

Rape in Namibia

By Dianne Hubbard

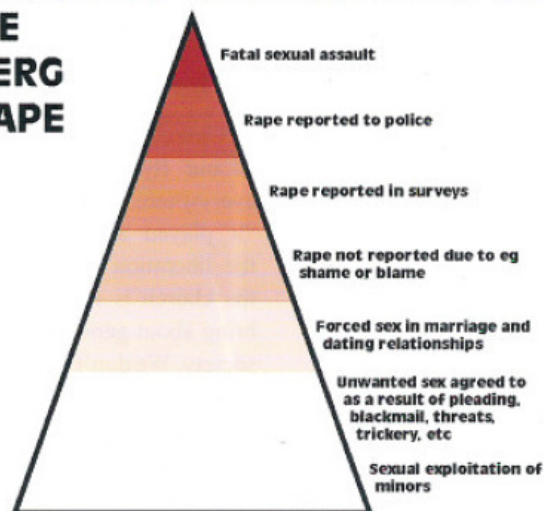
Four out of five people accused of rape never have to pay for their crime. Looking at it the other way around, only one out of every five people accused of rape or attempted rape will be convicted of either of these crimes.

This is just one of the many important and sometimes surprising findings of our study *Rape in Namibia*, which we believe is the first comprehensive study of a particular crime in Namibia.

In order to ensure a complete and accurate picture, we examined an enormous amount of data - including 409 individual police dockets and entries in court registers for 547 rape cases. We talked to police, doctors, prosecutors, legal aid lawyers, magistrates and rape survivors. We also tested our preliminary findings at a consultative workshop attended by thirty-three people from six regions.

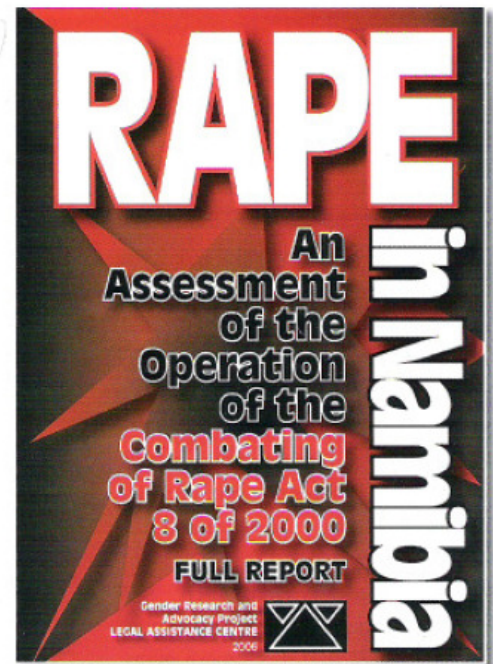
Incidence of Rape

THE ICEBERG OF RAPE



Source:
Rachel Jewkes & Naeema Abrahams,
"Violence against women in South Africa: Rape and sexual coercion",
Crime Prevention Research Resources Centre and Medical Research
Council, undated monograph at 6-7 (citations omitted).

Studies in South Africa have found that the most common forms of sexual coercion seem to go unreported. These occur within marriages, dating relationships, families or where sex is agreed to after blackmail, threats, trickery or persistent pleading. Think of the problem as an iceberg. The parts that become visible are only a small portion of the real problem.



Almost 1200 rapes and attempted rapes were reported in Namibia in 2005, which amounts to approximately 60 reported rapes for every 100 000 people. In a recent United Nations survey of crime, Namibia's "rape rate" ranked third highest out of the 53 countries in the study. South Africa topped the list, followed by Canada and then Namibia, which was just ahead of the United States. This is not an honour that we can be proud of.

But ironically, it does not necessarily mean that Namibia has more rapes than other countries. The high rank could result in part from good crime recording practices or from the general empowerment of Namibian women. Even so, we must not kid ourselves – rape is clearly a huge problem in Namibia and one of our most serious human rights issues.

Who is raped? Who rapes?

Just over *one third* of all rape victims are under the age of 18. The ages in our sample ranged from one-year old babies to elders up to 83 years old. The vast majority of rape victims continue to be women and girls, but you may be surprised to hear that 1 out of every 14 victims is a man or a boy – with almost all of them being raped by other men.

Indeed, most rapes of every sort are committed by men – 99% of the people

accused of rape in our sample were male. We came across only three cases involving female perpetrators, none of whom was convicted.

At least one quarter of the perpetrators in our study were minors, with most of these being boys under the age of 18. The oldest perpetrator was 92 years old, while the youngest was only *age 7*. Several prosecutors described cases involving rapes by boys as young as 8, 9 and 10. There is clearly something wrong with the messages we are teaching our children about masculinity.

Where do rapes take place?

We hope that this study will finally put to rest that tired old myth that rapes are a result of scantily-clad women walking about in dangerous places. At least 7 out of every 10 people who reported rapes knew their attacker. Most shockingly, *about one quarter of the rapes in the sample involved partners, ex-partners or family members*. Let that figure sink in for a minute: 1 out of every 4 rapes is perpetrated by a “loved one”. What a perversion of love!

Furthermore, the most dangerous place to be in terms of rape is not out on the streets or in a dark riverbed, but at home. More than half of all the rapes in our sample occurred inside someone’s home. There is no place that is safe, of course – in our sample, five rapes took place in cars, six in police or prison cells, four at school and one at a church.

Expanding the definition of rape

The most common sexual act in the study was, predictably, sexual intercourse. Remember that this was previously the only sexual act that constituted rape. However, a significant number of cases – almost 1 out of 10 – involved sexual acts which would not have been classified as rape in the past. This shows that the law’s expanded definition of “sexual act” was needed, and is being utilised in practice.

As one would expect, physical force and threats of physical force were by far the most common form of coercion. But quite a high number of cases – 17% – involved situations where the complainant was asleep, intoxicated or mentally disabled. Surprisingly, almost 1 out of 10 cases involved complainants who were unlawfully detained at the time of the rape – such as by being locked in a room, a car or a garage. Only 4 cases involved threats of harm other than bodily harm – arguably the weakest form of coercion under the Act. For example, one of these cases involved a perpetrator who said that he would kill himself if the victim did not submit.

The state’s response: problems and recommendations

Current police practice is to refer all rape cases to one of our 15 Woman and Child Protection Units based in various parts of the country. Yet some of these Units still lack the resources and training they need to handle these cases. There is no separate budget earmarked for the Units, which appears to be part of the problem.

Another problem is that key players from different ministries are simply not talking to each other enough. It would be extremely helpful if there were a small, informal forum where key officials at the highest levels could meet regularly. This could be mirrored at local levels.

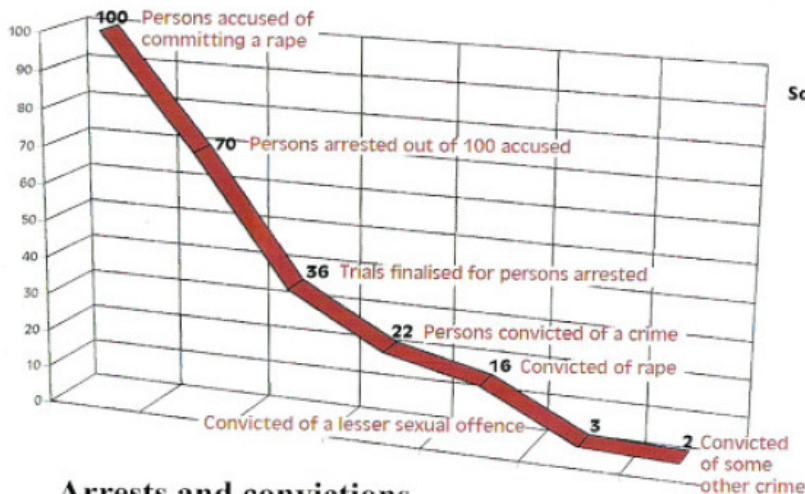
We also recommend that Namibia should adopt prosecutor-guided investigations, a technique used very successfully in South Africa. This is where the prosecutor who is going to take the case to court liaises with the police officer who is investigating the case from the beginning – by telephone if not in person – to help make sure that there are no gaps in the evidence.

One difficulty is getting accurate police statements from the complainant. If the statement is written down inaccurately, then the complainant will appear to be contradicting herself in court. One possible solution is to have the police write down the statement in the complainant’s home language, instead of in English. These statements would have to be translated into English later on, but the increased accuracy would probably outweigh the extra effort and expense.

Another problem involves the collection of medical evidence. This is done with a set of sampling equipment put together into a “rape kit”. One innovation here is already being rolled out. The new rape kit is much more user-friendly and secure. It is going to be accompanied by a new distribution system, and new ways of recording who delivers the kits and collects them from the lab. These new systems should address many of the problems pertaining to lab results in rape cases.

What may be more difficult to resolve is the poor quality of reports from doctors who examine rape survivors. This evidence is absolutely crucial, but the reports are often unclear or incomplete. Doctors have pointed out some of the barriers they face, such as time pressures and insufficient training on legal issues. Our key suggestion here is regular, systematic monitoring of the completed forms by medical supervisors.

CHART 12.4: PROBABLE OUTCOMES FOR 100 PERSONS ACCUSED OF COMMITTING A RAPE



Source: Rape in Namibia

Namibia's conviction rate of 16% of all reported rapes sounds low. While it certainly can be improved, we should also congratulate ourselves for doing a much better job than some other countries. Our results look very good next to South

Africa's 7% and England's 6%. On the other hand, there is no need to feel smug if we consider Germany at 21% and Hungary's astonishing conviction rate of 49%.

Arrests and convictions

The arrest rate in Namibia is very good – about 70%. This is consistent with the fact that most rapists are known to their victims, and it is also a tribute to good work on the part of the Namibian Police. But only 40% of the cases in our sample resulted in a completed criminal trial. So, you might ask, where do the rest of them go? Some cases cannot be prosecuted because of a lack of evidence. In a worrying number of cases, the accused disappeared. But in many others, the cases are withdrawn.

One third of the complainants in rape cases ask to have their cases withdrawn. Most of these involve cases where the accused is a relative or an acquaintance. Some complainants said that the rapist was the family's main breadwinner or the father of their children. Others had "forgiven" the perpetrator or just wanted to move on with their lives.

One strategy here could be a Victim Support Programme staffed by trained volunteers. Similar initiatives have met with great success in other countries. For example, these volunteers could keep complainants informed about the case status, and visit the court with them ahead of time for orientation. We believe that this kind of support for rape survivors could discourage withdrawals.

Of the rape cases that go forward, what is it that makes a conviction more likely? There were more convictions in cases where the complainants had injuries – highlighting the importance of good medical evidence. Convictions are also more likely in cases involving child victims. And we found that convictions were higher relative to the number of reported cases at some rural police stations and in some of the smaller urban areas – showing that police and prosecutors don't always need a lot of resources to do a good job.

The publication

This is but a small preview of the wealth of data that is collected in our publication. The full document is stuffed with press clippings, case studies and summaries of key court cases. It also examines many topics I have not even touched on here – such as the role of the media, and the delivery of PEP, post-exposure prophylaxis which can reduce a rape victim's chances of becoming infected with HIV.

The full study is intended as a reference manual for service providers and the key findings are collected in a shorter summary, which will be of more general interest. Both documents contain a broad range of recommendations. I must stress, however, that the Legal Assistance Centre cannot take credit for these ideas – most of them are simply distilled from our numerous discussions with key role-players. We have merely tried to pull together the combined wisdom of the people who work with rape cases on a daily basis.

We encountered a great many concerned and committed individuals in our research. Many statements from our President and Prime Minister also show strong political condemnation of rape. It is often said that "where there's a will, there's a way."

Namibia has the political will – we hope that this study will be a step forward in showing the way. ♀

For more information, or to purchase a copy of the study, contact Dianne Hubbard, Co-ordinator, Gender Research & Advocacy Project, Legal Assistance Centre, dhubb@afrioonline.com.na, tel: 061-264443.