

**Using the Law to Help Women fight Poverty and Violence**  
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Legal Assistance Centre, 1999

*Two of the biggest problems facing Namibian women today are poverty and violence. This article looks at these problems, and at laws which might help.*

**Poverty**

Poverty obviously cuts across gender lines. But according to a recent UNDP report, women in Namibia are more likely to be unemployed than men and less likely to have formal employment that brings in regular wages. Women who work are likely to be involved in subsistence agriculture.

Female-headed households have roughly half the income of male-headed households. There is evidence that even women with relatively high levels of education have difficulty finding formal employment. Where women do have formal jobs, they tend to be in sectors associated with lower wages – such as domestic work, social services and clerical or sales positions.

Rural women are the hardest-hit by poverty. They form the largest demographic group in the country, accounting for more than one-third of the Namibian population. And they are still severely disadvantaged in terms of access to land, labour, agricultural services and assets, natural resources, and formal employment. Rural women are also virtually absent from decision-making and leadership structures. Women in the households of farmworkers are in a particularly vulnerable position, often employed on only a casual basis, with their tenure dependent on their husband's continued employment.

According to a report of the UN's Food and Agriculture Organisation, it is access to cash income from formal employment that distinguishes between the poorest of the poor, and those who are able to maintain basic food security.

Last year Parliament passed the Affirmative Action (Employment) Act. This Act requires specified employers to prepare affirmative action plans setting forth steps to improve the representation of blacks, women and disabled persons in the workforce. No quotas will be set by the state, but employers will be expected to set their own numerical goals and timetables in light of the availability of suitably qualified or trainable persons in the designated groups. Employers who hire non-Namibian citizens will be obliged to provide a Namibian "understudy" to ensure the transfer of skills. Progress in implementing affirmative action measures will be monitored by an Employment Equity Commission, and non-compliance will disqualify employers from state contracts and concessions (including potentially valuable mining and mineral rights). This is a giant step forward in helping disadvantaged women move into the formal workforce in positions comparable to those held by men.

Married women seeking loans to set up their own businesses have received help from the Married Persons Equality Act, which puts men and women married under civil law on an equal footing with respect to financial matters.

Women in the formal workforce have also received economic assistance from the Social Security Act, which provides benefits to replace lost wages during maternity leave.

*What else is needed*

Women in rural areas need more assistance. The law can help by ensuring women's access to land in the forthcoming Communal Lands Act. Inheritance laws should be changed to make sure that women get a fair share of the family's assets, and to protect the right of widows to remain on communal land allocated to the household.

The system of state maintenance grants to help the neediest families with the expenses of child-rearing needs to be re-examined and overhauled. In addition to being outdated, the system contains one of the last legal vestiges of apartheid, by setting different grant amounts and conditions for different ethnic groups. This issue is likely to become more pressing as growing numbers of AIDS orphans place increasing strain on households, and particularly on female caretakers.

## **Violence**

It has been estimated that 16 000 women are raped each year in Namibia. This figure is based on the widely-accepted estimate that only 1 out of every 20 rapes is actually reported. This means that *1% of Namibia's entire population is raped each year* -- with rapes of very young girls being tragically common. Another face of violence in Namibia is domestic violence, estimated to affect up to *half* of Namibia's women and children.

Violence as widespread as this does not only affect its direct victims. Women who live in fear of violence are not free to exercise their basic rights. The constant fear of violence robs women of their liberty, their security and their dignity. Violence is used by men to rob women of decision-making power on matters such as economic issues, family planning and the right to insist on protection against HIV/AIDS. Susceptibility to violence is exacerbated by poverty – some women remain in violent relationships because of economic dependence on the abuser.

A progressive Combating of Rape Bill will be introduced into Parliament this year. This bill will re-define rape to reflect the reality that men and boys can be raped, and broaden the definition of rape to include other serious sexual violations. It will give greater protection to young boys by removing the existing legal fiction that boys who have reached the age of seven are capable of giving consent to sexual activity. It will also acknowledge the fact that rapes can occur within marriage. The law will remove the present emphasis on the victim's "absence of consent", replacing it with an examination of the rapist's use of force or coercion – meaning that rape victims will no longer feel that *they* are the ones who are being put on trial. New limitations on irrelevant questions about the sexual history of rape victims will protect them from unnecessary trauma and embarrassment in court.

The new law will also provide stiffer bail conditions. It will ensure that the victim has an opportunity to inform the court of any threats from the accused *before* bail is granted. In response to the widespread calls for stiffer sentences for convicted rapists, the new law will set severe minimum sentences ranging from 5 to 15 years depending on the circumstances of the rape. The knowing spread of sexually-transmitted diseases will be treated as an aggravating factor in sentencing.

The new law will give greater protection to the rape victim's privacy and provide stiff penalties for revealing the identity of rape victims in the press.

Women dressed in black were joined by some men in a demonstration at the official opening of Parliament last month to demand the prompt passage of this important new legislation.

*What else is needed*

The current legal approaches to domestic violence are totally inadequate. Draft law reform proposals are under consideration by the Law Reform & Development Commission. The proposals on the table include a simple procedure for obtaining protection orders which put abusers on notice to stop their behaviour, and a specific criminal offence for domestic violence with options to imprisonment – such as counselling or alcohol abuse treatment programmes – in appropriate cases.

The Law Reform & Development Commission is also in the process of considering law reform proposals which would make the court experience less traumatic for children and other vulnerable witnesses. This would be one method for encouraging victims of violence to come forward and bring their abusers to book.

Of course, no legal reform alone cannot stop violence. The new laws must be supplemented by continuing public awareness campaigns. We must teach our children that violence is simply not acceptable, in public or in private. Only then can Namibian women feel safe and secure.