



# **LEGAL ASSISTANCE CENTRE**

**ANNUAL REPORT**

**2020**



*Fighting for human rights in this challenging time*



# INTRODUCTION TO THE LAC

## Vision

Namibia is a human-rights-based democracy founded on equality, justice and dignity.

## Mission

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

The LAC Office in Windhoek



## Main Activities

The Legal Assistance Centre (LAC) carries out its mission through three main activities:

- ✱ Legal advice and litigation
- ✱ Education and training
- ✱ Research, advocacy and lobbying

These activities are carried out through the LAC's three main units:

### Social Justice Project (SJP)

**Works directly to fight human rights violations.**

- ✱ Human rights and constitutional test case (impact) litigation, particularly in relation to socio-economic rights (i.e. the right to health)
- ✱ Human rights educational materials
- ✱ Legal advice
- ✱ Training of candidate legal practitioners, government officials and law enforcement agents
- ✱ Refugee rights

### Gender Research and Advocacy Project (GR&AP)

**Works to promote gender equality and the empowerment of women through legal research, law reform and related advocacy work.**

- ✱ Gender research for law reform and public debate
- ✱ Advocacy and lobbying for law reform
- ✱ Educational materials on family law issues with a focus on issues that affect women and children
- ✱ Education and training for communities and policy-makers on legal issues related to gender

### Land, Environment and Development Project (LEAD)

**Works specifically on land, environment and rural community empowerment issues.**

- ✱ Test case litigation on land disputes and access to land rights
- ✱ Legal assistance to community conservancies and community-based organisations
- ✱ Focus on wildlife crime
- ✱ Community dispute resolution
- ✱ Research and policy formulation on land rights
- ✱ Education and training on land rights and land administration

4 Marien Ngouabi Street, Windhoek  
P.O. Box 604, Windhoek, Namibia

**Telephone** (264) 061-223356 ✱ **Fax** 061-234953

**Email** info@lac.org.na ✱ **Website** www.lac.org.na

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# DIRECTOR'S **FOREWORD**

The Legal Assistance Centre works towards its vision by focusing on the following:

1. **Addressing inequality** – incorporating issues of discrimination, marginalised communities, LGBTI, HIV, gender, children, disabilities and inheritance.
2. **Socio-economic rights** – particular emphasis on health, education, refugees rights and water and sanitation; also incorporating issues of disabilities, land, environment and poverty as well as wildlife crime
3. **Rule of law / Access to justice** – incorporating issues of public education, police brutality, due process, *Namlex* (see page 9), governance, watchdog role, court process, elections and litigation.
4. **Emerging rights issues** – to allow us to respond to topical issues quickly.



LAC Director Toni Hancox

The 'new normal' in 2020 meant doing things differently. The status quo was challenged immensely and the LAC had to realign its activities to continue to make a difference. We are fortunate to have the facilities and infrastructure necessary to do so. The Covid pandemic has truly shown us that different communities face different challenges. Some are frustrated that they cannot leave home and go to the mall or the cinema. Going out for dinner would be a welcome respite. Others do not have the wherewithal to fret about such niceties. Their priorities are food, adequate shelter and, not least, access to water to keep their hands clean as recommended by pandemic protocols. This is a time to focus with renewed energy on the needs of all, across all communities. Human rights are not negotiable – not in any circumstances.

This Annual Report is not an exhaustive document that details *all* LAC activities in 2020, but rather it provides an overview of the work of each unit and the organisation in general in the period under review. More information on any topic can be made available on request.



The LAC won the prestigious "Award for Human Rights Excellence" for a fifth time. This is one of the four "Legal Excellence Awards" bestowed annually by the Judge JP Karuaihe (JPK) Trust. The awards were presented by JPK Trust Director Ngamane Karuaihe-Upi and Trustee Amanda Hauanga at the Annual General Meeting of the Law Society of Namibia on 4 December 2020. For further details see <https://www.lawsocietynamibia.org/content/news/2020-press-statements/judge-jp-karuaihe-trust-legal-excellence-awards>.



# SOCIAL JUSTICE PROJECT

## Medical negligence and access to health

SJP is handling over 30 cases of medical negligence, some of which are already before the High Court of Namibia. The number of health-related claims coming to the unit is increasing steadily. We intend to use statistics from all health matters filed in the High Court to bring an application to this Court for an order forcing the Minister to make several drastic changes to improve the health of citizens. The aim is to create a link between the right to health and the right to life. It must be said that the right to health is under serious threat in Namibia. It is impossible for SJP to assist in all matters; cases are chosen based on their public interest, either because they have the potential to change a law or policy or because continuous litigation in targeted matters will force the Ministry of Health and Social Services to sit up and take notice and focus on upgrading their level of care. Following are examples of cases ongoing or taken up by SJP in 2020:

**Vaccination:** All nine vaccination claims commenced in 2016 and have since been filed in the High Court on behalf of the parents whose children died after being vaccinated without proper assessment and without following World Health Organisation protocols. It is heartening to note that after the initial correspondence we addressed to the Minister of Health, additional measures and precautions were introduced before any further vaccinations were administered in state health facilities. We solicited the assistance of a local expert witness who specialises in paediatrics, and we elicited and received reports from specialists. The High Court heard the first matter in October and November 2020, and this trial will continue on 22-26 February 2021. A few other matters have been set down for trial in 2021, and others are at the pre-trial stage.

**Blood transfusion:** We filed a case on behalf of the client's minor daughter. Our client took her child to a hospital for treatment of severe diarrhoea and vomiting due to dehydration. The child's condition persisted and the doctors informed our client that the child needed an urgent blood transfusion. After the transfusion, the child experienced an infection on the site where the needle was inserted, which caused severe swelling and darkening on the surrounding skin. The severity of the infection resulted in amputation of the leg.

### Childbirth:

- Our client is the biological mother of a deceased baby born at Engela State Hospital, Ohangwena Region. At full term, she was admitted to give birth. Post admission, she did not receive any medical attention from hospital staff, but was merely ordered to walk off her labour pain. In doing so, she gave birth standing up, with no assistance from staff. The baby fell from her womb, hit the ground and died instantly. We requested and received the medical records, and have instituted action, with government opposing the claim.
- Our clients are the biological parents of a baby born at Katutura State Hospital. The newborn passed away and was cremated without the parents' authority. They never saw their baby or the baby's remains, nor have they seen any documentation of birth and death. We obtained the medical records, and legal action has commenced for monetary damages.
- Our client approached the LAC on behalf of the minor child of his deceased sister who had been taken to a state clinic for pregnancy-related treatment. She was then referred to Katutura State Hospital, where she gave birth with no complications and no diagnosis of any ill health in herself or her baby. When she returned to the hospital for her post-natal examination, an injection was administered, whereafter she was admitted and then put on life support. She never regained consciousness and remained in the hospital where she died on 19 November 2019. The child's new guardians did not want to proceed with this case.

**Covid-19 and post lockdown:** Our client is a stage-4 cancer patient who returned home to Namibia from the Netherlands in March 2020. The Ministry of Health and Social Services was placing all arrivals in supervised quarantine. She was housed with others in an unhygienic environment. Due to her weakened immune system, she was at high risk of a severe response to Covid should she contract it. Her condition requires chemotherapy and other treatments, and specified antibacterial cleaning material in her home. The Ministry was unable to provide the medication, yet refused to release her from quarantine. After we intervened, the Ministry permitted her to self-isolate at home for the remainder of the recommended period.



SJP participated in an NBC-TV Covid Update panel discussion on the topic of access to justice during the pandemic.



SJP continued assisting refugees at the Osire Refugee Settlement.



SJP assisted youth arrested in the #shutitdownNam protests.



The SJP staff, other LAC staff and external consultants who conducted a study on statelessness for the Namibian Government.



Interviewing in Rundu for the study on statelessness



Interviewing in Opuwo for the study on statelessness

## Police assault and human rights violations in correctional facilities

SJP is dealing with over 40 police brutality matters. An influx of these matters continues exponentially. In 2020 SJP filed 8 police brutality cases in addition to the ones already in court. One can only speculate as to the reasons for these brutish acts, but anecdotal evidence suggest that the police are becoming increasingly frustrated due to lacking materials and vehicles they need to do their work. Corruption is rife. One matter is at trial and the others are at different stages of case management. For the matters not yet before court but considered to have good merit for success, notices to take action against the Namibian Police (Nampol) and/or Namibian Defence Force (NDF) and/or Windhoek City Police have been served, while other matters are being considered pending our clients providing supplementary records. A few case examples:

- ✱ Our client was assaulted at her place of employment, with police alleging that she was involved in the theft of goods. This proved to be untrue. We argued the matter in the High Court, which judged in our client's favour and awarded her compensation of N\$10 000.
- ✱ Our clients were assaulted in their home by more than 40 members of the City Police, NDF and Nampol. We issued summons on our clients' behalf and litigation has commenced.
- ✱ Our client was sexually assaulted by other inmates in a police holding cell. He was placed in that particular cell at the instigation of a police officer with whom he had exchanged words earlier. The matter is before the High Court. Expert witnesses have been solicited.
- ✱ Our three clients were shot unlawfully by police in Bwabwata National Park. We intend to litigate.
- ✱ Our client was assaulted and tortured at a police station when she was a minor child. This matter is before the High Court at pre-trial stage.
- ✱ Our client suffers from chronic illnesses, and requires dialysis thrice per week. Due to the poor quality of food in the prison, he needs supplements to keep his body strong enough for dialysis. In the past he was allowed to receive supplementary foods from outside, but this practice was stopped and this affected his routine dialysis treatment. SJP addressed the Commissioner of Correctional Services and was assured that our client will be permitted to receive food from outside.
- ✱ NDF members assaulted our client during the Hornkranz operation on 31 December 2018. We obtained her medical records and argued the case in the second half of 2020. The trial will continue in 2021.
- ✱ A group of officers of different law enforcement agencies forcefully entered our client's residence where they physically assaulted her and other household members, and damaged her property in the process. This matter is set down for trial in 2021.
- ✱ NDF members assaulted our client with AK-47s until she lost consciousness. This occurred after she asked police officers why they had harassed and assaulted her neighbour. This matter is at pre-trial phase.

## United Nations High Commissioner for Refugees (UNHCR)

SJP continues its partnership with the United Nations High Commissioner for Refugees (UNHCR) to provide the refugees residing in the Osire Refugee Settlement with support and access to legal services. Our work persisted in the following fields: Status Determination, Resettlement, Access to Health, Divorce, S/GBV, and Protection and Safety Concerns. A wide array of reported cases have been addressed, with the relevant co-implementing partner of the UNHCR mandated to address these matters.

## Statelessness Project

In 2018, Namibia pledged to the UN to take steps to eradicate statelessness within her borders. The UNHCR is mandated to work with governments, UN agencies and civil society to address statelessness worldwide through a four-pronged approach: (1) Identification; (2) Prevention; (3) Reduction; (4) Protection. In October 2020, SJP was appointed as a consultant for a study on statelessness in Namibia as the first step towards fulfilling the pledge. This study was commissioned by the Ministry of Home Affairs, Immigration, Safety and Security and sponsored by the UNHCR. On 16 October 2020 the research team consisting of LAC staff and external consultants set out to conduct the fieldwork in all 14 regions of Namibia. In the process, the team also raised awareness about statelessness and encouraged affected people to come forward to participate in the study to help ensure an informed report. The response in all regions was overwhelming. The study also included desktop research on laws dealing with statelessness in Namibia. The study found that a large number of people in the country are undocumented and have no access to any government services. The final report will be handed out to the relevant stakeholders at the validation workshop in early March 2021, and will be posted on the LAC website. This study further strengthened SJP's good working relationship with the national office of the Commissioner for Refugees, and we are happy to report that the UNHCR has contracted SJP to take part in the second phase of the Namibia project, on *preventing* statelessness.

## Other SJP services and activities

**Wills and estates:** SJP is attending to three ongoing estates matters, one of which is in court. These matters are taken on primarily to train candidate legal practitioners on wills and estates. The files primarily relate to estates of elderly persons and/or minors without the means to enforce any claims.

**Trusts:** SJP is in the process of registering four trusts for clients, for work the organizations and clients will do to enhance public interest in various fields. Trust registrations are undertaken for purposes of training our candidate legal practitioners. SJP is also assisting existing trusts by providing legal advice pertaining to operation of such organisations. For instance, the Ministry of Environment and Tourism invited SJP and LEAD to make a presentation to the Aus Community Trust on the legal frameworks of trusts and managing trusts, and a tentative pledge was given to further facilitate a workshop for incoming trustees in 2021 on how same should be effectively managed.

**Divorces:** SJP has three divorce case files. One matter is set down for mediation to attempt settlement; one is under case management after the joinder application was granted in favour of our client; and one has been set down for a final order. Like trusts, we take on divorce cases to provide exposure to our candidates, and do so with the approval of the Law Society of Namibia.

## Miscellaneous

- **#Shutitdown:** SJP provided legal support in representation and advocacy for minors and young people who, while protesting against SGBV, were arrested and held at the Windhoek Correctional Service facility. SJP was one of the stakeholders that negotiated with the Prosecutor General, which resulted in all charges against the accused youths being withdrawn.
- **Covid-19:** SJP represented the LAC in an NBC-TV *Covid-19 Update* panel discussion on access to justice during the pandemic. The other panellists were representatives of the Ministry of Justice, the Namibian Police and the Law Society of Namibia.
- **#MeTooNamibia:** SJP forms part of the Legal Coalition for the MeTooNamibia campaign, and provides legal insight as requested. Examples of other coalition members are the Office of the First Lady, Regain Trust, Childline/Lifeline and BeEsprit Mental Health Hospital.
- **#BeFree Campaign:** SJP provides legal support to the Office of the First Lady at its campaign events. This campaign is aimed at the Namibian youth, and encompasses a wide range of legal and social concerns faced by the youth. In 2020 SJP provided support at the campaign events in Osire and Tsumkwe.



# GENDER RESEARCH AND ADVOCACY PROJECT

## Key accomplishments in 2020 (in the time of Covid with a staff of three persons!)

- ✳ Launch of the *Guide to Namibia's Child Care and Protection Act* and accompanying PowerPoints
- ✳ 16 workshops on the Child Care and Protection Act
- ✳ Comic, pamphlet and poster on medical interventions involving children
- ✳ Factsheet (facts and figures) on abortion in Namibia and the world
- ✳ Simple summary of initial State of Emergency Regulations and annotated versions of 23 subsequent sets of Covid-19 Regulations
- ✳ Updates and launch of three legal databases on Namibian laws
- ✳ Research on child pornography
- ✳ Input on nine proposed laws
- ✳ Nine *ProBono* columns researched and written for publication in *The Namibian* newspaper
- ✳ 47 media appearances ✳ Distribution of almost 35 000 copies of publications ✳ Assisted 150 clients



Yolande Engelbrecht, Celine Engelbrecht and Dianne Hubbard

## Guide to Namibia's Child Care and Protection Act

The Child Care and Protection Act 3 of 2015, Namibia's key legislation on children, came into force in early 2019. For the last few years, GR&AP worked together with the Ministry of Gender Equality and Child Welfare (MGEWCW)\* to produce a comprehensive *Guide to Namibia's Child Care and Protection Act*, designed to serve as a training and reference manual for service providers. This richly illustrated *Guide* consists of 28 chapters (spanning 712 pages), including examples, discussions of relevant case law and technical notes.

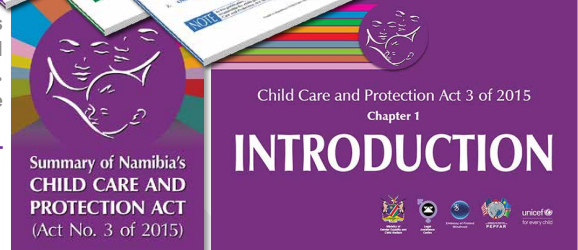
In May 2020 this project came to fruition with the printing and launch of the *Guide*, supplemented by several sets of PowerPoint presentations aimed at different audiences.

To comply with Covid-19 restrictions, the launch had to be a small event, but despite the small size, it was a matter of huge excitement to be able to make this resource available to the public. Dianne Hubbard of the LAC and Rahimisa Kamuingona of the Ministry spoke at the event.



In addition to the *Guide* and *PowerPoints*, there are 23 factsheets (available in English, Afrikaans and Oshiwambo), which can be used individually or combined as a summary booklet, and 7 comic books. Digital versions of **all GR&AP materials on the CCPA** are available on the LAC website: [www.lac.org.na](http://www.lac.org.na).

\* The MGEWCW was absorbed into the Office of the President in March 2020 and is now the Ministry of Gender Equality, Poverty Eradication and Social Welfare (MGEPEWSW).



## Training on the Child Care and Protection Act

GR&AP provided general and specialised training at 16 workshops on the Child Care and Protection Act. The trainings involved key roleplayers (such as police, social workers and clerks of children's courts), NGOs that deal with child protection and grassroots community groups.

Seven of the 16 trainee groups:

1. Philippi Trust and private social workers and healthcare providers
2. Professionals in Rosh Pinah, //Kharas Region, southern Namibia
3. Namibian Police members working in Oshana Region, northern Namibia
4. Clerks of children's courts and social workers
5. Stakeholders of the Namibia National Students Organisation (NANSO)
6. A youth group in the Havana informal settlement, Windhoek
7. Teachers at Rosewood Private Academy in Windhoek

The feedback from all groups was positive, and helpful for GR&AP's training planning. Feedback examples are presented below.



**“** It will benefit me a lot, because I'll apply the knowledge that I got and will also get a chance to educate others out there that didn't get a chance to receive this information. Please if you have not already, please have these kind of presentations in rural and marginalized communities in their preferred languages as frequently as possible. Yes, it was initially tough to follow, but with more practical examples things became clear. Grateful for the eye-opening training. Such information is very useful to all police officers who are dealing with issues as such on a daily basis. My knowledge was expanded to new dimensions, and I will use the information in my daily life. ... it was a very good workshop. Represented in a way that everybody could understand. It was the awareness of the Child Protective Act that includes a lot of things and at the end it is about the child. **”**

## Drive-by advocacy

We drew attention with our branded vehicle, and handed out bumper stickers with child protection messages and educational materials on the Child Care and Protection Act in numerous locations throughout Namibia.

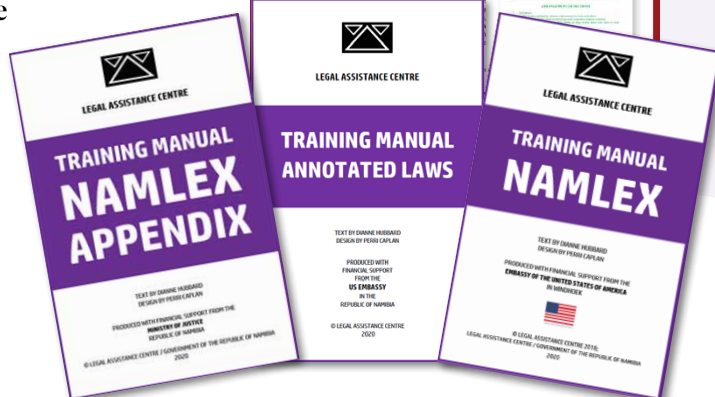
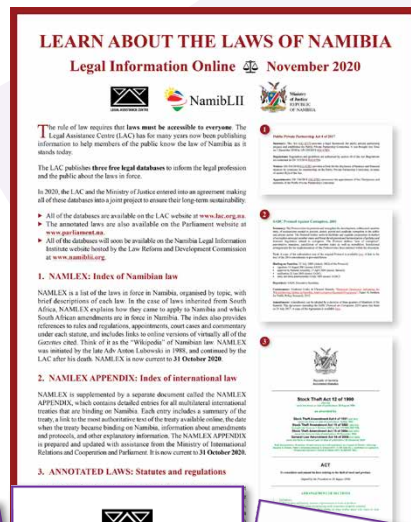


## Legal databases

GR&AP updated its three legal databases to 31 October 2020, and completed a set of three manuals on how to update each database, to ensure their sustainability in future.

1. **Namlex:** a list of the laws in force in Namibia, organised by topic, with brief descriptions of each law.
2. **Namlex Appendix:** a list of all multilateral international treaties binding on Namibia, including a summary of the treaty and relevant dates.
3. **Annotated Laws:** current versions of all statutes (including pre-Independence statutes) and all post-Independence regulations in force in Namibia, with all of their amendments incorporated.

On 19 November 2020, the most recent updates were presented at a launch of the public-private partnership between the LAC and the Government of the Republic of Namibia aimed at the sustainable maintenance of the three databases. The partnership involves the sharing of resources and work product, and training by GR&AP of government counterparts. The launch was organised by the Ministry of Justice and held at the Windhoek Country Club. The Executive Director, on behalf of the Minister of Justice, was the keynote speaker. Also in attendance were the Chief Justice and representatives of the Law Society, the Society of Advocates, and the Office of the Government Attorney. Presentations were made by Dianne Hubbard of GR&AP, Anél Stegmann of the Government's legal information website NamibLII, and Basilius Dyakugha, the Chief of the Law Reform and Development Commission. This event was live-streamed on the Ministry of Justice social media channels and featured on Future Media, Radio Cosmos and *The Namibian* website.



## New publications

### Medical interventions

GR&AP produced a comic, a pamphlet and a poster explaining the rules in the Child Care and Protection Act on medical interventions involving children. The comic was distributed nationwide as an insert in *The Namibian* and *Die Republikein* newspapers on 18 December. The poster is being distributed for display at clinics and hospitals.



### Abortion facts and figures

Following on a renewal of public debate about whether access to legal abortion should be liberalised in Namibia, GR&AP produced a 2-page factsheet on abortion intended to inform the national debate with accurate national and international facts and figures. It was published on the LAC website and circulated to relevant stakeholders.



### Covid-related information materials and regulations

Produced by GR&AP on behalf of the LAC – see page 13 for details.



# LAND, ENVIRONMENT AND DEVELOPMENT PROJECT

## LAND

**Etosha case:** Being the first ancestral land rights claim in Namibia, this case involves issues not previously ventilated in Namibia's legal system. The system does not recognise representative (class) action procedures. Thus, in order to bring the claim to court on behalf of 2700 Hai||om San, the Applicants first applied to the High Court to challenge the relevant premises of the judicial system. The case was heard in November 2018 and our clients were unsuccessful. A hearing date for the appeal filed in December 2020 is still awaited. Success in this appeal could make positive changes to the Namibian jurisprudence on the interpretation of *locus standi*. Class actions can be especially beneficial to those who want to determine their socio-economic and environmental rights, also known as third-generation rights. On an international level this application has required soliciting an affidavit from James Anaya, former UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples. Meanwhile the LAC has fulfilled the request of the Commission of Inquiry into Claims of Ancestral Land Rights and Restitution (constituted by the President of Namibia) to submit two ancestral land submissions, for the Hai||om and the Khwe San.

**Publications:** LEAD published a book titled "*Neither here nor there*": Indigeneity, marginalisation and land rights in post-independence Namibia, consisting of 14 chapters on different topics deliberated in the Second National Land Conference (2018). Each chapter was written by one, two or three authorities on the applicable topic, with a total of 25 authors. The book and an accompanying policy brief are available on the LAC website,\* and hard copies can be obtained at our office. NBC German Radio aired a review of the book twice in September 2020.

Four more land-related policy briefs (by four different authors) were finalised for publication in 2021. These too will be available on the LAC website:

- ✱ *Institutionalisation and Institutional Voids of Namibia's Communal Land Reform Act*
- ✱ *Land Governance on Communal Land in Namibia*
- ✱ *The Role of Constitutional and International Law in the Development of Ancestral Land Rights Claims in Namibia*
- ✱ *The Seditious State: How to shake the poor from the communal-land safety net*

An example of further litigation dealing with ancestral lands is the *Marwilben* case which deals with the right of indigenous peoples to access the Orange River from the Namibian side for grazing their livestock.



**Illegal grazing:** Illegal grazing has long been taking place in the Nyae Nyae Conservancy in Otjozondjupa Region. The Chief of the Ju|'hoansi traditional community, along with the Conservancy and the Community Forest of Nyae Nyae, sought the LAC's assistance to bring an application to interdict the unlawful occupiers and herders from occupying the conservancy land and the communal land that falls under the Chief's jurisdiction, and from using the resources without lawful authority. The application, made some four years ago, was unsuccessful on the basis of a formality. This decision has been taken on appeal. Illegal grazing remains prevalent and the incidence rate grave enough for this application to be heard on the merits. We are awaiting a date for the Supreme Court hearing.

\* [www.lac.org.na/projects/lead/Pdf/Neither\\_here\\_nor\\_there-2020.pdf](http://www.lac.org.na/projects/lead/Pdf/Neither_here_nor_there-2020.pdf) and [www.lac.org.na/projects/lead/Pdf/neither-policy-brief.pdf](http://www.lac.org.na/projects/lead/Pdf/neither-policy-brief.pdf).



Photo of illegal grazing published in the *Namibian Sun* newspaper



Photo of illegal fencing published in *New Era* newspaper

**Illegal fencing:** There has been an increase in the number of illegal fences in the Nǀa Jaqna Conservancy and communal areas in Tsumkwe District, Otjozondjupa Region. In 2015 the LAC brought an interdict on the Conservancy's behalf against outsiders erecting illegal fences within the jurisdiction of the Conservancy Committee. The High Court found that the Conservancy did have the legal capacity to be heard, and ordered the removal of the fences. This judgment set a precedent for other conservancies and the problem of illegal fencing on communal land in the rest of the country. However, this order has not brought actual relief to the communities affected, since the respondents have simply refused to remove the fences in flagrant contempt of court. An aerial-photography survey was completed and our clients pointed out offending fences. A new holistic approach is now being conceptualised to provide a lasting solution to the overall problem of illegal fencing, in view of the direct influence that fences have on livelihoods.

**Land rights litigation:** LEAD deals with a wide variety of cases relating to land rights. This litigation raises a number of questions about communal land and traditional authority, which require substantive answering in respect of future situations. The following are four key case examples.

- ✱ ***Ministry of Land Reform and Another v Kamunguma and Others:*** The Maharero Traditional Authority made a claim against our client for unlawful occupation of a portion of communal land that it manages, and requested the High Court to evict him. Our client was successful in the court proceedings, and this judgment has set a precedent for raising a defence under the Communal Land Reform Act for a case of ejectment under civil proceedings.
- ✱ ***Nguajakes & Others v Ministry of Land Reform:*** This is an application for the review and setting aside of an Appeal Tribunal decision. The question is whether the Appeal Tribunal can accept new evidence (other than the evidence already before it) to conduct its proceedings. The High Court found that it was improper for an Appeal Tribunal to request further evidence to come to a decision, but had to make an order specifically in relation to the requirements of the Communal Land Reform Act.
- ✱ ***Bakgalagadi:*** The question is whether an elected chief can make customary law to enthrone him/herself.
- ✱ ***Kashela:*** The Supreme Court found that customary rights are recognised in that such rights ought to be considered by Local Authorities and in terms of the laws regulating expropriation.
- ✱ ***Kapika v Kapika:*** The question is what procedures the Minister of Urban and Rural Development must follow in appointing a Chief of a Traditional Authority. Our client challenged the appointment of his brother and was unsuccessful.

**Urban land and housing:** Due to a lack of statistics and information as to living conditions in informal settlements, LEAD has commenced with a qualitative survey of various settlements, which entails obtaining information from residents of these settlements as well as interviews with various stakeholders.

## Environment – healthy ecosystems and natural biodiversity

**Promotion and support of the Prosecutor-General's Wildlife Task Team:** LEAD continued to collect data on wildlife crime litigation from the Magistrates' Courts in order to feed this into a database. The database, Cyclops, is used by prosecutors and investigators of wildlife crime to facilitate the cohesion of criminal charges in Namibia and thereby establish the extent and duplication of wildlife crime.

**Baxu and the Giants:** This film tells the story of rhino poaching from the perspective of a Namibian family as they experience radical changes when rhino poachers enter their area. We see how the decisions of Namibians, especially young people, determine the future of our rhino population and the fate of Namibia's rich cultural and natural heritage. The lead actress, 10-year-old Camilla Jo-Ann Daries, was highly praised for her performance as a 9-year-old, and bagged the Best Actress award at the 2019 Namibian Theatre and Film Awards, becoming the youngest Namibian actress to receive this award. Launched in Windhoek in September 2019, the film has since made its way across the globe, attracting international film awards:

- ✳ San Francisco Independent Short Film Festival: Best Foreign Narrative
- ✳ Canadian Cinematography Awards: Best cinematographer – Kit Hoffmann
- ✳ European Cinematography Awards: Best cinematographer – Kit Hoffmann
- ✳ Namibian Theatre and Film Awards: Best Actress – Camilla Jo-Ann Daries; Best Editing – Robert Scott; Best Production Design – Tanya Stroh

In September 2020 the film was launched on Netflix. The film crew hosted a launch party, which the LAC attended. The feedback from Namibian social media influencers and others has been positive.

**Visit to State House:** LEAD invited the two main actors in *Baxu and the Giants* to State House to hand over postcards addressed to President Hage Geingob, encouraging him to protect Namibia's wildlife and environment for the future generations. This effort to engage the President proved worthwhile, as reflected in the extensive media coverage, e.g. on the President's Twitter and Facebook pages (23 June 2020) and the front page of *New Era* newspaper (24 June 2020).

- ✳ [www.namibiansun.com/news/geingob-receives-wildlife-postcards2020-06-29/](http://www.namibiansun.com/news/geingob-receives-wildlife-postcards2020-06-29/)
- ✳ <https://economist.com.na/53929/environment/combining-law-and-creativity-to-combat-wildlife-crime/>
- ✳ [www.nbc.na/news/lac-hands-over-postcards-written-learners-zambezi-khomas-president-geingob.33278](http://www.nbc.na/news/lac-hands-over-postcards-written-learners-zambezi-khomas-president-geingob.33278)
- ✳ [www.we.com.na/news/poaching-postcards-handed-to-state-house2020-06-24](http://www.we.com.na/news/poaching-postcards-handed-to-state-house2020-06-24)



Photo on the President's Facebook page

**Awareness-raising:** Around 1750 learners in urban settings and 2300 in rural areas were reached with screenings of *Baxu*. After each screening there was a discussion about the film's message and why wildlife protection is important for the country and the communities. For an example of a media report on the screenings, see [www.we.com.na/news/katuturas-homeless-learn-from-baxu2020-05-29/](http://www.we.com.na/news/katuturas-homeless-learn-from-baxu2020-05-29/).

## Sustainable development

**Forestry:** LEAD approached the Ombudsman's Office with a view to ascertaining its stance regarding the ongoing timber-harvesting controversy in Kavango Region. The Ombudsman expressed a desire to support any legal intervention to curb the illicit trade, but how this could be accomplished or what strategy may be employed was not readily ascertainable. Various government statements have suggested that a moratorium is in place and that cross-border timber transit is properly monitored. There is some evidence to support the view that harvesting permits are issued unscrupulously and harvesting is not limited to defined areas or species, or according to any environmental management programme. LEAD is researching this matter and will possibly embark on a legal intervention strategy to control unsustainable forest and ecosystem destruction. LEAD has meanwhile addressed the Parliamentary Standing Committee on Natural Resources and Economics on the negative impact of unsustainable logging of indigenous wood species in Namibia.

**Oil exploration:** LEAD has been given the status of interested party to the proceedings taking place in Kavango regarding oil exploration, and we have received complaints by directly affected parties regarding the process and stages of exploration. These parties also include indigenous people living from the natural resources affected by the operation. LEAD continues to provide support to the traditional authorities, ranging from assistance with litigation to the drafting of trust deeds and providing advice regarding the Traditional Authorities Act and how to properly address its requirements.



# OTHER HIGHLIGHTS OF 2020

## Screening services for walk-in clients

Our daily screening services assist walk-in clients and serve to identify possible areas of future intervention. Over 1000 matters were screened in 2020.

## Another LAC legal practitioner admitted

In 2020, one of our candidate legal practitioners, Bradley Khoa, was admitted as a legal practitioner of the High Court of Namibia. We are very proud of him!



Bradley Khoa

## Public education

**Newspaper column:** In 2017 an initiative to provide public education was conceived. An agreement was reached with *The Namibian* newspaper to print a monthly column titled *ProBono*, which seeks to explain various aspects of the law to laypersons. Seventeen *ProBono* columns were produced in 2020:

- ✱ Presidential debates
- ✱ Illegal fencing
- ✱ Use of force
- ✱ Powers of the Law Society  
(a topic prompted by the Fishrot scandal)
- ✱ Overview of environmental laws
- ✱ Admission of guilt fines
- ✱ Ancestral land claims
- ✱ What is international law and why does it matter?
- ✱ Climate change
- ✱ Oil exploration in Kavango
- ✱ The Wildlife and Protected Areas Management Bill
- ✱ The role of Traditional Authorities in promoting sustainable use of Namibia's natural resources
- ✱ Criminal convictions of Members of Parliament
- ✱ Victims' rights to information
- ✱ Domestic violence and same-sex relationships
- ✱ Allegations of witchcraft
- ✱ Access to Healthcare

*The public is invited to submit topics for the column.*

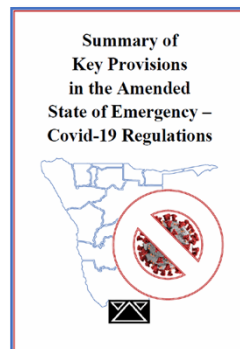


LEGAL ASSISTANCE CENTRE  
*Fighting for human rights in Namibia since 1988*



# ProBono

INFORMATION ABOUT NAMIBIA'S LAW



## Covid-19:

On the LAC's behalf, GR&AP, with input from other staff, prepared the following information materials, which were posted on the LAC website and also distributed to partners and the public via email and social media:

- ✱ a summary of the initial State of Emergency Regulations – prepared at the request of NamPol's Deputy Commissioner – and a similar summary of the post-lockdown "Stage 2" Regulations;
- ✱ a press release on the State of Emergency; and
- ✱ a booklet titled *Your Rights in a Global Pandemic*.

In addition to these materials, GR&AP has prepared annotated versions of all successive Covid-related regulations (23 sets in 2020) for posting on our website.

On several occasions, the Namibian Broadcasting Corporation (NBC) interviewed LAC staff on different aspects of the lockdown, such as labour issues and the limits of enforcement of the lockdown regulations. These interviews were aired on TV and radio in English and other Namibian languages.

## Collaboration with other organisations and other matters of interest

The LAC remains a member of the **Action Coalition** that is advocating for access-to-information legislation, citing freedom of expression as an important human right, without which there cannot be a true democracy.

The LAC Director continues to serve on the Project Team of the Law Society of Namibia's Change Project. This project is doing extensive research on the practice of law as it currently stands and what can be done to address same in order to make the law a proper tool for substantive change. The Change Project is also looking at current realities for the legal profession, and recognises that change must take place for the profession to remain relevant and viable. Draft legislation is in the process of being finalised.

The Director continues to serve on the **National Bioethics Working Group**.

In 2020 the LAC became a founding member of **Civic+264**, which seeks to become a central point listing current civil society organisations (CSOs) with their contact details. The basic idea is to provide civil society with regular funding opportunities as well as information that could affect civil society. CIVIC+264 will also be able to provide contact information for those seeking to engage with any particular CSO.



The Director attended a number of meetings, functions and workshops in 2020, featured in various media on several occasions, and represented the LAC in other ways. A few examples (in no particular order):

- Official opening of the High Court of Namibia
- Law Society of Namibia Annual General Meeting
- Workshop on CSO sustainability
- Civic+264 official launch
- NBC Radio interview on the State of Emergency
- NBC *Covid-19 Update* programme interview on human rights
- NBC interview on racial discrimination
- State House ceremony organised to deliver postcards prepared by the wildlife crime school outreach programme
- Meeting with the Ombudsman and Action Coalition to discuss the Government/CSO policy
- Radio Kosmos interview on the LAC's official position on abortion
- Electoral Commission workshop
- Podcast on Covid-19 and human rights
- Planning meeting of the Basic Income Grant Coalition
- Podcast on hate speech and racism with Gwen Lister (16<sup>th</sup> *FreeSpeak*)
- Interviews with various media on the meaning and need for access to information during elections
- Voice note to Eagle FM Radio on recent racist attack
- Namibia Media Trust march for journalists
- Three NBC TV and Radio interviews on Human Rights Day

## Planned way forward

The LAC units will continue working in their respective focal areas in 2021, with renewed energy and increased synergy between them after the very difficult challenges of 2020. We will also continue to prioritise our fundraising efforts to ensure that the LAC can continue its valuable work in 2021 and beyond. Considering that an unacceptable number of Namibians continue to seek basic needs, our work remains essential for "making human rights real" in Namibia.



Photo from The Namibian



The Namibia Media Trust march for journalists on 2 November, the International Day to End Impunity for Crimes Against Journalists



# OUR DONORS IN 2020

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**We extend deepest thanks to our donors  
for supporting our work in 2020.**

Africa Groups of Sweden (AGS)

American Bar Association (ABA)

Brot für die Welt

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)

European Union (EU)

Friedrich Ebert Stiftung (FES)

German Embassy

Hanns Seidel Foundation (HSF)

Namibiaforeningen  
(a.k.a. Namibia Association of Norway – NAMAS)

Open Society Initiative for Southern Africa (OSISA)

United Nations Children's Fund (UNICEF)

United Nations High Commissioner for Refugees (UNHCR)

United States Agency for International Development (USAID)

United States Embassy

World Wildlife Fund (WWF)

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## ACKNOWLEDGEMENT OF KEY PARTNERS

The **Ministry of Justice**, while not a donor to the LAC, merits special acknowledgement for the public-private partnership between the LAC and the Ministry launched in November 2020 in respect of the legal databases, as discussed in more detail on page 9 of this report. We extend a special thanks to the Ministry for this invaluable partnership. We would also like to thank the **National Archives** and the **Parliamentary Library** for their ongoing support in respect of the legal databases.

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# GET IN TOUCH WITH US

A large volume of information about the LAC's activities (projects, cases, publications, etc.), donors and finances, as well as digital versions (PDFs) of most LAC publications, are available on our website: [www.lac.org.na](http://www.lac.org.na). Hard copies of many of our publications are available at our office (but first contact us for confirmation of current availability of a particular hard copy): **4 Marien Ngouabi Street**, Windhoek. You can also follow the LAC on our very active Facebook page: [www.facebook.com/LACNamibia/](https://www.facebook.com/LACNamibia/).

The LAC Director and Coordinators of the LAC units can be contacted by telephone (**061-223356**) or at the following email addresses:

- ✱ **LAC Director: Toni Hancox**  
Email: [thancox@lac.org.na](mailto:thancox@lac.org.na)
- ✱ **SJP Coordinator: Sharen Zenda**  
Email: [szenda@lac.org.na](mailto:szenda@lac.org.na)
- ✱ **GR&AP Coordinator: Dianne Hubbard**  
Email: [dhubbard@lac.org.na](mailto:dhubbard@lac.org.na)
- ✱ **LEAD Coordinator: Corinna van Wyk**  
Email: [cvanwyk@lac.org.na](mailto:cvanwyk@lac.org.na)



**Toni Hancox**



**Sharen Zenda**



**Dianne Hubbard**



**Corinna van Wyk**

The **Financial Manager, Vasisee Kuvare**, oversees our accounts office. In so doing, she deals with the financial reporting to donors and facilitates the annual audit of the LAC. These primary duties include:

- ✱ engaging with each donor;
  - ✱ providing financial updates to the LAC units vis-à-vis their respective donors;
  - ✱ overseeing the input required by the auditors; and
  - ✱ providing the final financial statements to our Board of Trustees.
- Vasisee can be reached by telephone or email: [vkuvare@lac.org.na](mailto:vkuvare@lac.org.na)



**Vasisee Kuvare**