

2014 Annual Report for the Gender Research and Advocacy Project

Highlights of 2014

The most **exciting development of 2014** came right at the end of the year when the **Child Care and Protection Bill was reviewed by both houses of Parliament**. The bill, which has been in draft form for nearly 20 years, will make a significant difference to the lives of children in Namibia. Parliament's favourable response to this Act in 2014 was a major milestone, and the Act is expected to be gazetted in early 2015 after one outstanding issue is resolved.



GR&AP continued its core functions of research, advocacy and outreach throughout 2014 conducting research on **the rights of lesbian, gay, bisexual and transsexual people in Namibia**, advocacy on a wide range of areas particularly **domestic violence** and **Constitutional issues** and outreach on **various family law issues**.

We produced a **new animation on alternatives to corporal punishment** and finalised (but did not yet release) a further 4 comics, 4 posters, 2 animations and 4 pamphlets on social responsibility in schools and LGBT rights.



We continued to work on a number of other projects including the **annotation of all pre- and post-independence Namibian statutes** and two **roadshows to magistrates' courts in various regions, to discuss domestic violence and maintenance**.

We continued to **maintain our media presence**, regularly appearing on television and radio and providing interviews, quotes and opinion pieces in print and social media. We also maintained a steady **distribution of our materials throughout the country**.



RESEARCH AND ASSOCIATED OUTREACH



In 2014 GR&AP conducted research on **lesbian, gay, bisexual and transsexual (LGBT) rights in Namibia**, which incorporated intersexuality and other gender identities which depart from what many societies tend to perceive as the “norm” of heterosexual males and females.

The starting point for understanding LGBT issues is the difference between sex and gender. However for most legal purposes (such as the crime of sodomy or the ability to marry), questions of sexual orientation and identity are irrelevant with the law being concerned only with the biological sex of the persons in question and their behaviour.

The purpose of our research, supported by the **US Embassy in Namibia**, has been to assess the current legal protections available – and unavailable – to LGBT people in Namibia. The research covered the following areas:

- constitutional law
- international law
- crimes which target LGBT people
- protection for LGBT people against discrimination and abuse
- health issues
- sex change
- labour issues
- refugee status in Namibia for persons being persecuted for their LGBT status in other countries.

We conducted **public dialogue on current legal conditions for the LGBT community, and presented and discussed key research findings**, with five communities in Swakopmund, Windhoek, Gobabis, Keetmanshoop and Okahandja. The participants (the majority of whom were LGBT) were outspoken and confident but petrified at the same time. The participants

spoke about unfair and biased treatment by law enforcement agencies, family and community members, problems accessing health services (especially at state facilities), poor access to the employment market, discrimination on sexual grounds, interference with their religious rights and violations of privacy. Added to these problems were the lack of protection under existing laws and the lack of counselling services adequate for their specific needs. A key outcome of the meetings was seeing the groups realise they can do something about their rights being violated. At the start of the workshops, the participants often seemed to have given up hope because of the perception that there is nothing that can be done to stop people from violating their rights; by the end, participants realised that there are some legal protections available to them. Despite this positive change, it was also clear that, in Namibia's homophobic environment, it may take a long time before the participants will have the confidence to demand their rights.

We have also converted information identified in our research into **pamphlets** on four areas:

1. Family
2. Health
3. Labour
4. Protection.

The pamphlets have been translated into Oshiwambo and Damara>Nama.

All materials on this topic will be available for distribution in early 2015. We started media outreach on the topic, including the publication of an opinion piece by visiting lawyers, and we will continue to discuss LGBT rights in 2015.



ADVOCACY



Domestic violence

In 2014 our advocacy focused on addressing gender-based violence. This was also a political priority as reflected by the National Day of Prayer organised by the government in March and the national conference held in July.

Our activities were as follows:

- **Presentation on GBV in the context of alcohol at a regional consultative conference** organised by WHO and UNDP. The meeting was attended by representatives from Botswana, Democratic Republic of Congo, Guinea Bissau, Kenya, Liberia, Malawi, Namibia, Nigeria, Norway, Sierra Leone, Zambia, and Zimbabwe, as well as regional and global experts.
- **Presentation on withdrawal of GBV cases at the Second National Conference on GBV** organised by government. Participants included the President (who gave the opening speech), Prime Minister, politicians, UN representatives, high ranking officials in government and private institutions as well as almost 1000 members of the public from various regions. However we remain sceptical that high-level conferences are the best strategy to address GBV at this stage, being of the view that priority should be given to community-based interventions and



work to improve the response of front-line service providers. We **followed up our presentation with a letter to Office of the Prime Minister** summarising our recommendations on case withdrawals and our concerns that the family law reforms included in the GBV Plan of Action are not being implemented.

Newspaper coverage of the event included an article discussing the speeches made by President Pohamba and Yolande.

President ashamed by gender-based violence

by Nomhle Kangootui

PRESIDENT Hifikepunye Pohamba said he was ashamed by the high levels of gender-based violence and the hideous crimes committed against women by Namibian men.

Speaking at the second National Gender-Based Violence Conference, organised by the Office of the Prime Minister yesterday in the capital, Pohamba said the country has gained a shameful reputation because of the ongoing violence.

“What kind of a society am I leading? We continue to lose innocent lives, especially those of women and girls as a result of gender-based violence, perpetrated mostly by men. We are destroying the good name of our country,” he said.

The Legal Assistance Centre’s Yolandy Engelbrecht called on the Ministry of Gender Equality and Child Welfare to build more homes for women and children.

“The withdrawal of GBV cases is on the increase because most of the women have no other choice than to go back to the boyfriends or husbands. They have nowhere else to go. We also call on traditional leaders to be strict and fair when it comes to these cases. They should not be paid to dismiss GBV and rape cases,” Engelbrecht said.

The Namibian, 3 July 2014

- **Presentation on GBV in the military** at a regional information exchange forum organised by the Ministry of Defence
- **Presentation on “Putting Ideas into Action”** (covering key recommendations from our research on rape, domestic violence and maintenance) at a Gender Justice Colloquium organised by UNICEF
- **Presentation on withdrawal of GBV cases and protection order applications** to the Gender Based Violence and Human Rights Cluster organised by the MGECW
- **Working with the Association of Diplomatic Spouses on practical activities to address GBV** (Based on suggestions and information we provided, ADS re-decorated the client reporting room at the Katutura WCPU and put together 500 toiletry bags to be given to victims of violence. These bags contain soap, cream, a comb, underwear, Vaseline etc.)

At the ADS handover we made the following short speech:

This year we have seen the government, international donors, civil society and the community speaking out on the need to reduce the level of GBV in the country. We have seen large and expensive conferences being held to discuss how to deal with the problem; these conferences have caused a lot of media hype but have made little difference to the needs of victims of violence. Today we are witness to actions that will be far more beneficial to the victims of domestic violence; actions that turn victims into survivors. The support provided by ADS is practical and much needed. The group looked, learned and listened to the needs of Namibia and have provided real, useful, and immediate support. The renovated room provides a private space for a traumatised victim to report what has happened. The bags of toiletries provide much needed necessities, helping to rebuild dignity after a traumatic event. We hope that such good work can be replicated across the country by other groups and organisations who can witness how a little effort can go a long way in making change.



- **Presentations about domestic violence** to groups such as the Roundtable of Namibia, the International Women of Namibia Association and GIZ Namibia
- **Facilitation of a week-long workshop with community members in Luderitz** (More information below.)
- **Development and testing of new forms to complete when applying for a protection order**

- In response to the Cabinet Plan on GBV, **GR&AP prepared a series of four articles on the key legal issues raised by Cabinet for publication as a series in *The Namibian*** (bail, parole, longer sentences and one article on what Cabinet did not raise but should have). Two of the articles were published in 2014, and all four were circulated by email to key stakeholders.



Strengthening community capacity to address gender and family-law issues in Namibia



GR&AP held a week-long community workshop in Luderitz. The town is an area that GR&AP has not visited in recent years, hence there was a need for outreach. Furthermore, according to the LAC study *Seeking Safety*, the Luderitz court ranks seventh out of Namibia's 31 courts in respect of the number of protection order applications between 2004-2006.

A total of 42 participants (30 females and 12 males) attended the workshop. The organizations they represented were the Ministry of Prisons & Correctional Services, Ministry of Security & Safety (in particular WCPU), Ministry of Education, Ministry of Works, Catholic Aids Action, Constituency Aids Committee (CACOC), students and community members. The training consisted of a mixture of presentations, activities and participatory learning techniques.

The workshop was a great success and we succeeded in promoting community awareness of legal rights and access to legal redress in connection with Namibia's high rates of domestic violence through this training and the provision of information. This was clear from the evaluation forms the participants filled in after the training.

"The workshop was more nice for me. Everything was new for me and was excellent."

"The workshop was very productive, I gained a lot of knowledge on topics that I did not know like The National Gender Policy, Domestic Violence and Married Persons Equality Act was the most informative for us to know what is our rights in marriages."

"We would like them to please come to our town Luderitz again and educate the youth on these topics cause it was very informative. Thanks for your time was nice meeting you'll."

"We need more days like for instance two weeks, so that we can tackle all the topics included in the programme/Agenda."

"It was very empowering and excellent at the same time because we learned more than we knew in our different societies."

"It was very interesting and educational too. I enjoyed every minute, second and hour we had"



We also continued to **lobby for the passage of the Child Care and Protection Bill**. We met with the Ministry of Gender Equality and Child Welfare throughout the year to discuss final changes to the bill and liaised with the legal drafters. When the bill was finally tabled in Parliament, we monitored the discussions, and attended and gave input at the public hearings that were held by the National Council. We assisted

the Ministry to update the 23 factsheets on the bill and to provide all parliamentarians with a set of these factsheets. The role of the Legal Assistance Centre and the partners was formally recognised in both houses of Parliament with appreciation.

In 2014 GR&AP also worked on a number of **unfunded advocacy issues**, many of which did not have direct gender and family-law angles but were all of great underlying importance.

Political changes

Third Constitutional amendment



In 2014 the government proposed amendments to the Constitution, after limited consultation with various political parties. Civil society responded strongly, with LAC

taking a lead role, calling on the government to have wider consultation on the amendments. Sadly, despite **protests on television, radio and in print and a demonstration at Parliament**, the changes were rushed through.

Some of our Facebook postings about the proposed Constitutional amendments

The proposed Constitutional amendments will create a bigger executive: President, Vice-President, Prime Minister and optional Deputy PM. Do we need this many top-level representatives? Can Namibia afford it?

Increased size, decreased quorums. Does that make sense?

On proposed reforms, National Assembly increases to 96 + 8 Presidential appointees. Can Namibia afford it?



The Namibian published two opinion pieces by Dianne entitled “*The Constitutional Amendments: Where are the women?*” and “*How much consultation is enough?*” on 8 and 19 August respectively.

Namibian voters in the UK

Election issues

In October 2014, the LAC learnt that the Electoral Commission of Namibia was planning to limit voting for Namibians outside the country to only certain persons. We **brought an urgent application** to the Electoral Court (*Ndjodi Meluwa Latenda Ndeunyema v Electoral Commission of Namibia and One Other*). In response and prior to the case being heard in court, the Electoral



Commission backtracked, stating that there was no such decision to restrict voting and that registered voters abroad could vote at foreign missions. **The case was withdrawn and our client and colleagues were successfully able to vote.**

New High Court rules

New High Court rules were gazetted in January 2014, to take effect as of April 2014. **Several issues proposed by GR&AP were included** in the final version of the rules, including a procedure whereby parties to public interest cases can secure protection against costs awards should they end up on the losing side – a technique used in other countries to ensure that people are not discouraged from airing important legal issues in court.

Namibia at the United Nations

In 2014 the Human Rights Council discussed a resolution on protection of the family, which as reported by the Children's Rights Information Network, threatens children's rights and reflects attempts by some States to restrict the definition of the family.

The LAC **wrote to the Namibian Ministry of Foreign Affairs** regarding the proposed draft resolution, urging Namibia to sign the resolution only if the wording was revised. We based our request on the fact that Namibia has many types of family structures in Namibia and a high level of family violence.

Although our intervention on this issue was not successful, our opinion has been brought to the attention of the government and we hope that the government may perhaps reconsider its stance in future. It is also a sign to the government that civil society is monitoring and engaging with actions taken by the government in and out of the country.

Research Science and Technology Act

An ongoing advocacy area is lobbying the government to repeal the restrictive and possibly unconstitutional provisions on research in the Research, Science and Technology Act. As of the end of 2014 we were preparing to bring a court case challenging the Act's constitutionality, following a deadlock in discussions with the Ministry of Education about the problems with the Act.

PARTNERSHIPS WITH GOVERNMENT



In 2014 GR&AP organised two roadshows – one about **domestic violence**, the other about **maintenance** - visiting a series of individual magistrates’ courts across the country. A “roadshow” is where a team of resource persons travels around the country to hold informal discussions with small groups of people about a specific issue. There are several advantages to the roadshow format:

- it brings together service providers who work together in a specific community, which enables fruitful discussion of how to improve coordination;
- the small and informal setting allows participants to talk about practical issues pertaining to their specific courts and communities - issues that are often overlooked in the format of a large group workshop;
- it is less disruptive to the day-to-day processes of the courts, as service providers could leave at any point to deal with matters that required their attention;
- it is more cost-effective than larger centralised workshops.

The purpose of the first roadshow was to promote discussion between service providers on **how courts can improve their response to cases of domestic violence**. The roadshow used findings of LAC’s recent research report *Seeking Safety* as a basis for discussion. This roadshow was funded by the U.S. Embassy through the Presidents Emergency Plan for Aids Relief (**PEPFAR**).



The roadshow started at the Windhoek Magistrate’s Court and continued to Rehoboth, Gobabis, Okahandja, Otjiwarongo, Grootfontein and Otavi. It involved magistrates, clerks of

court, prosecutors, police, religious and community leaders, social workers and lifeskills teachers. Topics of discussion included linkages between HIV/AIDS and GBV, protecting children affected by GBV, service and withdrawal of protection orders, closer co-operation between service providers, after-hours applications, record keeping; promoting linkages between victims of domestic violence, access to counselling services and dealing with case withdrawals.

Control Social Worker Veronica Theron from the Ministry of Gender Equality and Social Welfare (MGECW) and Chief Inspector Cronje, Co-ordinator of the Woman and Child Protection Units from the Ministry of Safety and Security (MSS), joined the LAC on the court visits. **Their input was extremely valuable in promoting partnerships** between local Ministry of Justice, MSS and MGECW staff as well as in providing input on how certain procedures pertaining to their Ministries should be working in all courts.

The court visits were a great success, leading to positive recommendations for action at each meeting, such as the implementation of regular monthly meetings between the stakeholders at the courts, the creation of victim support rooms at courts, and allocating office space for social workers to provide counselling and prepare vulnerable witnesses at courts where such rooms were not already in place.



The purpose of the second roadshow was to promote discussion between service providers on **how courts can improve their responsiveness to maintenance complaints**. This roadshow used findings of LAC's recent research report *Maintenance Matters* as a basis for discussion. It was funded by the **Embassy of Finland**.

The courts visited were Opuwo, Kamanjab, Khorixas, Outjo and Windhoek. Concerns were discussed with magistrates, prosecutors, maintenance officers, clerks of court, social workers and police officers. Topics of discussion included how the courts are dealing with maintenance during pregnancy, maintenance and domestic violence, use of default orders and retrospective claims for adjustment. It was clear that all courts are still facing a lot of challenges in these areas, and practical solutions were introduced and discussed.

Again, the court visits were a great success, leading to positive recommendations for action at each meeting such as better utilising the payment options introduced by the 2003 Maintenance Act, increased communication between social workers and maintenance court staff, more outreach to communities, monthly meetings between stakeholders and better consideration of the cost of living compared to amount of maintenance ordered.

Whilst the roadshows were organised by the LAC, they were realised through partnership with the magistrates' courts, the Magistrate's Commission, MSS, MGECW and other key stakeholders. We thank everyone involved for their participation and cooperation.

Ministry of Justice

The Ministry of Justice requested GR&AP to provide a **three-day training session for clerks of court** (34 clerks from 28 courts; 8 males and 27 females). The training was extremely successful. The clerks were exceptionally engaged and there were even rousing discussions during the breaks. Interesting concerns came up and one of the biggest outcries was the need for regular and intensive training on all laws for the clerks.

The Ministry of Justice also requested LAC materials to display at its stall at the Windhoek Show.



Annotated statutes

One of our ongoing projects is to produce a complete set of annotated pre- and post-Independence statutes for Namibia, a project commissioned by the **Parliamentary Support Project**. In 2014 this contract was extended to include a set of annotated post-Independence regulations. As of December 2014, the full set of statutes is nearly completed. The pre-Independence statutes include laws made in the 1800s that are still applicable in Namibia today. To facilitate this project, we signed a memorandum of agreement with **Sabinet**, a South African company that has electronic versions of the South African Gazettes applicable to Namibia. Sabinet has provided us with access to these Gazettes and in return we will provide Sabinet with copies of the annotated statutes.

| Four facts about the laws that we learnt whilst annotating | | | |
|---|--|---|---|
| The score of the Namibian national anthem is part of the <i>National Anthem of the Republic of Namibia Act 20 of 1991</i> . | Until the <i>Married Person's Equality Act</i> came into force in 1996, no woman could take part in any tournament as a wrestler or boxer. | Every man in Namibia between the age of 16-60 has a duty to assist the police when requested to arrest or detain a person. Failure to assist could result in a fine or even a short imprisonment. | When you get married, the doors of the building you are getting married in must be open and a marriage officer is not obliged to marry a couple outside the hours of 8-4. |

OTHER PROJECTS

Alternatives to corporal punishment



We converted our comic on alternatives to corporal punishment into a short animation. The animation was launched on the NBC breakfast television programme *Good Morning Namibia*. In the week following the launch we asked GMN regular

Dr Shaun Whittaker (psychologist) to talk about alternatives to corporal punishment on the show, and arranged for a school principal (Oillie Abrahams) to appear on GMN to discuss her perspective on alternatives to corporal punishment.

The animation is available to view on You Tube, can be downloaded from our website or is available on disc.

The *Global Initiative to End All Forms of Corporal Punishment* reported our new animation in their September Africa e-newsletter.

Namibia: The Legal Assistance Centre (LAC) in Namibia has produced an animation on alternatives to corporal punishment, based on a comic produced by the organisation. The animation is being screened on national television and at workshops and outreach initiatives hosted by the LAC and partners. It is also available on the LAC website and via social media platforms. The animation is the latest too in the set of materials on alternatives to corporal punishment produced by the organisation. For more information see <http://www.lac.org.na/projects/grap/grapcp.html> and <http://www.lac.org.na/projects/grap/grapam.html>

Alternatives to babydumping

We continued to call on the public to consider alternatives to babydumping. In 2014 we worked with **City of Windhoek** in this regard. The City of Windhoek reprinted our comic “*What to do if you are pregnant and do not want the baby*” and ran an awareness campaign throughout September which included media appearances, a jingle produced by singer Big Ben, and school and public visits.

Encouraging accountability in schools

Another ongoing project has been the production of materials to assist learners, parents and community members to hold schools accountable to current policy standards. This project was carried out on behalf of the **Ministry of Education** with support from **UNICEF** and the **European Union**. In 2014 we finalised the production of four comics, four posters and two animations. The materials will all be available to distribution by partners in 2015.

Comics



Posters



Animations



PUBLIC OUTREACH

Appearances in the media



We maintained a regular presence in the media throughout the year, making a total of **28 television appearances**, **26 radio appearances** and publishing or being interviewed or cited in **27 print articles**. We also continued to post regularly on our **website and on the LAC Facebook page** and this year we also started **Tweeting**.

Assisting clients



In 2014 we continued to assist clients on a daily basis. Our assistance to clients is an unfunded activity, but one that is vitally needed by the public. There are days when some of our staff members spend the entire day with clients. This can be challenging when project deadlines loom, but we continue to provide this service because of the high public demand for it. In addition to in-person consultations we also provide information by sms, email and telephone.

On a daily basis we assist with queries about child custody, access and maintenance, domestic violence and marriage and inheritance issues. In one case, for example, a client came to us with the problem that the father of her child had stopped paying maintenance. We explained the law to the client (failure to pay is punishable by a fine or prison sentence, including a weekend prison sentence). The client informed the father – who then paid the money that day. This simple example clearly illustrates how individuals can be empowered to enforce their rights when they have the information they need.

A brief review of some cases on other topics is given below.

We assisted a Namibian in South Africa who was in need of a birth certificate. We were contacted by a children's home who had a Namibian child without documentation. They had contacted the Namibian Embassy in South Africa but had not received assistance. Due to our work on the revision of the Births, Marriages and Deaths Registration Act with the Ministry of Home Affairs and Immigration we have good contacts at the Ministry and we were able to pass on the information to see whether the child was registered. We were pleased to hear that the child received his documentation and has now been able to enrol in a tertiary education course as a circus acrobat.

In another case, we were contacted by a client who wanted to give her child up for adoption. She used the comic@lac.org.na email address. We had not released any comic this year and so it suggests that the client had previously seen, or accessed electronically, our comic on this (or another) topic. The client, a young girl, had not told her family that she was pregnant and had even given birth (at a hospital) without their knowledge. We put her in contact with a social worker who provided her with the information and counselling she needed.

Some of our more unusual consultations included a query about inheritance of a person who had died leaving 32 children, a query about whether it is legal for a body to be cremated without a coffin (answer: no) and assistance to a student prevented from writing a matric exam because of the length of his hair.

Our assistance to clients is often very time-consuming in relation to the number of persons impacted. However clients often have nowhere else to get the information they need, and the help we provide can make a huge difference to our clients' lives.

Feedback from a satisfied client:

That's so fantastic news – I wished I had contact your organisation a long time ago! Thank you so much for your assistance!

Distribution of materials



In 2014 we distributed nearly 80 000 publications. Sadly we are noticing that in recent years, the number of materials we are distributing is dwindling due to a lack of stock. Nearly all of our publications are available electronically, but we do not have enough funding to keep all of the materials in print despite the consistent public demand for them. We are greatly in need of funding to increase distribution efforts.

STAFF

Full-time staff

Dianne Hubbard-Coordinator (dhubbard@lac.org.na)



Dianne is a graduate of Harvard Law School. She also has degrees in English from the University of North Carolina in the USA and Stellenbosch University in South Africa. She has been the Coordinator of GR&AP since its inception in February 1993. In 2010 Dianne was invited to take up a 3-year term on the Law Reform and Development Commission, where she served as Deputy Chairperson.

Rachel Coomer-Public Outreach Manager (rcoomer@lac.org.na)



Rachel is a graduate of the University of Oxford and has a Master's degree in Child and Family Studies from the University of the Western Cape. Her role in the department is to manage all outreach functions including the development of educational materials, the dissemination of advocacy material and research findings, various trainings and media liaison.

Yolande Engelbrecht-Paralegal (yengelbrecht@lac.org.na)



Yolande joined GR&AP at the beginning of 2009, having worked at the Ministry of Justice for a number of years. Yolande takes the main responsibility for running workshops on behalf of the department as well as developing training programmes and providing information to clients.

Grace Kapere-Project Assistant (gkapare@lac.org.na)



Grace rejoined GR&AP in 2013 having taken a career break. Grace takes responsibility for office administration and manages the logistics of publication distribution, as well as assisting with public outreach.

Consultants



Following a stint as a volunteer at GR&AP in 2014, **Felix Lüth**, an experienced German lawyer practicing in Switzerland, has continued to provide pro-bono services to GR&AP - particularly in the area of international law which is his field of expertise.



Thank you to **Perri Caplan**, our designer, who does the design and layout for all of our publications.

Academics, volunteers and interns



Julia Ward
Fulbright scholar



Michael Hazel
experienced
American
lawyer



**Markus
Ihalainen**
Swedish/Finnish
political scientist



Tyler Holmes
US law
student



**Stefanie
Braun**
German
lawyer



Laura Halonen
experienced
Finnish lawyer
practicing in
Switzerland



Shane Meckler
US law student



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Janna Terhorst German lawyer



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Fulbright Scholar
and American
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Parliamentary Support Committee/Konrad-Adenauer-Stiftung (backfunded by the EU)

US Embassy and PEPFAR

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