008, while the Embassy of Finland will support LEAD's national conservancy support programme in 2008.

CONSERVANCY SUPPORT

The focus of LEAD's support to the national conservancy programme during 2007 included:

- Drafting constitutions for emerging conservancies and reviewing existing conservancies' constitutions;
- Training conservancies on constitutions and other legal documents;
- Providing legal support to conservancies in entering Joint Venture Agreements (JVA) for lodges, campsites, hunting agreements etc; and
- Conducting an investigative study on mining and environmental issues in Namibia

Support to Nꞛa Jaqna Conservancy

The management committee and membership of the Nꞛa Jaqna Conservancy requested LEAD to act on their behalf and to procure a legal opinion concerning a proposed plan by the Ministry of Lands and Resettlement to develop small scale commercial resettlement farms in the conservancy area. The northern part of the Nꞛa Jaqna Conservancy

which is a third (1/3) of the entire conservancy area, is earmarked for small scale commercial resettlement farm development, each measuring 2,500 hectares. Conservancy members feel that their objections to the development of these farms have not been considered by the Ministry of Lands and Resettlement. In several meetings held concerning the development of small scale farms, the conservancy membership has expressed their concerns which have been passed over by the Management Committee of the Conservancy to the Ministry of Lands and Resettlement. LEAD continues to mediate between the conservancy and the Ministry in anticipation of seeing that the concerns of the Nꞛa Jaqna community are fully addressed.

Investigating Illegal Fencing

LEAD investigated a number of land rights allocations by the !Kung Traditional Authority that are not customary land rights in accordance with section 19 of the Communal Land Reform Act. LEAD investigated a number of land rights allocations in the Nꞛa Jaqna Conservancy by the !Kung. The Conservancy Committee is concerned about the effects of overgrazing as well as the conflict caused by perceptions of illegality. LEAD has requested the Otjozondjupa Communal Land Board to confirm the legal statuses of those who are currently occupying the land in the conservancy. Should the occupation of the land be illegal then the Communal Land Board are entitled to remove the occupiers.

TRAINING

Communal Land Board Training

LEAD has been involved in the successful implementation of Communal Land Board training to "implement sustainable development and environmentally sound decision-making principles" when allocating communal land rights. Together with other stakeholders (GTZ, MLR, MET, WWF, NNF, NACSO, SAEIA and RAISON) LEAD assured that all of Namibia's 12 communal land boards received training in 2007.

LEAD also conducted a pilot training course from 11 to 14 September with the Omaheke Communal Land Board in Gobabis. The aim was to provide Communal Land Boards with improved conflict management skills. The course will be offered to other Communal Land Boards in 2008.

San Human Rights Training

LEAD conducted a number of workshops in Mangetti Dune, Tsumkwe and Omega 1 in West Caprivi. These areas are predominantly inhabited by San communities. The workshops in Mangetti Dune and Tsumkwe were well attended by nurses, health workers, social workers and community leaders from all over the Tsumkwe and Mangetti Dune area, while the workshops in Omega 1 were mainly attended by San community leaders.

Four workshops were also held for selected leaders from the Khwe community in Western Caprivi. The objectives of the workshops were to provide general legal education, raise awareness about human rights standards, discuss and highlight pertinent legal and social problems confronting the Khwe community.

Dr Horn, the director of the Human Rights Documentation Centre at the University of Namibia, and Shadrack held workshops with the Ju/'hoansi Traditional Authority and Community leaders in Tsumkwe on 7 and 8 May and with the !Kung Traditional Authority and community leaders in



Tsumkwe on 4 and 5 June. The topics covered during these workshops were:

1. Constitutional, Customary Statutory Law and Human Rights
2. Structure and duties of Government, Duties of Police, Criminal Procedure Act
3. Functions of Ombudsman and Prosecutor General
4. Traditional Authority Act
5. Communal Land Reform Act

A radio script on HIV/AIDS and human rights was also provided and aired on the !Ah Radio every Sunday for the month of May.

On 3 and 4 September Dr Horn and LEAD held a workshop with community leaders, social workers, Health Unlimited, Nurses from Mangetti Dune and Tsumkwe area. Topics that were covered included: Combating of Rape Act, Domestic Violence Act, Maintenance Act and HIV/AIDS and Human Rights.

LEAD and GR&AP held a Human Rights training workshop with Police officers from Maroelaboom, Mangetti Dune, Tsumkwe and Gam in Tsumkwe on 6 and 7 August.

RESEARCH

Land Reform

LEAD launched its research findings on the expropriation principle and its impact in Namibia on the 9th of November. "No Resettlement available..." an assessment of the expropriation principle and its impact on the land reform process in Namibia, is an in-depth investigation of the first three commercial farm expropriations in Namibia. The report is the third collaboration in seven years with Prof Sid Haring from the City University of New York's Law School on land reform related issues in Namibia. Our goal in undertaking this research is threefold: (1) to describe the operation of the legal process under the

Agricultural (Commercial) Land Reform Act; (2) to offer a critical analysis of what has been accomplished since the Act was ratified in 1995; and (3) to make recommendations for an effective land reform and resettlement programme.

The report has been distributed to the Ministry of Lands and Resettlement and a number of donor agencies involved in supporting the land reform process in Namibia, such as GTZ and the EU. The Parliament of Germany has requested copies of the report.

Impact of Communal Land Reform on Gender

Field research on "gender based law pertaining to communal areas" in the Central Northern Regions of Namibia has been completed by LEAD with the assistance of land expert Dr Wolfgang Werner. The report will be released to the public in early 2008.



The Compilation of a Labour Management Manual for Emerging Farmers

The Namibian Agricultural Union (NAU) compiled a series of manuals for emerging farmers in order to assist them with various issues related to agriculture and the farming economy (e.g. livestock, marketing and labour management). The NAU requested LEAD to write a manual on sound farm labour management systems. LEAD acknowledges the problems which emerging farmers currently face due to the lack of support by government in terms of training and assistance after the farms has been bought. LEAD is also aware of the fact that farm workers working for emerging farmers are often not treated according to the labour law or other relevant regulations (like the minimum wage agreement) and lack basic social security. Thus, LEAD decided to assist NAU with the part on labour management. the complete manual is due for release in mid-2008.

The Impact of Mining on the Environment in Protected Areas

LEAD conducted a study on the impact of mining on the environment in protected areas. The study was initiated in response to concerns about mining practices that are potentially harmful to the environment. These concerns regard the wider environmental effects of mining, with particular emphasis on its potential impacts in national parks, protected areas and conservancies.

Despite the fact that the international mining industry has done much to improve environmental standards, mining can cause severe damage to the environment in general, particularly in cases where poor regulation and policy frameworks allow it. Because of recent upward changes in mineral prices (especially uranium), and the consequent growth in prospecting and mining activities in protected areas, communally-owned areas (i.e. the Trekopje Uranium mine in ≠Gangu Conservancy, Erongo Region) and private lands (Valencia Uranium Mine), there is great potential for irreparable damage to an important national asset for Namibians: its biodiversity. The potential for harmful effects is exacerbated by a tradition of weak environmental regulation of the industry in Namibia.

This study aims to (1) synthesize information on the current regulatory framework and international mining-environmental standards and their respective shortcomings, and (2) to describe current worst and best practices with regard to mining and its environmental impacts in Namibia including conservancies.

A final draft of the study is expected in 2008.

Post Resettlement Livelihoods Study

In October LEAD became a co-research partner for a two year comparative study on post resettlement livelihoods in South Africa, Zimbabwe and Namibia. The study is an initiative of PLAAS (Programme for Land, and Agrarian Studies in South Africa) and the Institute for Development Studies (IDS) in the UK. A detailed description of this exciting project between the three countries can be found at <http://www.lalr.org.za/>

The Extractive Industries Transparency Initiative (EITI) in Namibia

The Open Society Institute of Southern Africa requested LEAD to investigate the feasibility of introducing EITI in Namibia. The EITI was launched in 2002. Its objective is to promote transparent reporting by governments of aggregate revenues derived from mineral resource, oil and gas extraction. The Initiative has attracted the attention of many African countries and some have endorsed the Initiative.

It is envisaged that the EITI principles have the potential of enhancing government accountability and transparent management of mining revenues. LEAD is conducting research on the initiative to assess whether it is necessary for Namibia to join the Initiative. The final report of LEAD's findings on the feasibility of implementing EITI was submitted to OSISA EITI's representative in southern Africa.

Mining the Environment in Africa

LEAD contributed to a compilation of different case studies from different African countries concerning the impact of new found interest in the mining sector in Africa for the Institute for Security Studies in South Africa. LEAD's article was submitted to the ISS in December and it focuses on the impact of uranium mining on Namibia's Naukluft National Park.



Consultancy for ICEIDA: Early Childhood Development (ECD) Project among the San

LEAD undertook a consultative study for the Icelandic International Development Agency (ICEIDA) in November and December 2007 producing a Project Document for an Early Childhood Development project with San communities living in Oshikoto, Otjozondjupa and Omaheke regions.

Since LEAD focuses on assisting the San, as Namibia's most marginalised community, and furthermore recognizes the need of education for sustainable improvement of their living conditions, LEAD agreed to undertake the study in partnership with WIMSA. LEAD and WIMSA interviewed and sought input from among others, local authorities, community leaders, CBOs and other stakeholders, such as interested individuals or groups working within the respective project areas.

The Project Document was submitted on 15 December and included detailed descriptions of the project sites, recommendations with regard to the extension of existing or the establishment of new ECD units, the potential problems an estimate of material support needed in terms of housing, teaching equipment and teaching materials in order for prospective ECD units to become fully operational from the start and a logical framework matrix outlining the overall objective, purposes,



outputs, activities and inputs needed to implement the ECD project for San children.

WORKSHOPS & MEETINGS

LEAD submitted proposals to the MET on the Parks and Wildlife Bill at a workshop held on the 4th to 6th of September.

At the request of the CBNRM sub-division of the Ministry of Environment and Tourism, LEAD attended a participatory training process workshop which was held on the 23 to 26 October with a selected number of Conservancies at the #Khoadi//Hoas Conservancy. LEAD advised conservancy committees on the process required to amend conservancy constitutions.

LITIGATION, INFORMATION AND ADVICE

LEAD staff provides the following services:

- Advice on housing rights and eviction matters
- Advice on inheritance matters and wills
- The writing and reviewing of conservancy and community based organisation constitutions and joint venture agreements
- Legal representation of clients in court.

Selected Consultations and Legal Advice

In August, Zeka attended to a matter in Opuwo against the Opuwo town council where they intended to evict community members from their land and threaten that if they didn't pay in advance

the land would be sold to others. This, despite the area not having been formally declared as a township. Zeka lodged an objection against the declaration of the area as a township. LEAD is still waiting to get a response from the Opuwo town council on this matter. However, our clients remain on the land and have not been evicted as a result of our action.

LEAD issued summons on behalf of a client who was detained against her will in a toilet by the Masubia Traditional Authority in Katima Mulilo. The incident started after the client protested her innocence in matter where she was accused of using witchcraft by the Traditional Authority against her estranged husband's family. LEAD continues to represent the client.

Shadrack and Roswitha travelled to Otjituuo to the Otjozondjupa Region for a mediation meeting with family members and the traditional authority an inheritance matter. The client approached the LAC with the complaint that upon her husband's death, his four sons from a previous marriage chased her from the communal area that she shared with her husband, the sons, her mother-in-law and the ex-wife of the husband. The sons also refused her access to a house built by herself and her husband. The client in this matter only wants a part of the communal area, corrugated irons and furniture in one of the houses at the village. With the assistance of LEAD, the conflict between our client and family was resolved and the client got her land back.

In the Dolam Flood matter, LEAD continues to represent the community's interest during negotiations with the City of Windhoek (CoW). Issues that LEAD have taken up with the CoW during 2007 included identification of client's responsibilities in case another flood occurs as well as determining the size of the erven to which clients would have to be reallocated.

THE XOMS |OMIS PROJECT

The Xoms |Omis Project (Etosha Heritage Project) is a project run by LEAD since 2006.

Its primary objectives are:

- To research, maintain, protect and promote the cultural and environmental heritage of the Etosha National Park and its surrounding area.
- To provide capacity-building programmes for Hai||om individuals with a genuine interest in the cultural and environmental heritage of the Park.
- To design, support and implement sustainable livelihood projects for all communities with strong historical associations with the Etosha National Park.

The Documentation of the Cultural Heritage of the Hai||om in Etosha

The documentation of Hai||om cultural heritage in Etosha National Park began in 1999 as a small collaborative project involving researchers from the University of Cologne, the University of Cambridge and a group of Hai||om elders determined to ensure that their cultural history did not die with them. As the process gained momentum it became formalised into the Xoms |Omis Project (Etosha Heritage Project), managed by LEAD. The project aimed to use the Etosha National Park centenary in 2007 to celebrate the rich indigenous history of the area and expose the wealth of knowledge of its longest human inhabitants.

The documentation of the cultural heritage was undertaken in partnership with the multidisciplinary collaborative research centre ACACIA at the University of Cologne, Germany; the Working Group of Indigenous Minorities of Southern Africa (WIMSA), Windhoek, Namibia; Open Channels, London, England; Strata 360, Montreal, Canada.

Financial Support was provided by Comic Relief, England, the Finnish Embassy in Namibia and Namdeb, Namibia and the German Research Council (DFG).

Products of the project (produced with Open Channels and Namdeb funding) include:

- A place name map;
- A map of seasonal mobility and availability of resources;
- Life line maps of Hans Haneb, an elderly man born in the Park during the 1920's;
- 2 Bushfood Posters;
- 2 Hunting posters;
- a set of 8 postcards documenting the cultural heritage and history of

the Hai||om in Etosha
Information leaflets

MAIN ACTIVITIES IN 2007

Launch of cultural maps of the south-eastern area of the Etosha National Park & of the postcards

The core team of Hai||om involved in the project visited Windhoek in April to meet the Minister of Environment and Tourism, Willem Konjore and his Deputy Minister, Leon Jooste, to introduce the maps produced by the project and to discuss a possible official launch of the maps.



On the 15th of August, the maps and postcards were officially launched by the Minister of Environment in the Omba Gallery in Windhoek. This was particularly important as the centenary celebrations of Etosha in 2007 provided a unique occasion to gain public recognition of the fact that the Hai||om have a strong historical relationship to the park.

STAFF

Willem Odendaal - LEAD Project Coordinator and Project Researcher

Roswitha Gomachas - LEAD Project Lawyer

Zeka Alberto - LEAD Project Lawyer and Project Workshop Trainer

Shadrack Tjiramba - Research Assistant

Sophie van Wyk - Project Assistant

Joseph Kahuika - LAC/LEAD Paralegal

John Hazam - Training and policy consultant

Ute Dieckmann - Research consultant

Sidney Harring - Research consultant

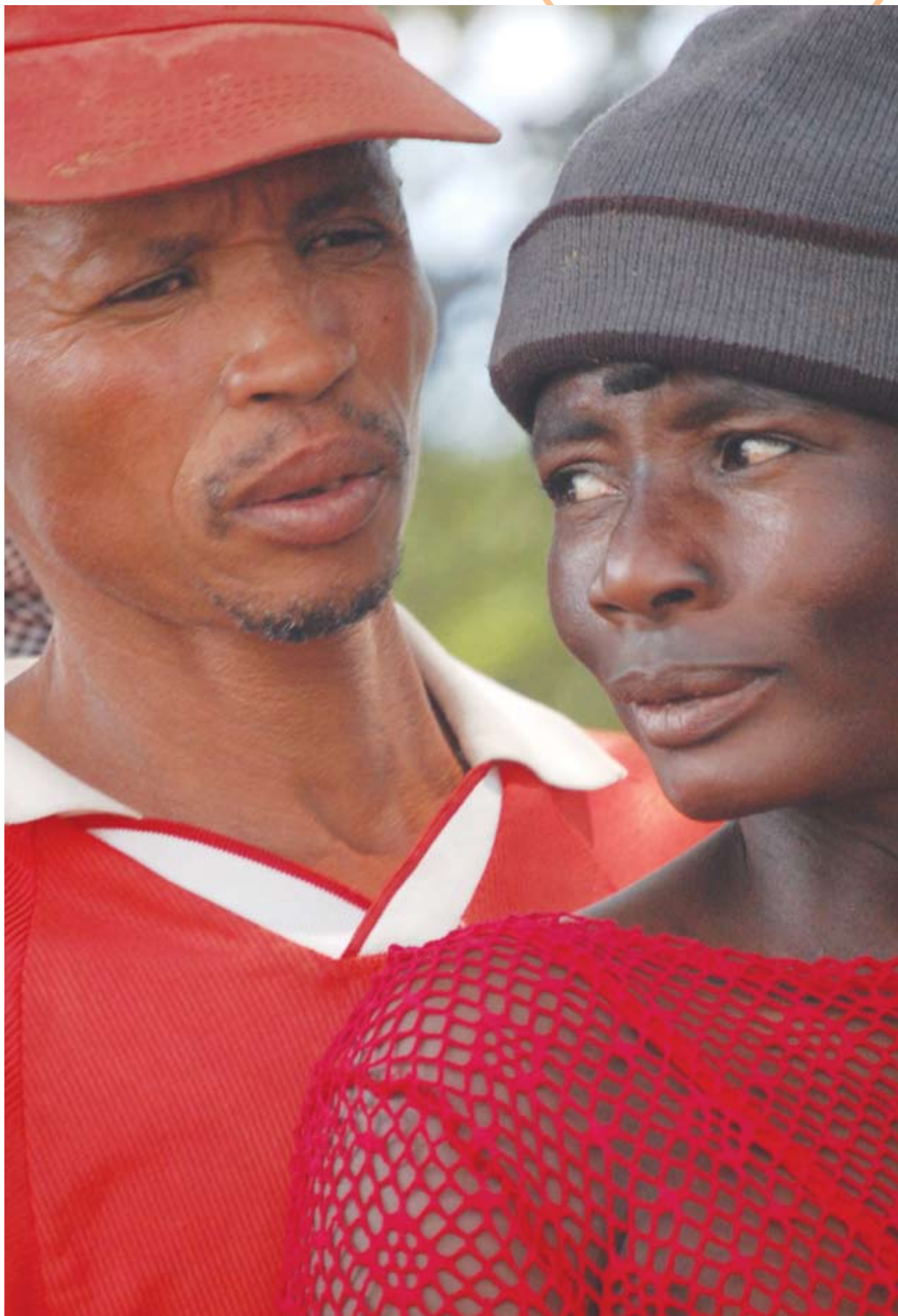
Wolfgang Werner - Research consultant

Nico Horn - San Human Rights trainer (Tsumkwe)

John Nakuta - San Human Rights trainer (West Caprivi)

Linea Naango - Intern from Polytechnic of Namibia

Gender Research & Advocacy Project (GR&AP)



One of the most important projects conducted by GR&AP during 2007 was the release of an extensive study on rape, a groundbreaking piece of research that will undoubtedly impact on the legal landscape in Namibia for years to come. The recommendations arising from the research have already begun to have an impact on the state response to rape cases, thus demonstrating that intensive advocacy can make a real and practical impact in Namibia. GR&AP also conducted important legal research on domestic violence and the implementation of the Communal Land Reform Act, the results of which are expected in 2008.

GR&AP focused on numerous other legal topics relating to gender during 2007, in particular making submissions for law reform on sexual harassment, child labour, marital property and inheritance. International work included input on the SADC Protocol on Gender and Development and, closer to home, GR&AP assisted the Ministry of Gender Equality and Child Welfare with the development of the National Plan of Action for Orphans and Vulnerable Children.

The work conducted by GR&AP changes the legal landscape in Namibia and helps to empower women. An important example of this in 2007 was successful lobbying to increase the criteria for child maintenance grants. Many women in Namibia cite the need for economic support as a reason for remaining in violent relationships and the change in the grant criteria directly helps women in Namibia.

Training and the production of publications were two other major areas of work in 2007, with GR&AP releasing books, training manuals and guides to legislation in English, indigenous languages and Braille. In terms of training, particular focus was given to a "training of trainers" scheme involving 12 "star trainers" who were empowered to pass on legal information in indigenous languages.

GR&AP has focused on a number of important areas of legislation during 2007 and has continued to make significant changes to the legal landscape through research, law reform, advocacy and education.

LAW REFORM AND ADVOCACY

Rape in Namibia

Namibia has one of the world's most progressive laws on rape, but the implementation of this act is still in its infancy. To assess the operation of the Combating of Rape Act, GR&AP conducted a groundbreaking research study between 2005-2007. The final report, Rape in Namibia, was launched in May 2007. The study received excellent press coverage, including lengthy articles, various print media and substantial coverage on the national television news. Feedback from government was very positive, particularly from the Office of the Prosecutor-General and the National Forensic Science Institute. The report also received international coverage and was cited by a US Senator in the confirmation hearings of the US Ambassador to Namibia.

Many of the recommendations made in the report have had a significant impact:

- GR&AP presented key recommendations from the report to approximately 350 people at the National Conference on Gender-Based Violence convened by the Ministry of Gender Equality and Child Welfare in June 2007. Many of these recommendations were incorporated into the overall conference recommendations.
- The GR&AP Coordinator has been appointed to the Gender-Based Violence Advisory Board formed by Cabinet in

the wake of the National Conference. This forum should serve as a springboard for continued advocacy pertaining to the report recommendations.

- The government's Law Reform and Development Commission has agreed to put the amendments to the rape legislation proposed in the report on its agenda for 2008.
- The findings of the research are being cited by government bodies as a basis for supporting a transfer of the Woman Child Protection Units from the police force to the Office of the Prosecutor General; a move which many policy makers now believe would lead to improved conviction rates.
- The Office of the Prosecutor-General is pursuing the implementation of prosecutor-guided investigations.
- GR&AP was invited to comment on the booklet which guides medical personnel on how to use the new rape kits. Most of the comments made by GR&AP were accepted and the materials will be adapted accordingly in the next production cycle in 3 years time.
- The recommendations on record-keeping have been included in the new Naminfo system for recording statistics on cases of gender-based violence, after they were presented by GR&AP at a meeting convened to discuss the new system.
- Recommendations from the report were incorporated into the National Plan of Action on Orphans and Vulnerable Children which was launched in 2007.
- GR&AP was invited to advise the Ministry of Gender Equality and Child Welfare on strategies for incorporating recommendations on gender-based violence into Namibia's new National Development Plan 3, which is a blueprint for national expenditures over the next 5 years. The Gender Research Advocacy Project also made direct submissions to the National Planning Commission on this topic.
- GR&AP drafted an article highlighting recommendations pertaining to judicial officers which was published in a judicial newsletter circulated to all judges.

The value of this research cannot be overestimated. The data has provided the basis for recommendations for legal reform and improved implementation measures, and will also provide valuable information to guide the strategic planning of future projects conducted by government, GR&AP, and other NGOs.

Labour Act 2007 and related labour issues

The Labour Act 11 of 2007 was gazetted on 31 December 2007. GR&AP monitored the development of the new labour bill to ensure that provisions on sexual harassment, pregnancy discrimination, maternity leave and family leave remained in place. As of April 2008, the Act had not yet been brought into force.

GR&AP made submissions to the Ministry of Labour on the draft Code of Practice on Sexual Harassment following a request for input on the definition of "work of equal value", which concerns equal pay for men and women.

The discussion document on Child Labour in

"The Legal Assistance Centre is doing a very great job. When the ministry has laws, they are there. When we have conferences, they are there. They have done a very great research on rape and they will be making an important contribution to the input of this conference."

Minister of Gender Equality and Child Welfare, 19 June 2007, National Conference on Gender-Based Violence

Namibia published by the Ministry of Labour and Child Welfare in March 2007 cited LAC research and recommendations extensively, particularly on sex work, domestic work, trafficking and child justice. GR&AP subsequently made successful submissions to the Programme Advisory Committee on Child Labour (PACC) on legal issues which should be incorporated into the Action Programme on the Elimination of Child Labour.

Draft SADC Protocol on Gender and Development

GR&AP commented on the draft SADC Protocol on Gender and Development. Following a national meeting convened by the Ministry of Gender Equality and Child Welfare, most of the recommendations made by the LAC were incorporated into Namibia's official submissions on the document. Many of these recommendations remain in place following the SADC review of the document.

Child Law

GR&AP provided training on the Children's Status Act 6 of 2006 (which is not yet in force). Recommendations from the workshop pertaining to forthcoming regulations were compiled and sent to the Ministry of Gender Equality and Child Welfare, the Master of the High Court and the technical legal drafters at the Ministry of Justice. GR&AP also attended a meeting convened by the Ministry of Gender Equality and Child Welfare to discuss the regulations in April.

GR&AP monitored the progress of the Child Care and Protection Bill, which was with technical legal drafters during 2007. GR&AP has written to the Ministry of Gender Equality and Child Welfare to advocate another round of public consultations before the Bill is sent to Cabinet. GR&AP has offered to assist the Ministry with simplified materials and workshop facilitation for this purpose. This suggestion has been well-received by the Ministry.

GR&AP assisted the Ministry of Gender Equality and Child Welfare with the preparation of the National Plan of Action for Orphans and Vulnerable Children and the accompanying Monitoring and Evaluation Plan to ensure that key law reform and gender-based violence recommendations were incorporated into the plan. The Plan of Action was formally launched by the Ministry of Gender Equality and Child Welfare in October.

GR&AP contributed to the successfully lobbying of the Ministry of Gender Equality and Child Welfare to broaden the criteria for child maintenance grants. The means test of household income of N\$500/month has been doubled, and the maximum number of children eligible for grants has been raised from three siblings to six siblings.



Marital property

The GR&AP Coordinator continues to serve on the LRDC Subcommittee on Marital Property, which is using the GR&AP publication Marital Property in Civil and Customary Marriages: Proposals for Law Reform as its main resource. The subcommittee completed the first phase of its work in 2007, by deciding on detailed policy on marital property law reform, based primarily on GR&AP's research and recommendations. The Coordinator worked together with a local attorney to draft a bill incorporating the subcommittee's input for further discussion. This draft bill will be finalised and presented to the full subcommittee in early 2008.

Inheritance

GR&AP presented research and made recommendations for inheritance law reform, based on extensive research conducted by GR&AP in 2005-6, at a meeting hosted by the Law Reform and Development Commission. Government has stated its intention to establish a new Law Reform and Development Commission subcommittee comprising all key stakeholders, including LAC, to address this issue. Whilst this subcommittee has not yet been established, it is hoped that there will be movement in 2008.

RESEARCH

GR&AP worked on two major research projects in 2007. Numerous other minor research projects were also conducted.

Study to monitor the implementation of the Combating of Domestic Violence Act

Whilst the law on Combating Domestic Violence is an excellent piece of legislation, the process of applying for protection orders is not yet working effectively in Namibia. To fully assess this issue, GR&AP initiated a study on the implementation of the Combating of Domestic Violence Act in 2006. Data collection was



virtually complete in December 2007, with information on some 1000 protection orders collected from 18 locations. Data analysis is expected to be complete in 2008.

Widow dispossession and the implementation of the Communal Land Reform Act 2002

The Communal Land Reform Act 5 of 2002 aims to improve gender equality in land rights and tenure security. To date, there has been no assessment of the implementation and impact of the legal provisions pertaining to women, and widows in particular. To fill this gap, the Land, Environment and Development Project of the LAC (LEAD) commissioned a study in the four regions of north-central Namibia. GR&AP worked with LEAD to develop terms of reference for this research, reviewed several successive drafts of the research report and assisted the consultant in the formulation of recommendations based on the research findings. The report will be finalised and launched in early 2008.

MEDIA WORK

During 2007 GR&AP conducted extensive radio, television and print media work. Radio shows discussing topics such as the legal procedure for registering a birth, sexual harassment, domestic violence, marital law and policy on teenage pregnancy were broadcast in a number of indigenous languages. On television, GR&AP appeared on the current affairs programmes Talk of the Nation and Open File, and provided recorded material for One Africa. Topics discussed included the law on maintenance, rape and domestic violence. GR&AP print work included articles in the OYO and Sister Namibia magazines on the topics of the Children's Status Act, consequences of making false statements and charges, and the findings of the rape study.

CLIENT QUERIES

Throughout the year, GR&AP handled a large number of face-to-face and telephonic requests for information and advice on specific problems. There was a notable increase in related public queries immediately after radio programmes on gender-related topics.

The following topics were particularly common subjects of requests for information and advice:

- Orphans, child maintenance grants and foster care grants.
- Child maintenance and child custody
- Cohabitation, marriage, marital property regimes, inheritance and divorce
- Domestic violence, including queries on how to obtain protection orders & how to address problems with applications for protection orders
- Registration of births and surnames (especially as these issues relate to children born outside of marriage)
- Stalking and sexual harassment

The following cases were amongst the most affecting stories brought to GR&AP during the year:

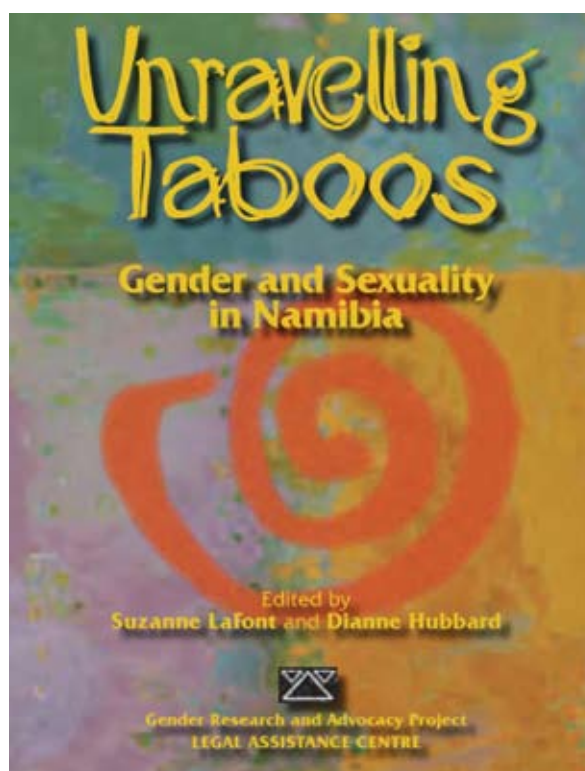
- A female teacher who experienced sexual harassment at a school in the north was assaulted by the harasser after she reported the harassment to the principal. Working through concerned intermediaries, we provided advice on actions she could take for her own protection.
- We received a query pertaining to a case where a young girl was reportedly raped by her uncle on the advice of traditional healer, to ensure luck and prosperity, who was then threatened by her own family when she wanted to report the rape to the police. We advised on the ability of minors to lay charges without parental support, and on groups which provide counselling for rape survivors.

LITIGATING

GR&AP worked with Huricon and a local advocate to litigate a test case on sexual harassment involving a young woman who was allegedly harassed at the workplace by her immediate supervisor. This case was part heard by the court in September 2007, with its continuation scheduled for February 2008. (The case ultimately resulted in a settlement which was favourable to our client.)

PUBLICATIONS

GR&AP publications are now available at all Ministry of Education community libraries. Copies have also been distributed to regional libraries and to the regional offices of the Ministry of Gender Equality and Child Welfare. The Parliamentary Women's Caucuses of the National Assembly and the National Council were provided with GR&AP publications for use in constituency outreach efforts. Two local bookshops, Bucher Keller & Book Den, stock books produced by GR&AP. GR&AP continued to expand its publication of materials on gender-related laws in indigenous languages by producing the popular Guide to the Combating of Domestic Violence Act in Oshiwambo, Otjiherero and Khoekhoegowab.



I would like to say thank you for the book "Unravelling Taboos". It is excellent, and I have not learned that much about Namibian society in a long time.

Dag Henrichsen
Namibia Resource Centre & Southern Africa Library, Basler Afrika Bibliographien
March 2007
(translated from German original)

The publishing of Namibian publications in Braille format is indeed a major milestone that was reached as the need for such publications has already come to our attention. We trust that more publications will be produced in Braille.

Ms M Hoffman,
Acquisition Librarian
Office of the Librarian,
Polytechnic of Namibia
(excerpt from letter dated 24 July 2007)

Unravelling Taboos

Unravelling Taboos, a book of essays relating to Namibian sexuality, was launched in February 2007. The book was co-edited by the GR&AP Coordinator and by Dr Suzanne LaFont, a visiting academic. The book contains chapters written by a number of prominent researchers and academics. The aim of the book is to make academic research on topics related to sexuality and sexual violence more accessible to policy-makers and members of the public. The book is listed on amazon.com, and was used as an assigned text in a course taught by Dr LaFont at Kingsborough Community College, City University of New York in the USA.



KEY TRAINING ACTIVITIES

DATE & PLACE	AUDIENCE	TOPICS
23 Jan/ Windhoek	12 VSO volunteers: 9 women & 3 men	gender & HIV-AIDS
5-9 Feb/ Windhoek	14 women from 6 regions seeking training to enable them to support survivors of violence	assertiveness, counselling skills, gender concepts & laws on domestic violence, rape, maintenance & equality in marriage
28 Feb-1 Mar/ Windhoek	36 participants from the government & NGOs working with children	Children's Status Act, strategies for its successful implementation, suggested issues to be covered in regulations
4 Apr/ Windhoek	25 Polytechnic students: 21 women & 4 men	rape & sexual harassment
16 April/ Windhoek workshop organised by Law Reform and Development Commission	12 representatives of government agencies & legal practitioners	presentation on GR&AP research & recommendations on inheritance
27 April/ Windhoek workshop organised by Women's Leadership Centre	13 female participants (age 20-35) from Parliamentarian Women for Health	presentation & facilitation of sessions on how laws are made & advocacy skills
11-15 June/ Windhoek	25 participants from all 13 regions: 19 women & 6 men	training skills, workshop organisation, the meaning of "gender", the laws relating to rape & domestic violence
19-22 June/ Windhoek National Conference on Gender-Based Violence organised by MGECEW	350 participants from all regions	1-hour presentation giving an overview of GBV in Namibia (Norman Tjombe) & 1-hour presentation highlighting key recommendations from rape study (Dianne Hubbard)
26 June/ Windhoek	17 blind & visually impaired women & 1 man (age 19-55)	domestic violence & rape
23 July/ Windhoek input at a 3.5-day workshop organised by GenderLinks	59 people from all regions, local authority councillors & MGECEW	gender-related law reform & court cases since independence
5-8 August/ Tsumkwe organised jointly with LEAD	15 participants from several police stations in the vicinity: 4 women & 11 men	human rights & policing, Combating of Domestic Violence Act, Maintenance Act, seeking solutions to policing problems
13 August / Windhoek	20 female social workers from the MGECEW	Combating of Rape Act, Combating of Domestic Violence Act, provisions for vulnerable witnesses
6 Sept/ Rehoboth	17 Rehoboth Woman & Child Protection Unit Management Committee members: 13 women & 4 men	domestic violence, rape, recommendations from the LAC study on rape; practical problems & solutions relating to gender-based violence
7 Sept/ Rehoboth	24 people including 9 police officers, 4 social workers & participants from clinics & schools: 15 women & 9 men	domestic violence, rape, recommendations from the LAC study on rape; practical problems & solutions relating to GBV
11 Sept/ Windhoek ½-day workshop jointly organised by NANGOF & GR&AP	members of the NANGOF Gender Sector, including representatives of 13 organisations	family-related law reforms which are very slow in moving forward (recognition of customary marriage, divorce, inheritance & the Child Care & Protection Bill)
25-29 Sept/ Windhoek	12 participants from a range of regions: 8 women & 4 men	enhancing training skills, Married Persons Equality Act, Maintenance Act

Transitions in Namibia: Which changes for whom?

The GR&AP Coordinator contributed a chapter to the book *Transitions in Namibia: Which changes for whom?* edited by Henning Melber and published by the Nordisk Afrika Institute. It is anticipated that this book will be well-distributed overseas, and will thus facilitate the spread of information on Namibian law reforms internationally.

Braille publications

The easy-to-read guides on gender law produced by GR&AP are of little use to persons with visual disabilities. To address this problem, GR&AP produced Braille publications containing the key points from its guides to rape and domestic violence legislation. The publications have been distributed to the target audience through organisations which work with the visually impaired.

Gender Training Manual and Resource Guide

The Gender Training Manual and Resource Guide was launched in August 2007. The manual, commissioned by the Ministry of Gender Equality and Child Welfare, is intended to guide trainers in conducting effective workshops on gender-related topics. It contains training modules on topics contained in Namibia's National Gender Policy, participatory exercises and hand-outs. The Minister referred to the manual as "powerful", "excellent" and "stimulating", and said that "it really inspires people to start thinking independently" about gender issues.

Survivors of domestic abuse often face cultural and family pressures that prevent them from seeking help. To combat this problem, GR&AP, Women's Solidarity Namibia and the PEACE Centre worked with UNICEF to develop a manual that could be used by community members to equip them to support survivors of violence more effectively. The manual provides training material on gender and gender concepts, assertiveness training, counselling skill and information on human rights and gender-related laws.

Rape in Namibia

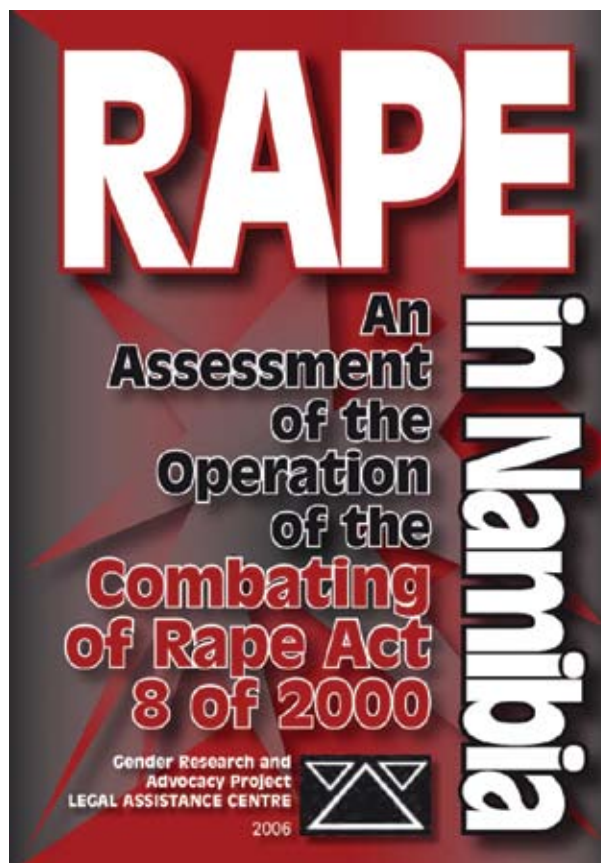
Details about the research report *Rape in Namibia* are on page 19.

TRAINING ACTIVITIES

GR&AP conducted a number of workshops and training sessions throughout the year on gender-related topics. (see table opposite) Participants included government, Parliament and Ministry officials, police, representatives of Women and Child Protection Units, social workers, members of NGOs, students, members of organisation such as the Namibian Federation of the Visually Impaired and community members.

Star trainers programme

The star trainers programme was the largest training project performed by GR&AP in 2007. The goal of the programme was to train trainers who could then train members of their community on gender-related issues. Twenty five people (19 women, 6 men) from all 13 regions of Namibia were identified to attend the first training workshop. A second "training of trainers" session was held 3 months later for 12 participants who were considered suitable for the second phase. As a result of this programme, 299 people in the regions were trained by the trainers. A list of the best trainers has been passed on to various Namibian groups who conduct training; Lifeline in particular has plans for



building on the work of GR&AP by providing additional training opportunities for these "star trainers".

FUNDING

During 2007, GR&AP received donor funds from the following agencies:

- HIVOS
- US-AID, through the Namibia Institute for Democracy
- Royal Danish Embassy
- Royal Embassy of the Netherlands
- Embassy of the United States of America.

STAFF

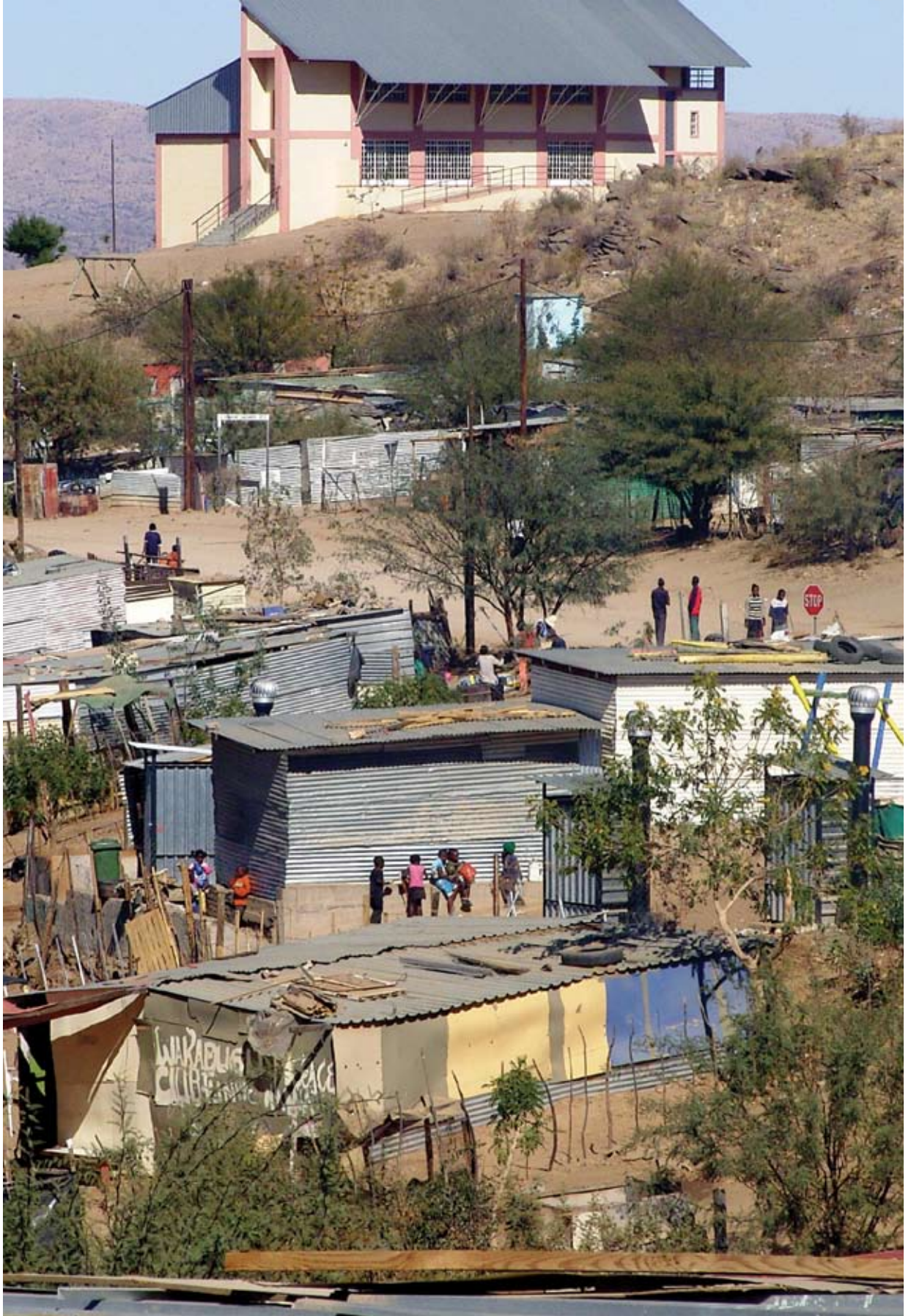
Dianne Hubbard – Coordinator
Anne Rimmer – Development & Training Manager
Naomi Kisting – Project Assistant for part of 2007
Sophie van Wyk – Project Assistant (shared with LEAD)
Dr Suzanne LaFont – Visiting academic
Wairimu Munyinyi – VSO Volunteer
Sonia Eggerman – Intern
Antonia Carew-Watts – Intern
Erin Valentine – Intern
Sanne Verheul – Intern
Martin Schulze-Allen – Intern
Katharina Kleikamp – Intern
Judy Munyiri – Volunteer
Masoma Sherazi – Volunteer
Rachel Coomer – Volunteer

For full details of GR&AP's activities in 2007, visit www.lac.org.na for the complete GR&AP 2007 Annual Report.

I am writing to express my gratitude for your supervision of Antonia Carew-Watts, a Harvard Law School student who worked with you to fulfil our mandatory pro bono requirement. This programme would not be possible without the supervising attorney's dedication and time spent teaching our students how to be effective advocates.

Lee M Branson
Harvard Law School
Pro Bono Service
Program
letter dated 30
October 2007

Human Rights & Constitutional Unit (HURICON)



Huricon consists of one legal practitioner, Toni Hancox, who attends to all litigation issues as well as co-ordination of the unit's activities. Such activities are currently centered mainly around litigation. In the future, Huricon hopes to limit its focus for given time periods in order to address identified problem areas in a more holistic way utilizing litigation, research and education. This will only be possible once the litigation load has been curtailed and this is Huricon's main focus at present. The funding situation in Huricon remains limited with funding being received from the Ford Foundation and the United States Democracy and Human Rights Fund. Such funding has, however, not made it possible to employ another legal practitioner both in terms of the financial ramifications and the fact that only short-term contracts can be considered. Obviously, the personnel situation in Huricon (or lack thereof) is not conducive to regular consultancy work in an attempt to bridge the funding gap, neither is the opportunity there to spend large amounts of time sourcing funding due to the time-limits involved in litigious work which must be respected.

LITIGATION

Rape

In August 2007, a positive judgment was handed down in the case of a mentally challenged girl being raped whilst under the care of hostel supervisors of the Ministry of Basic Education, which was argued in the High Court in early 2006. The Court found that the Ministry was vicariously liable for the breach of the duty of care by its officials and that the exact harm that can occur need not be foreseeable, it was enough that a general possibility of harm was foreseeable. The Ministry was ordered to pay the total sum of N\$105 000 to the child and her grandmother as well as a small sum for damages. Unfortunately, the Ministry of Basic Education appealed this judgment shortly afterwards with the appeal to be argued in 2008.

Refugee Status

A review application against a decision of the Ministry of Home Affairs and Immigration to refuse a family of refugees citizenship was also finalized and served. Clients have been living in Namibia for over 10 years, their child has commenced schooling here and both clients engage in employment sorely lacking in Namibia. There would seem to be no valid reason for refusing them citizenship and this will be challenged. This matter was subsequently opposed and a Stated Case which deals only with the law, is being considered.

Sexual Harassment

The first ever sexual harassment matter was brought to the High Court by Huricon in September 2007. The Plaintiff and her witnesses completed their testimony and Plaintiff's case was thereafter closed. Amongst the witnesses called was a Clinical Psychologist who testified that the perpetrator's actions had caused the Plaintiff to suffer from post-traumatic stress syndrome. The employer of the perpetrator was also sued in a vicarious capacity for failing in its duty of care. The matter was postponed to 2008 for the Defendants to put their case to the court.

Caprivi Torture

Extensive preparations were attended to in respect of five caprivi torture matters which were to go to trial for 10 days in late March 2007. This included numerous court notices, requests for additional particulars, subpoenas, supplementary discovery, bundles,

indexing and lengthy consultations with Counsel, clients and witnesses. After weeks of preparation, these matters were settled by government on the weekend before the commencement of trial. The necessary settlement agreements were then drafted. A provision of the settlement was that the terms remain confidential.

Police

Similar preparations were attended to in conjunction with the Legal Assistance Centre's in-house Counsel, Ms Lynita Conradie, in relation to the matter of a certain gentlemen who obtained access to a fire-arm whilst being interrogated by police officers at a police station and subsequently committed suicide. Maintenance was claimed from the Ministry of Safety and Security on behalf of the deceased's son and mother on the basis that they had a duty of care towards the deceased, who was in a vulnerable position. This matter went to trial in January 2007. After the Plaintiffs had closed their case, the Defendant applied for and obtained absolution from the instance, meaning that the Court did not find that the Plaintiffs had made out a prima facie case for the Defendant to answer. It was decided to approach the Supreme Court on appeal and the necessary documents were finalized. The matter was set down for hearing in late 2007 and the necessary Heads of Argument were finalized by Counsel. The matter, however, did not proceed since the Ministry abandoned the judgment obtained in their favour. The trial will now continue in the High Court in 2008.

NBC

The matter relating to the NBC's "youth in prison" documentary proceeded to trial in May 2007. The facts shortly are that client was in prison when he agreed to participate in the said documentary. Client, however, specifically requested that his face should not be shown on the program. When the program was aired during prime time viewing, his face was not obscured. Client, therefore, felt that his right to privacy was affected and he instructed Huricon to institute action on his behalf. To exacerbate the situation, the documentary was subsequently aired a further three times. Once the Plaintiff's case had been finalized, a postponement was granted to the NBC who had failed to secure their witnesses for the trial. Shortly before the matter was to continue in November 2007, a very favourable offer of settlement was made to and accepted by client.

Prisoner Assault

The matter of T Hamunyela, a prison inmate who was out on work duty when assaulted by a private citizen was due to be heard by the High Court in 2007. The contention was that the Ministry of Safety and Security have a heightened duty of care towards inmates since they are not at liberty to remove themselves from the situation in which they find themselves. The Ministry must take responsibility for their safety in circumstances where the inmates leave the prison enclosure. Since the assault was perpetrated by a private person (who has also been sued as the Second Defendant), the Ministry denied liability. This matter was ultimately settled by both the Ministry of Safety and Security and the private party.

Inheritance

Huricon drafted and filed an application on behalf of R Kalomo (a matter relating to the inheritance



rights of children born outside marriage) wherein permission was requested to bring a mandamus against the Judge who had previously heard the matter, ordering the Judge to hand down judgment. In the judgment then handed down, the court ultimately found against Mr Kalomo on the question as to whether the will in question was a valid will in Namibia, where the Testator complied with his national laws relating to wills but not the law of Namibia. An appeal has been noted to the Supreme Court which will be heard in 2008.

Police Cells

Huricon assisted outside Counsel with an urgent application in a matter where client alleged that the current conditions in the Windhoek Police Station cells offended against the Namibian Constitution's guarantee that all persons should be free from inhuman or degrading treatment. The application was dismissed for various reasons. The court did however order that the applicant be moved to the Windhoek Airport cells where conditions are better. This application was also reported in the media which placed the issue in the public eye.

Citizenship

A positive judgment was handed down in a matter relating to a client who had entered Namibia unlawfully and obtained fraudulent documents to remain in Namibia. He was charged, found guilty and paid a fine. In the interim, he had married a Namibian citizen and had four children. His application for citizenship was refused on the basis of his criminal record. The crux of the matter was whether client was ordinarily resident in Namibia for the required period of time even though he had come into the country unlawfully. The High Court found that he was so resident and that the requirements for residence are different for those applying for citizenship by marriage as opposed to those applying for citizenship by naturalization. The court also found that client's wife, the Second

Applicant, would have her constitutional family rights infringed should client be forced to leave Namibia. Government subsequently appealed against this judgment and the matter proceeds to the Supreme Court in 2008.

GENERAL

In addition, the co-ordinator attended pre-trial meetings with the Government Attorney in preparation for the 17 Caprivi torture matters to be set down for trial in 2008. Huricon is also still assisting a number of Caprivi detainees in claiming their pensions and other benefits from the Government of the Republic of Namibia, as well as numerous other small issues which effect trial-awaiting detainees. Huricon has taken on this role of facilitator in that the detainees do not have funding to recruit legal practitioners to guide them in this process. Consequently their ability to access their rights are severely impaired.

Non-litigious matters

These related in the main to issues involving citizenship and immigration. After the co-ordinator wrote an article relating to citizenship which was printed in a local newspaper and she subsequently appeared on national television discussing the issue, a flood of queries were fielded by Huricon. Arising from these queries, many letters were written for clients merely setting out the correct status of foreigners married to Namibian citizens from a legal point of view. Whilst the resources were not there to open files in each case, it was hoped that these letters would assist clients in that same confirmed that clients do not require work or residence permits in Namibia when married to a Namibian citizen.

Legal screening and advice

Huricon assisted with screening new clients and giving advice and referrals when appropriate. Clients are screened personally and by telephone. In addition, queries by mail are received on a daily basis and

are almost exclusively dealt with by the Huricon co-ordinator. This service is a small attempt to provide some free advice to indigent clients and at least steer them in the right direction even if the matter does not fall within the Legal Assistance Centre's mandate or cannot be taken on due to lack of funding. The situation is far from ideal, however, since in many cases the clients can arguably not take their issues further without some form of assistance.

SUPPORT TO OTHER ORGANIZATIONS

The co-ordinator is the trustee of the Hoofbeats Trust, Archillen Gawanab Trust and Maria Geelbooi Trust. These trusts are for the benefit of previously disadvantaged children and it is hoped that the resources will assist these children to prepare themselves adequately before entering the job market.

The co-ordinator remains a member of the Executive Committee of the Professional Arbitration and Mediation Association of Namibia (PAMAN). One of the objectives of PAMAN is to promote socio-economic development in Namibia.

The co-ordinator became a Councillor of the Law Society of Namibia in 2007, bringing a more intense human rights presence to the Council as a result.

WORKSHOPS, LECTURES AND ANCILLARY MATTERS

Drug Bill

The co-ordinator researched and compiled a Commentary on the Drugs Bill and appeared before the Parliamentary Standing Committee to make the necessary submissions in defence of the Commentary.

Gender & Development

Comments on the draft SADC Protocol on Gender and Development were also provided by Huricon.

Ministry of Prisons

The co-ordinator attended a meeting with the Commissioner, Deputy Commissioner and Legal Advisor of the Ministry of Prisons relating to reports in the newspaper of prisoners being assaulted and sprayed with pepper spray in a search for cellphones. A summary was drafted of such meeting which, in essence, agreed that a full investigation would take place.

Voter Education

During June 2007, Huricon drafted and finalized training materials for a voter education workshop and attended to the relevant training with the assistance of an intern from Canada, Martin Schulze-Allen.

Mental Health Act

The co-ordinator fine-tuned a draft Mental Health Act prepared by the intern which culminated in a workshop with the members from Forensic Psychiatry and other affected Ministries, in order to discuss the old and new law. During July 2007 a final draft of the proposed Mental Health Act was prepared.

Police Officers

The co-ordinator also prepared for and presented

two lectures to the police officers in a criminal investigation course focusing on the role of the defence attorney and general human rights issues in July and August 2007.

Motor Vehicle Accident Bill

During September 2007, the co-ordinator attended to peruse the new Motor Vehicle Accident Bill and met with stakeholders in this regard in preparation for the submission of comments.

Labour Bill

The co-ordinator prepared for and presented a paper on evidence to a workshop of employers and organized and drafted a submission to government relating to certain provisions of the new Labour Bill.

Meetings and Events

Throughout 2007, the coordinator attended a number of meetings and events with various organisations. Some of these included:

- The official opening of the High Court year
- The Law Society Council
- The EXCO meeting of the Professional Arbitration and Mediation Association of Namibia (PAMAN)
- Law Reform and Development Commission
- International Commission of Jurists
- Human Rights and Democracy Sector of the Namibian Non-Governmental Forum (NANGOF)
- A solidarity protest on behalf of the people of Zimbabwe
- Workshop on Access to Information
- Launch of Yelula/U-Khai Alliance 2015
- Launch of a project aimed at a gun-free Namibia

CONCLUSION

Notwithstanding a shortage of personnel and other resources, Huricon continues to make a difference in the life of Namibians and so also to the broader community. It is with regret that we turn potential clients away since we know that this currently is the last port of call for such clients.

However, Huricon can no longer viably engage itself in issues where the law has previously been set out or confirmed by our courts. Huricon must rather engage itself in issues that have not been properly ventilated and addressed.

In this regard, it would appear that economic, social and cultural rights are increasingly moving to the forefront. Whilst civil and political rights are the focus of any new democracy, the issue should surely be that those first generation rights must lead to an acceptable standard of living, no matter whether one lives in the so-called "third world" or not.

Since this is currently not a reality in Namibia, it is hoped that Huricon will continue to make a difference, one case at a time.

Community Volunteer Paralegal Training Programme (CPVT)



The majority of people Namibia do not have access to legal service and information, hence the need for the project to create and maintain a culture of Human Rights by providing legal service and information to marginalized people throughout the country.

OBJECTIVES

The aim is to ensure that marginalized and the poor have access to justice in the country. This was after the training of two hundred and eighty paralegal volunteers. Strengthen continuous support to established Community Offices at the various communities. Capacity building of the legal and management skills of the Paralegal volunteers involved in the implementation of the project at various Community Offices.

They need practical legal skills, advocacy and lobbying, management and good understanding of justice system. On the hand established Community offices where paralegals are operational are being given further logistic support. The project is also conducted information training workshops with communities on various laws regarded to have specific bearing to those communities. To conduct consultative meetings with stakeholders to establish future partnership and strengthen co-operation. The project is also part of the Human rights Advisory committee under the Office of the Ombudsman.

REPORTING

This report will cover a brief description and the activities that took place from January – December 2007. The activities covered in this report are for National Paralegal Association and the Community Paralegal Volunteers Training project.

CARRYING OUT OF ACTIVITIES

Training workshops

Information workshops are being conducted with the emphasis placed to marginalized communities in the rural area particularly traditional leaders and others. Special attention has been given to laws pertaining to traditional leadership, Communal land Reform Act, Testate and Intestate Succession, Married Equality Persons Act, Maintenance Act, Domestic Violence Act, HIV and AIDS and laws and Social Grants. During the period under review, training workshops were held at Okongo, Ongenga, Corridor 13at Aminus Constituency, Goreses, Okahungu at Otjinene Constituency, Chaka, Benhur, Omungwelume, and Keetmanshoop.

The first workshop was held on the 5th & 6th February 2007 at Rooidak gate in Tsumkwe area with a total of twenty six participants in attendance. It was evident during the workshop that more need to be done in order to create public awareness of the existing statutes and new laws among San people. The majority of San people are ignorant about their rights, which could be attributed to the lack of information, education and ignorance. It seems they also have little interaction with other tribes, as they are regarded second-class people. This normally results in more cases being reported and litigated.

The second workshop took place on the 7th & 8th February 2007 at Omatako Rest camp in Tsumkwe area. The other worrisome factors is that not so many San people having capacity to defend their rights because of the long historical discrimination and

maltreatment by other people.

The third workshop was facilitated by Okongo Constituency office on the 5th & 6th March 2007 at the Police headquarters for the group that was left out during the 2nd to 7th September 2006 training workshop. Thirty-one participants attended the workshop, including the Oukwanyama traditional Authority.

The fourth training workshop was held at Opuwo at the Ministry of Gender and Child Welfare's conference hall on the 12th & 13th March 2007. A total number of 28 participants attended under the same perceptions that tradition and cultural norms contributed to the low participation of women in decision making in many culture.

The other similar workshops took place at Farm Duplessis on the 13th & 14 April 2007, Corridor 13 Aminus Constituency on the 10 to 13 May 2007, Chaka and Goreses on the 26 to 30 October 2007 Keetmanshoop Okakarara on the 29 November to 2 December 2007.

Training of Paralegals

The training workshop with paralegals from all the regions took place on the 21st to 24th August 2007 at Safari Hotel in Windhoek. The objectives was to ensure that Paralegal volunteers are up to date with national and international issues pertaining to HIV & Aids human rights and the law.

The training was organized by the project in partnership with the Aids law Unit and Aids & Rights Alliance for Southern Africa (ARASA). The training was conducted by Mrs. Michaela Clayton of ARASA in Namibia and Mrs. Liesl Gertholtz a specialized consultant on international conventions on human rights from South Africa. Other partner organization also attended the training such as Yellula Umkhai, trade unions and government departments where some of the paralegals are employed.

E – Raiding training

The project was also involved in the training of e-raiding concept in Namibia facilitated by Community Education Computer Society of Namibia in partnership with Ungana Africa an NGO from South Africa.

The training was conducted by Tshepo Thlaku and Ms. Angela Tshwane both from Ungana Africa. This resulted in Cecs Namibia and the project discussing a partnership on e – raiding within the project as well as other interested partners. This means that some services can be out sourced to outside the organization/personnel rather than having someone full time.

Consultative meeting

The project held consultative meetings on the 02 March 2007 with partner organizations such as National society for Human Rights (NSHR) and Women Action for Development (WAD), National Institute for Democracy, Ministry of Health and social welfare and the office of the Ombudsman in order to assess shortcoming and further collaborations. Although paralegals that are organizations bound have more access to resources than the one at Community offices, their legal training will be more on their organizational intervention.

In house visits and management training

In house visits and management training at community offices was conducted at Okakarara, Gobabis, Omungwelume and Ongwediva. The three offices were provided with prepaid telephone line



and stationeries necessary for their operation except at Omungwelumbe because their telecommunication infrastructures are not prepaid compliant.

Printing of the Constitution in Braille

Our visual impaired members under the Federation of People living with Disabilities will now be accommodated as our Constitution is being translated into Braille at the moment by the Centre for Visual Impaired. It is expected that the constitution will be done by the end of May 2007.

The copies will be distributed through the Disability Advisory Unit in the office of the Prime Minister. The printing will take place after the Annual General Meeting, as there might be some changes on the constitution.

ACHIEVED RESULTS

Thus far, community-training workshops under the project have managed to reach the population in most communities.

There is an increase on more inheritance cases (properties grabbing) being reported now with Ohangwena region topping the list due to these training workshops. This is because the communities feel empowered to acclaim their rights, unlike in the past. Many women and men are no more losing their land and the estates of their spouses, as was the

case with inheriting under the many customary laws.

Community offices are better equipped which will contribute to a better legal basic services to member of the communities. This will also help paralegal volunteers to execute their work with some ease. More organizations and government departments are now coming forward for a co operation and partnership.

Our visual impaired members are now able to participate in policy and decision making process concerning the project.

RECOMMENDATION

It will be good in the future to continue with marginalized people from the rural areas who got little access to information compared to those living in town and cities.

For the project to be more efficient at regional level positions of regional Co ordinator need to be created who will be tasked with the running of Community offices that are operational on daily basis. Perhaps should funds be available, it will also be necessary to introduce allowances to active Paralegal volunteers.

This is because many unemployed volunteers are under pressure from their families, under the impressions that they are receiving a salary for the work they are doing. Should the above not be possible, more focus should be given to organizations based Paralegals who are full time employed.

Namibian Law Report (NR)



For legally-minded Namibians, there would be no way to easily access landmark cases if it wasn't for the Namibian Law Reports.

Under the guidance of Editor and Advocate Lynita Conradie, the Legal Assistance Centre releases several volumes of Namibian Law Reports a year, each chronicling dozens of important cases heard in the High and Supreme Court, as well as in the Labour Court.

It is the only legal resource of its kind in Namibia. Pouring over hundreds of pages of legal arguments and judgments, Lynita Conradie compiles a collection of judgements that set 'judicial precedent', meaning that it is the first ruling of its kind or that it has overruled a previous judgment and can be used as an example in future cases.

For lawyers or legal researchers, the judgements found in the Namibian Law Report help to tell them whether or not a client has a good case, and serve as legal authority in a particular case. For a judge, the Namibian Law Report provide a valuable history of Namibia's judgements.

Compiled by the LAC and published and distributed by JUTA and Co. in South Africa, the Report has been released since the project started in June 1994, with annual volumes covering Namibian judgments since the country's Independence in 1990.

In 2007, three new volumes of the Namibian Law Report were published. These comprised of 2004, 2005 and the first volume of 2006. Additional volumes are expected to be released in 2008. The 2006 Law Reports were the first to be published in two volumes. It is envisaged that the 2007 Law Reports will also be published in two volumes.

Further, an index published in cumulative form every 10 or 15 years, is expected to be released in 2008. This index contains a table of cases, a subject index and case annotations. This is a system of cross-referencing that enables a lawyer to find out which previous cases have been referred to in a particular judgement. The subject index is compiled from a summary which appears at the beginning of each judgement. This summary indicates what the case is about, for example, a case on contract, a criminal case dealing with sentencing or a case dealing with damages awarded in a motor vehicle case. A

cumulative index was published in 2001 covering 1990-2000. It is envisaged that a cumulative index covering 1990-2006 will be published in 2008. If the Reports were only collections of judgements without the indexing and cross-referencing system, they would be of little use to anyone.

Despite its value to the legal community in Namibia, there is a real danger that this service will soon cease as funding for the project has run out. As the Report serves a relatively small market, its publication is not financially profitable. It is well known that the more books printed, the cheaper the printing costs. Moreover, the editing of the Report requires a high level of skill in both language and law. It is also a time-consuming exercise, as each reference in a judgement must be checked, and the editor has to have a clear understanding of a judgement to be able to write the summaries that form part of a case report.

The Law Reports could doubtless be published less expensively, but this will result in lowering the standard of the publication which will in turn lead to the resource becoming less effective and less useful.

While Law Reports are not books that members of the public would read, cessation of the service will directly affect the administration of justice in Namibia. The system of judicial precedent requires that lawyers have access to previous judgements, which are in a systematic format to enable a quick and efficient reference system. Without the Law Reports, a lawyer or judge would not be able to perform his or her function efficiently and effectively.

The South African Law Reports provide a valuable source for lawyers, but since these decisions are no longer binding on our Courts, it is important that lawyers have access to Namibian jurisprudence. Unfortunately, the project is not of such a nature that donors may find it attractive and yet, without this resource, the administration of justice would be seriously compromised which in turn, will have an effect on the general public.

Many donors seem to hold the view that publishing Law Reports is the responsibility of the Government, yet, in many countries, such as South Africa, this task is undertaken by the private sector.

Financial Statements 2007

INCOME - Donations & other sources		
DONATIONS	2007 (N\$)	2006 N\$)
Africa Group of Sweden	1 025 428	236 220
Embassy of Finland	1 090 600	1 128 000
Embassy of Sweden	1 013 171	1 756 089
Embassy of the United States of America	15 513	-
Evangelischer Entwicklungsdienst	862 615	917 286
Family Health International	-	120 199
Ford Foundation	506 268	528 556
Gesellschaft für Technische Zusammenarbeit (GTZ)	117 341	226 400
HIVOS	947 320	1 720 841
HORIZONT 3000	-	1 317 017
IBIS	892 195	-
International Commission of Jurists	40 918	27 844
Law Reform & Development Commission	15 900	-
Legal Assistance Trust	225 263	1 024 083
Ministry of Environment and Tourism	35 100	38 680
Mulage Lawyers Association	18 225	-
Namibia Aids Prevention Trust	-	41 460
Namibia Association of Norway (NAMAS)	65 000	52 483
Namibia Breweries Ltd	-	15 000
Namdeb	100 000	-
Namibia Economic Policy Research Unit (NEPRU)	-	25 000
Namibia Institute for Democracy	304 084	-
Namibia Nature Foundation	100 086	97 661
North/ South Institute for Development	-	460 502
Open Society Initiative for Southern Africa	336 250	-
PACT Agencies Collaborating	1 152 267	403 560
Peace Trust	44 789	-
Population Service	103 934	-
Pupkewitz Holdings	1 000	1 000
Royal Danish Embassy	351 000	-
Royal Netherlands Embassy	74 672	250 910
SAFAIDS	-	55 461
Social Marketing Association	120 489	82 589
UNICEF	37 500	-
Working Group of Indigenous Minorities (WIMSA)	85 000	155 165
Other donations	48 554	-
Sub-total donations	9 716 482	10682 006
CONSULTING INCOME		
Icelandic International Development Agency (ICEIDA)	79 250	-
Programme for Land & Agrarian Studies (PLAAS)	28 587	-
Sub-total		
OTHER INCOME*	1 102 257	1 382 980
TOTAL INCOME	10 926 576	12064 986

CONSOLIDATED BALANCE SHEET as at 31 December 2007		
ASSETS	2007 (N\$)	2006 N\$)
NON-CURRENT ASSETS		
Property, motor vehicles and equipment		
CURRENT ASSETS	2 346 048	2 059 911
Trade and other receivables	590 352	325 256
Cash and cash equivalents	1 962 018	1 429 469
	2 552 370	1 754 725
TOTAL ASSETS	4 898 418	3 814 636
FUNDS AND LIABILITIES		
FUNDS AND RESERVES		
Accumulated funds	2 230 904	1 981 256
CURRENT LIABILITIES		
Bank overdraft	42 611	114 390
Other payables	695 874	1 121 480
Donations received in advance	1 929 029	597 510
	2 667 514	1 833 380
TOTAL FUNDS AND LIABILITIES	4 898 418	3 814 636

CONSOLIDATED INCOME STATEMENT for the year ending 31 December 2007		
INCOME	2007 (N\$)	2006 N\$)
Windhoek Office – core unit	3 276 956	4 275 239
EXPENDITURE		
Windhoek Office – core unit	(2 908 537)	(3 190 768)
SURPLUS FOR THE YEAR	368 419	1 084 471
ACCUMULATED DEFICIT AT THE BEGINNING OF THE YEAR	(285 754)	(1 370 225)
ACCUMULATED SURPLUS/ (DEFICIT) AT THE END OF THE YEAR	82 665	(285 754)
ACCUMULATED SURPLUS - PROJECTS	2 148 239	2 267 010
CONSOLIDATED ACCUMULATED SURPLUS AT THE END OF THE YEAR	2 230 904	1 981 256

*Bookkeeping and management fees, transport income charges, insurance claims, interest received, labour manuals, booklets and manuals, legal fees recovered, photocopy income, profit on sale of motor vehicles and equipment, rent received, endowment fund and sundry income



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