

# SUMMARY OF RECOMMENDATIONS

**T**his chapter summarises all of the recommendations made in this report, grouped under the institutions which would be responsible for adopting or implementing the various proposals. Where more than one institution would be involved, the recommendation is repeated in each category. This should help to make it easier for relevant stakeholders to consider their responses to the research findings on rape in Namibia.

# PART A

# GOVERNMENT

## 1. CABINET

Encourage closer cooperation between the different service providers who work with rape complainants by establishing **a small forum where key officials meet regularly at national level to discuss issues and problems pertaining to rape cases across ministerial lines**. This could be replicated at regional and/or local levels. Of all the recommendations for improved action on rape cases, this one is probably the most fundamental.

**If sufficient transport is not available to allow the police to respond adequately to rape cases, inter-ministerial arrangements should be made to allow police to utilise the vehicles of other government agencies to respond to emergencies.** It is recognised, however, that such arrangements would be feasible only if strict and workable controls could be implemented to ensure that such facilities were not abused.

**If there is a continued overall budgetary shortage for forensic tests, the National Forensic Science Institute should be authorised to give priority to rape cases (and perhaps certain other specified crimes, such as murder), at least for a specified time period as part of an overall campaign to combat rape.** There should be a sufficient budget for rape kits for every rape case in which such evidence can be collected.

The government could support a special focus on rape cases by providing funding for a **special Scene of Crime Unit within the National Forensic Science Institute dedicated to respond only to rape cases**, at least for a limited time period.

The government should **commission a study of case withdrawals initiated by complainants** in order to ascertain what forms of assistance and support might dissuade complainants from seeking to withdraw rape cases.

## 2. PARLIAMENT

**In respect of all agencies dealing with rape**, Parliament should allocate sufficient budgetary resources for responding to rape cases. Expenditures on rape cases should be tracked and reported on to Parliament.

Parliament should **allocate a specific budget to the Woman and Child Protection Units** which is sufficient to allow them to fulfil their tasks of investigating rape cases adequately and efficiently. This would give concrete meaning to the government's stated commitment to combating gender-based violence.

The provision and control of **adequate police transport** should be a **budgetary and administrative priority**.

**Parliament should ensure that the National Forensic Science Institute has a realistic and sufficient budget to perform the necessary forensic tests to secure convictions of guilty parties in rape cases.** This should include an adequate budget for DNA tests. Skimping on this budget may result in a waste of other state resources spent in investigating and prosecuting cases which are ultimately lost because of the lack of sufficient forensic evidence.

The government could support a special focus on rape cases by providing funding for a **special Scene of Crime Unit within the National Forensic Science Institute dedicated to respond only to rape cases**, at least for a limited time period.

Focus attention on **strategies to increase reporting and to reduce case withdrawals by complainants instead of on more severe punishment for rapists.**

### 3. MINISTRY OF SAFETY AND SECURITY

#### A. Police and Woman and Child Protection Units (WCPUs)

##### Statistics and record-keeping

###### SUGGESTIONS FOR IMPROVED NAMPOL RECORD-KEEPING

The Namibian Police are to be congratulated for compiling regional breakdowns of rape and attempted rape cases, and for keeping gender-disaggregated data as well as data on adult versus juvenile victims.

One difficulty with the current statistics is the discrepancy between police regions and political regions. It is useful to compare rape and other crime statistics with a range of demographic and socio-economic data. Yet most regional statistics about Namibia are based on the political regions. Despite the fact that NAMPOL uses police regions which are more administratively convenient for their purposes **published crime statistics with regional breakdowns should be based on Namibia's 13 political regions and not the 13 police regions**. If not, all statistics based on the police regions (which confusingly have identical names to the political regions) should clearly indicate that these are not the same in all cases as the political regions.

**It would be useful to have more information about the ages of rape victims.** We would suggest the following age breakdowns:

###### **Under age 7**

Age 7 is considered in law to be the age at which children are considered to acquire the potential for knowledge of the difference between right and wrong. No child under age 7 can be convicted of a crime.

###### **Age 7 up to age 13**

Age 14 is an important dividing line because 14 is the "age of consent" for purposes of the Combating of Rape Act.

###### **Age 14 up to age 15**

Consensual sexual contact between a child under age 16 and another person who is at least three years older is an offence under the Combating of Immoral Practices Act, sometimes referred to as "statutory rape".

###### **Age 16 up to age 18**

Persons under age 18 are treated as children for many legal purposes, and this is the age used to define a child in the UN Convention on the Rights of the Child. Furthermore, perpetrators under age 18 are treated as juvenile offenders.

**We would also suggest that the police routinely couple reports of rape and attempted rape with statistics on how many of these cases were unfounded (considered to be baseless) or undetected (unsolved).**

**If possible, the statistics on crimes reported should be coupled with information on:**



- (a) arrests made
- (b) withdrawals (and the basis for any withdrawal)
- (c) prosecutions
- (d) convictions or acquittals.

This might be more difficult, as it would involve information from the Office of the Prosecutor-General as well as the police, but all of this information should be recorded on the case docket in any event. **Coupling crimes reported with the outcome of the cases is crucial for measuring the effectiveness of implementation of the Combating of Rape Act.**

### **SUGGESTIONS FOR IMPROVED WCPU RECORD-KEEPING**

The various Woman and Child Protection Units already prepare quarterly reports which include some statistics, but these are not collected in a uniform or optimal way. Because all rape dockets are handed over to Woman and Child Protection Units for investigation, these units are particularly well-placed to collect and record information on rape cases.

**We suggest that all WCPU statistics should be broken down by the crime reported.** The overall Namibian Police statistics already do this, but the reports from the various WCPUs do not. If crimes are combined, then the information is not useful in providing a profile of any of the various offences. **Rape statistics should include a record of the following crimes:**

- ▶ rape
- ▶ attempted rape
- ▶ indecent assault
- ▶ incest
- ▶ 'statutory rape' under section 14 of the Combating of Immoral Practices Act.

Sexual violence within domestic relationships (which constitutes a domestic violence offence) should be recorded separately from other sexual violence (which is not a domestic violence offence).

**We suggest that the following information be recorded for each crime by all WCPUs, and by all police stations if possible:**

- a) breakdown of the above by the location or at least by region
- b) sex of victim
- c) sex of perpetrator
- d) age of victim
- e) age of perpetrator
- f) relationship, if any, between victim and perpetrator
- g) number of cases unfounded
- h) number of cases undetected
- i) number of cases withdrawn
- j) number of cases prosecuted
- k) number of cases resulting in convictions.

**In rape cases, records should be kept of follow-up with the complainant:**

- a) was post-exposure prophylaxis (PEP) given to the complainant?
- b) pregnancy prevention?
- c) treatment for sexually transmitted infections?
- d) HIV test?
- e) HIV counselling?
- f) follow-up counselling and testing?

The follow-up intervals recommended by the MOHSS for health purposes are 3 days, 6 weeks, 3 months and 6 months.

It should be noted that statistics which record only information about cases initially reported to the WCPUs are not very useful for measuring anything other than the work of the WCPUs themselves, since they cannot be measured against any particular segment of the population, nor are they a random sample of cases. Only national statistics from all police stations can provide a profile of reported sexual violence and domestic violence offences, because they can be measured against the entire population of Namibia.

The quarterly reports should be compiled into annual reports which provide information about the crimes *reported at each WCPU*, as well as totals for all the WCPUs combined. This information will be useful for understanding the work of the WCPUs.

Information on specific types of crime, such as rape and domestic violence offences, should be recorded nationally. For such crimes, the WCPUs should record information on all cases *investigated by each WCPU*, regardless of where the case was initially reported.

**Rape cases involving persons with disabilities should be recorded and tracked as part of the standard record-keeping system of police and Woman and Child Protection Units, with information on this category of cases incorporated into regular reporting of crime statistics.** Failure to include information on this category of cases might be interpreted as indifference towards persons with disabilities, and could also serve to create the false impression that rape and other crimes are rarely experienced among this category of people. In a larger body of cases, information about rapes of complainants with disabilities could give insights into how to decrease the vulnerability of such persons, and information about perpetrators in such cases might show who is most likely to abuse – caregivers, institutional workers, neighbours or others who stand in a special relationship to the complainant. This information would be useful in identifying preventative strategies.

**Police dockets** and J-88 forms should have a particular **space for indicating whether or not a complainant is disabled, and the particular form of disability should be specified.**

**Prepare a standard form to be placed inside the police docket, or a space on the police docket cover, for recording the health services provided to complainants in rape cases.** This will make it possible to carry out more systematic monitoring of the provision of indicated health interventions. (This information, of course, should not include any indication of the complainant's HIV status, in order to preserve confidentiality.)

For purposes of research and monitoring, it would be useful if there were a **standard system for indicating whether the charge is common-law rape or rape in terms of the Combating of Rape Act.** This distinction is particularly important for the purposes of assessing the operation of the minimum sentences which apply to rape in terms of the Combating of Rape Act.

**Introduce an official form for recording notice to the complainant of the bail hearing, the outcome of the bail hearing and the bail conditions.** The Combating of Rape Act could be amended to allow the issue of accompanying regulations, so that such a form could be officially promulgated.

We recommend that Namibia should periodically conduct **nationally-representative surveys about crime** which give particular attention to rape and other forms of gender-based violence, as a method of determining the incidence of such crimes more accurately.

## Woman and Child Protection Unit services

**The Woman and Child Protection Units should have a clear set of goals** and strategies for achieving those goals, to make regular assessments more effective. An official Mission Statement and goals would also be helpful in giving the public a clear idea of what to expect from the WCPUs.

**Police must be equipped with sufficient transport to respond to such calls for help, which in some regions means 4x4 vehicles.** The provision and control of adequate police transport should be a budgetary and administrative priority.

All WCPU staff should be required to wear **official nametags** when on duty, **so that they can be clearly identified by members of the public.** Compliance with this rule should be monitored and enforced.

**Members of the public must be encouraged to report problems experienced at WCPUs with details** so that they can be addressed by the WCPU management.

**All charge officers and persons who answer emergency calls** should be regularly informed of the **correct contact information for WCPU staff members on call after-hours.**

The **contact numbers for officers on call should be displayed on notice boards outside the Woman and Child Protection Units** for the information of members of the public.

**WCPU staff should be provided with regular counselling**, as it is very emotionally stressful to deal regularly with cases of rape and domestic violence.

WCPU personnel should be routinely equipped with **firearms** to protect themselves and other service providers, as well as the rape complainant, and to increase public confidence that WCPU staff have the power to protect the public and to apprehend offenders.

**The police should introduce a system for tape-recording statements** as a method for obtaining accurate statements and overcoming the problem of poor literacy and writing skills on the part of police officers.

**The police should introduce a new procedure whereby all police statements are initially written down in the complainant's home language.** These statements would need subsequent translation into English by a sworn translator, but the increased accuracy and reliability of the statements would appear to outweigh the extra effort and expense entailed. The system of tape-recording statements proposed above could work in conjunction with the use of mother-tongue statements.

**Additional training in techniques for interviewing children would be helpful. Alternatively, each WCPU should have access to 1-2 people with specialised training in interviewing children** – a specially-trained police officer, a social worker, or some other local person with appropriate expertise – and these personnel should be “on call” for taking statements from minors or for assisting police who are doing this.

Provide **one-way glass** at as many WCPUs as possible to reduce the trauma of **ID parades** for the complainant. In areas where special victim-friendly court facilities are already in place, police could make arrangements with the Ministry of Justice to utilise these for ID parades before or after court hours.

The Office of the Prosecutor-General should work with police to develop **guidelines on acceptable interim or alternative procedures for ID parades** which could be utilised to minimise trauma to the complainant:

- ▶ The complainant could identify the perpetrators without touching, by means of numbers worn by the different persons, or by use of an inexpensive mechanism such as a focused laser pointer of the type used in lectures or even an ordinary torch with a clearly focused beam.
- ▶ The technique described by an interviewee where the suspects passed by an office one by one to be viewed by the complainant, instead of being viewed all at once in a formal line-up, could be used more widely if approved by prosecutors on legal grounds.
- ▶ Photographs could be used in place of actual persons.

The new design for rape kits being introduced by the National Forensic Science Institute should prevent pilfering from rape kits, but will not on its own stop theft of the entire kit. The Namibian Police should issue an official directive requiring that **all rape kits must be stored in a locked cupboard with limited access until needed**, with compliance monitored by appropriate police officials.

**Police should receive annual training in the proper collection of forensic evidence, and each police station should have an investigator who has received specialised training in the collection of forensic evidence in rape cases.** As an alternative, the government could support a special focus on rape cases by providing funding for a special Scene of Crime Unit within the National Forensic Science Institute dedicated to respond only to rape cases, at least for a limited time period.

**Police should take more responsibility for supervising the completion of the J-88 form and ensuring that it is complete and accurate.** The police officer who is present should have clear authority to complain to the appropriate official if the doctor does not complete the form fully and correctly.

**All police stations, or at least Woman and Child Protection Units, should be equipped with cameras which self-develop photographs immediately, which could be used in conjunction with the medical examination to document visible injuries.** The Office of the Prosecutor-General and the Namibian Police could issue instructions on how best to authenticate the photos to ensure that they will be admissible as evidence in court.

**Members of the public and prosecutors should be encouraged to report long delays in police investigation to the NAMPOL complaints department** so that monitoring and supervision of this problem can be intensified.

The Ministry of Justice or the Office of the Prosecutor-General should work together with the police to formulate **clear rules on who is responsible for ensuring that witnesses attend criminal cases**, to ensure that there is budgetary provision for carrying out this duty.

**Improve the operation of the Woman and Child Protection Units by implementing the recommendations put forward in the 2006 UNICEF assessment as a matter of urgency.** The provision of specialised training for WCPU staff should be a particular priority.

The recommendations put forward in the UNICEF study for dealing with **delays in police investigations** should also be implemented:

- ▶ monitoring and control by Unit Commanders of time spent in investigations and reasons for requesting court postponements for further investigation
- ▶ regular staff meetings to discuss case progress
- ▶ more aggressive supervision by the National Coordinator for WCPUs.

Anyone who has knowledge of a crime can lay a charge with the police, regardless of the attitude of the complainant. It is not necessary for a child's parent or guardian to consent to the laying of a charge involving the child as the complainant. People who act in good faith in reporting an alleged crime to the police, and police who investigate such charges in good faith, have no reason to fear lawsuits for defamation. **Circulars on these points should also be sent to all police stations** so that police will be sure to give correct information to the public on these concerns.

It seems that police and prosecutors may need to be alerted to the **permissibility and appropriateness of multiple charges of rape in a gang rape situation or in situations where multiple sexual acts by a single perpetrator took place in circumstances which warrant treating them as separate events**. This could be done in training courses or by means of official circulars.

## Training needs

Additional training for WCPU staff in **techniques for interviewing children** would be helpful.

Police should receive annual training in the **proper collection of forensic evidence**.

Police should be informed accurately on **who can lay a charge**, and on the fact that **subsequent lawsuits for defamation are not possible where charges are laid in good faith**.

**The Police Training College should include more practical training on statement taking**, using mock crime situations as a basis for practice statement-taking which is assessed by the trainers.

Police training courses should include information on the **permissibility and appropriateness of multiple charges of rape in a gang rape situation or in situations where multiple sexual acts by a single perpetrator took place in circumstances which warrant treating them as separate events**.



## Public awareness and community outreach

The Namibian Police and the Woman and Child Protection Units in particular are to be congratulated on their **community outreach efforts**, and **encouraged to continue** with such programmes. **Traditional leaders should be encouraged to become more involved** in these programmes. It would also be useful to engage an **independent expert to evaluate these programmes periodically** to see if there is any way in which the outreach efforts can be made even more effective. The existing community outreach and radio information programmes should be continued and expanded.

**Public awareness campaigns** should:

- ▶ seek to motivate persons to report rapes to the police by including information on the **danger of repeat rapes** by such persons.
- ▶ emphasise that **receiving compensation for a rape with the assistance of traditional authorities and laying a charge with the police are not mutually exclusive options.**
- ▶ **explain bail provisions** so that complainants will know that rapists who have threatened them are likely to be denied bail, and will be forbidden to have any contact with them even if bail is granted.
- ▶ include information on **the repercussions of false charges**
- ▶ include accurate information on **who can lay a charge**, and on the fact that **subsequent lawsuits for defamation are not possible where charges are laid in good faith.**

**Use radio and school programmes to encourage children to speak to a trusted adult promptly if they experience any kind of abuse.**

## B. Prisons

The **problem of rape in prisons and police cells needs to be officially acknowledged** so that appropriate steps can be taken to increase security and prevent such incidents.

**Implement a supervised rehabilitation programme for categories of sexual offenders who show the potential to respond to rehabilitation, beginning during imprisonment and continuing as a transition between imprisonment and release, along the lines of the programme recently enacted in Kenya.** Make participation in an appropriate rehabilitation programme a condition of release from prison, and supervise participation in a specified programme in the same fashion that juvenile offenders are supervised in the course of diversion programmes. Failure to complete the programme as required could entail a fine, a return to prison and/or an increased level of supervision.

## 4. MINISTRY OF HEALTH AND SOCIAL SERVICES

We suggest that **future National Demographic and Health Surveys** should include broader questions on violence against women, the circumstances of such violence, and whether the violence was reported to the police. This could provide useful data on both rape and domestic violence.

**Community members and institutions should be provided with information on how to identify signs of abuse in persons with mental disabilities in particular, and how to equip disabled persons to protect themselves.** Moreover, community members must be encouraged to report rape and other abuse of persons with disabilities to the appropriate authorities. There is also a need for educational material on the sexual needs and rights of persons with various disabilities, particularly mental disabilities.

**Government should produce more educational materials on rape and other legal rights aimed at persons with particular disabilities which make general public information inaccessible to them.** While the efforts of government and non-governmental organisations to disseminate information on legal rights are commendable, there is a gap when it comes to persons with disabilities.

Strategies for addressing the **myth that sex with a virgin or a young child can cure AIDS** should be discussed with the **Traditional Healers Board**.

We recommend that Namibia adopt a **Victim Support Programme staffed by volunteers who are supervised and trained by an administrative official based in the Ministry of Health and Social Services or the Office of the Prosecutor-General**, with the following aims:

- ▶ to inform complainants and witnesses of case status and progress
- ▶ to communicate the complainant's needs and concerns to social workers or appropriate persons in the criminal justice system
- ▶ to orient complainants to court procedures (with the aid of simple-language educational material approved by the Office of the Prosecutor-General)
- ▶ to accompany complainants to court proceedings
- ▶ to involve complainants, when possible, in decision-making processes (such as explaining special arrangements for vulnerable witnesses so that they can consider which might make them more comfortable)
- ▶ to assist complainants with logistics related to court appearances
- ▶ to encourage the reporting of crime and discourage case withdrawals.

**Approved volunteers should have a nametag and a photo ID. They should also be given clear guidelines on their role and the boundaries of their involvement.**



**This Victim Support Programme could train volunteers to assist with explaining the court process to the complainant, with the assistance of materials developed especially for this purpose** (such as comic books and colouring books on the court procedure for children, similar to those in use in South Africa, and appropriate indigenous language materials for adults). Volunteers could take complainants to the empty courtroom in advance of the trial and be available to answer any questions the complainant might have about practical issues such as transport and accommodation. This would free prosecutors to focus more fully on the legal issues which are their area of expertise.

**Victim Support Programme volunteers could explain the possible special arrangements for vulnerable witnesses and help to determine the complainant's preferences.**

This programme could be piloted in cases of rape (and perhaps domestic violence as well) and extended to other crime victims if successful.

**Doctors should receive annual training in the proper collection of forensic evidence.** We also endorse the idea under discussion that only specific doctors should be trained and authorised to collect medical evidence, along with selected nurses with appropriate experience.

**Doctors should receive more regular and intense training on the J-88 forms and their legal impact.** This training should involve both the National Forensic Science Institute and prosecutors from the specialised unit on sexual offences.

**Foreign doctors working in Namibia** should receive a more comprehensive orientation to the local legal, social and cultural environment.

**A small supply of rape kits should be stored at public and private hospitals,** and the National Forensic Science Institute should issue clear instructions to doctors on what procedures to follow in cases where a rape complainant is examined before reporting the rape to the police.

**The Ministry of Health and Social Services should issue an official circular setting forth the correct policy on the examination of minor rape victims.** This circular should discuss in particular (a) when the consent of a parent or guardian is necessary (b) what to do if a parent or guardian is not present and cannot be located within a reasonable time and (c) what to do if a minor rape victim does not want his or her parents to be informed about the rape, or if the parent or guardian is the rape suspect.

**The Ministry of Health and Social Services should develop new standard consent forms for the examination of all rape victims**, including a provision on consent to the collection of medical evidence.

**The doctor who conducted the examination should keep a carbon copy of the J-88 for monitoring purposes, and to assist the doctor in preparing to testify in court.** Copies of J-88 forms retained by the doctors who perform the examinations could be the basis of such monitoring.

**The performance of doctors who examine rape victims and complete J-88 forms should be regularly assessed by a medical management team from the Ministry of Health and Social Services**, as a means of monitoring doctors' performance and identifying training needs.

**The Ministry of Health and Social Services and the Office of the Prosecutor-General should consider appropriate disciplinary or even criminal sanctions against doctors who wilfully fail to follow proper procedures in collecting medical evidence and completing any required forms** (such as J-88 forms).

**The booklet developed by the National Science Forensic Institute to accompany rape kits should be assessed to see if it could replace the J-88 form in future.**

**Work with the police to develop a standard form to be placed inside the police docket, or a space on the police docket cover, for recording the health services provided to complainants in rape cases.** This will make it possible to carry out more systematic monitoring of the provision of indicated health interventions. (This information, of course, should not include any indication of the complainant's HIV status, in order to preserve confidentiality.)

**Health issues pertaining to rape should be the focus of public awareness campaigns.**

**Continue roll-out of PEP and associated services to clinics. As an interim measure, pair all clinics with district hospitals and encourage clinic staff to refer rape complainants to the nearest district hospital for PEP.** Police could be asked to assist with transport for this purpose if necessary.

**All rape complainants who receive PEP should be given a pamphlet to take home which contains clear and simple information such as instructions on**

**how to take the medication, information about side-effects, the recommended dates for follow-up tests and the importance of completing the course of medication as prescribed.** This would be useful for the future reference of the rape survivor, who may be too traumatised at the time of the rape to take in information clearly at the time.

**The rape complainant should also be given an appointment in writing for a follow-up visit to the nearest ART clinic, and directed to contact the nearest ART clinic if there are problems with side effects from the PEP or any other post-rape medication.** Because of the trauma involved in a rape, we suggest that **a community counsellor should be asked to initiate contact with the rape complainant if she or he does not appear at the follow-up appointment.**

The Ministry of Health and Social Services should issue **guidelines on appropriate follow-up procedures when PEP is administered to suspected perpetrators.**

**The proposed Victim Support Programme could train volunteers to assist with explaining the court process to the complainant, with the assistance of materials developed especially for this purpose. Alternatively, or as an interim measure, social workers could be drafted to assist with this task.** This would be particularly appropriate for social workers who are already working with Woman and Child Protection Units. However, as a general matter, the shortage of social workers mitigates against providing them with any extra duties.

**Provide prosecutors with more training on the relevant medical issues,** to facilitate their use of medical evidence.

## **5. NATIONAL FORENSIC SCIENCE INSTITUTE**

**The new rape kits and the improved distribution and tracking systems seem likely to resolve many of the problems encountered in the past.** These new systems will hopefully ensure that rape kits are available at all police stations, and resolve past problems concerning the unbroken chain of evidence. These new systems should be put into place as soon as possible. **We suggest that the National Forensic Science Institute assess the effectiveness of this new approach to distribution after its first year of operation, and make the results of the assessment public so that a wide range of all stakeholders can respond with suggestions if necessary.** Alternatively, it might be useful to arrange independent monitoring of the new systems by an outside consultant in due course to see if they are effective in practice.

**Police and doctors should receive annual training in the proper collection of forensic evidence, and each police station should have an investigator who has received specialised training in the collection of forensic evidence in rape cases.** As an alternative, the government could support a special focus on rape cases by providing funding for a special Scene of Crime Unit within the National Forensic Science Institute dedicated to respond only to rape cases, at least for a limited time period.

**A small supply of rape kits should be stored at public and private hospitals, and the National Forensic Science Institute should issue clear instructions to doctors on what procedures to follow in cases where a rape complainant is examined before reporting the rape to the police.**

**The National Forensic Science Institute should discuss the forensic value of pubic hair combings and fingernail scrapings with doctors and police to combat misunderstandings on this point.**

**Doctors should receive more regular and intense training on the J-88 forms and their legal impact. This training should involve both the National Forensic Science Institute and prosecutors from the specialised unit on sexual offences.**

**The form developed by the National Science Forensic Institute to accompany rape kits should be assessed by the Office of the Prosecutor-General to see if it could replace the J-88 form in future.**

**Prosecutors should be advised to cross-check with the National Forensic Science Institute directly when the docket indicates that samples were sent to the lab but contains no lab report.** Surprisingly, this is not common procedure in practice. A simple telephone call could thus bring the lab results together with the case docket.

**The National Forensic Science Institute should prepare a short and simple briefing document on its procedures for distributing rape kits and processing medical evidence, including the normal time frames for lab results, which could be used for reference by police, prosecutors, defence counsel, presiding officers and the media.**

**Provide prosecutors with more training on the relevant medical issues, to facilitate their use of medical evidence.**

## 6. MINISTRY OF JUSTICE

### A. Proposed amendments to the Combating of Rape Act 8 of 2000

**Make rape of persons with physical or mental disabilities a basis for imposing the highest category of minimum sentence.** (Compare Zimbabwe's 2001 legislation.)

For the sake of clarity, amend the Act to state that **attempts to commit a rape in terms of the statute will attract the same minimum penalties as a completed crime** – even though this is already the legal position.

Using the Stock Theft Act 15 of 1990 as a model, amend the Act **to empower Regional Magistrate's Court to impose any minimum penalty specified in the Act, even if such penalty exceeds the ordinary jurisdiction of the court, and to place restrictions on concurrent sentences for rape** – but without completely removing judicial discretion in this regard. For example, the Act might require that sentences for multiple count of rape be served consecutively unless the court finds substantial and compelling circumstances which warrant concurrent sentences. This would effectively create a presumption in favour of consecutive sentences for rape.

Amend the Act **to place limits on what portion of a minimum sentence must be served before an offender is eligible for parole.**

Amend section 9 of the Act (on the special duties of the prosecutor) **to specifically require that the prosecutor shall ensure that the complainant receives orientation to the court and court procedures prior to the trial.** (Compare Lesotho's legislation.)

Amend the Act **to provide that the court may not draw any adverse inference solely from the fact that no semen or vaginal fluid was found on any part of the body of the complainant.** (Compare Lesotho's legislation.)

**Amend the definition of “coercive circumstances” in section 2 of the Act to include “abuse of power or authority to the extent that the person in respect of whom an act is committed is inhibited from indicating his or her resistance to such an act or his or her unwillingness to participate in such an act”.** (Compare Kenya's legislation.)

**Introduce an official form for recording notice to the complainant of the bail hearing, the outcome of the bail hearing and the bail conditions.** Amend the Act **to allow the issue of accompanying regulations**, so that such a form could be officially promulgated.

## **B. Proposed amendments to Criminal Procedure Act 24 Of 2004**

Amend section 64 of the Act **to place the duty of informing the complainant of the outcome of the bail hearing on the investigating officer rather than on the prosecutor** so that the law conforms to usual practice and the responsibility is clear. The prosecutor should have a duty to inform the investigating officer of the outcome of the bail hearing, and the investigating officer should have a duty to cause the complainant to be informed of the outcome as soon as reasonably possible.

Amend section 64 of the Act to **remove subsection (3), which gives the accused responsibility for asking the station commander to inform the complainant of the time and place of the bail application in certain circumstances.** It is probably not to the accused's advantage to ensure that the complainant is timeously aware of the bail application, so this requirement works against logic and interest. **The process should be initiated by the prosecutor instead of the accused in these circumstances.**

Amend the Act **to allow the court in unusual instances to impose conditions other than a no-contact provision which could protect the complainant, if this is in accordance with the complainant's wishes.** For example, where the complainant and the accused are family members or have children together, a complete prohibition on contact may be impractical or simply unenforceable.

Several of the special provisions enacted for **vulnerable witnesses** in 2003 (by the Criminal Procedure Amendment Act 24 of 2003) have been removed or weakened in the 2004 Criminal Procedure Act. We recommend that these provisions should be essentially restored.

**a) Amend section 187(4) to require that the presiding officer must re-state or re-phrase questions put to witnesses under age 14.**

*(4) Notwithstanding subsection (1) or (2) or anything to the contrary in any other law contained but subject to section 193, the presiding judge or magistrate must may, during the cross-examination of any witness under the age of 14 years , either restate the questions put to that witness, and may or, in his or her discretion, simplify or rephrase such questions.*



This would restore the position under section 166(4)-(5) of the Criminal Procedure Act 51 of 1977, as amended by Criminal Procedure Amendment Act 24 of 2003 on vulnerable witnesses.

- b) Restore the provision which states that the evidence of a child shall not be regarded as being unreliable, or treated with special caution, just because the witness is a child**, so that the reliability of a child's evidence and the weight which should be given to it must be assessed in the same way as the evidence of any other witness. This following should be added as subsection (5) of section 185, or as an new section of the Act:

*(5) A court shall not regard the evidence of a child as inherently unreliable and shall therefore not treat such evidence with special caution only because that witness is a child.*

This proposed provision mirrors section 164(4) of the Criminal Procedure Act 51 of 1977, which was omitted in the 2004 law.

- c) Amend section 245 on the provision on the admissibility of previous statements by child witnesses to restore the previous criteria from section 216A of the 1977 Criminal Procedure Act, with the addition of the test of the "interests of justice" in order to ensure protection of the accused's rights.**

**245.** (1) *Evidence of any statement made by a child under the age of 14 years is admissible at criminal proceedings as proof of any fact alleged in that statement if the court –*

*(a) is satisfied that –*

*(i) the child concerned is unable to give evidence ~~incapable of giving evidence~~ relating to any matter contained in the statement concerned; and*

*(ii) such statement considered in the light of all the surrounding circumstances contains indications of reliability; and*

*(b) having regard to any prejudice to a party to the proceedings that the admission of such evidence might entail, is of the opinion that such evidence should be admitted in the interests of justice.*

*(2) If a child under the age of 14 years gives evidence in criminal proceedings, evidence of a statement made by that child is admissible as proof of any fact alleged in that statement if that child gives evidence to the effect that he or she made that statement.*

*(3) Evidence of a statement contemplated in subsection (1) or (2) may in criminal proceedings be given in the form of –*

*(a) the playing in court of a videotape or audiotape of the making of that statement, if the person to whom the statement was made gives evidence in such proceedings;*

*(b) a written record of that statement if the person to whom the statement has been made gives evidence in such proceedings;*

(c) oral evidence of that statement given by the person to whom the statement was made, but only if it is not possible to give evidence in the form contemplated in paragraph (a) or (b).

(4) This section does not render –

~~(a) admissible any evidence that is otherwise inadmissible;~~

~~(b) inadmissible any evidence that is otherwise admissible under section 244 as hearsay evidence.~~

**Amend the wording of section 185(2) in the 2004 Act as follows to clarify the procedure for testing whether a child witness is capable of giving intelligible testimony.**

*... unless it appears to the presiding judge or magistrate, on the basis of such informal preliminary questioning by such presiding judge or magistrate as is necessary to assess the child's maturity, that the witness is incapable of giving intelligible testimony.*

**The common-law crime of rape should not invoke heavier minimum sentences than rape under the Combating of Rape Act.** Increased deterrence of potential rapists would be better achieved by a focus on increasing conviction rates rather than by increasing punishment for offenders. **We recommend that section 309(3)(c) be deleted, thus retaining the minimum sentences in the Combating of Rape Act for rape under a statute or at common law.** Alternatively, we recommend deleting the term “rape under a statute” from section 309(3)(c) and from Part 1 of Schedule 5 so that the same minimum sentences will apply to the common-law crime of rape as to rape under a statute, to avoid a return to use of the common-law crime in a manner that would undermine the purposes of the Combating of Rape Act.

## **C. Office of the Prosecutor-General**

**The Office of the Prosecutor-General should work with the police to institute a system of prosecutor-guided investigations. Specialised prosecutors should be assigned to rape cases immediately when the docket is opened, so that they can work closely together with police to guide the investigation from the beginning, to reduce delays and increase conviction rates.** This can be done by means of regular telephone contact even if the prosecutor cannot physically work with the police in question.

There should be clear guidelines from the Office of the Prosecutor-General on when and how to use **anatomically correct dolls** to assist in taking statements from children without creating problems in court later on.



**Requests for the withdrawal of cases involving complainants with mental disabilities should be treated with strict caution.** While mental disabilities vary, many persons with such disabilities may lack the coherency to ask for a withdrawal or to understand the implications of such an action.

**The Office of the Prosecutor-General should work with police to develop guidelines on acceptable interim or alternative procedures for ID parades which could be utilised to minimise trauma to the complainant:**

- ▶ The complainant could identify the perpetrators without touching, by means of numbers worn by the different persons, or by use of an inexpensive mechanism such as a focused laser pointer of the type used in lectures or even an ordinary torch with a clearly focused beam.
- ▶ The technique described by the interviewee where the suspects passed by an office one by one to be viewed by the complainant, instead of being viewed all at once in a formal line-up could be used more widely if approved by prosecutors on legal grounds.
- ▶ Photographs could be used in place of actual persons.

**Doctors should receive more regular and intense training on the J-88 forms and their legal impact.** This training should involve both the National Forensic Science Institute and prosecutors from the specialised unit on sexual offences.

**The Ministry of Health and Social Services and the Office of the Prosecutor-General should consider appropriate disciplinary or even criminal sanctions against doctors who wilfully fail to follow proper procedures in collecting medical evidence and completing any required forms (such as J-88 forms).**

**The form developed by the National Science Forensic Institute to accompany rape kits should be assessed by the Office of the Prosecutor-General to see if it could replace the J-88 form in future.**

**All police stations, or at least Woman and Child Protection Units, should be equipped with cameras which self-develop photographs immediately, which could be used in conjunction with the medical examination to document visible injuries.** The Office of the Prosecutor-General and the Namibian Police could issue instructions on how best to authenticate the photos to ensure that they will be admissible as evidence in court.

**Prosecutors should be advised to cross-check with the National Forensic Science Institute directly when the docket indicates that samples were sent to the lab but contains no lab report.** Surprisingly, this is not common procedure in practice. A simple telephone call could thus bring the lab results together with the case docket.

It seems that prosecutors may need to be alerted to the **permissibility and appropriateness of multiple charges of rape in a gang rape situation or in situations where multiple sexual acts by a single perpetrator took place in circumstances which warrant treating them as separate events.** This could be done in training courses or by means of official circulars.

**Introduce an official form for recording notice to the complainant of the bail hearing, the outcome of the bail hearing and the bail conditions.** The Combating of Rape Act could be amended to allow the issue of accompanying regulations, so that such a form could be officially promulgated.

**Although many professionals involved in implementing the law were clearly well-informed about the provisions relating to bail, some seem to be confused about certain details. This indicates that this aspect of the law should be a focus in training sessions for prosecutors.** It is particularly important to ensure that presiding officers understand that the complainant's opinion on whether bail should be granted is relevant, but not decisive.

**The mandatory "no-contact" provision should be a focus of training and discussion for prosecutors.**

**The government should commission a study of case withdrawals initiated by complainants in order to ascertain what forms of assistance and support might dissuade complainants from seeking to withdraw rape cases.**

We recommend that Namibia adopt a **Victim Support Programme staffed by volunteers who are supervised and trained by an administrative official based in the Ministry of Health and Social Services or the Office of the Prosecutor-General**, with the following aims:

- ▶ to inform complainants and witnesses of case status and progress
- ▶ to communicate the complainant's needs and concerns to social workers or appropriate persons in the criminal justice system
- ▶ to orient complainants to court procedures (with the aid of simple-language educational material approved by the Office of the Prosecutor-General)

- ▶ to accompany complainants to court proceedings
- ▶ to involve complainants, when possible, in decision-making processes (such as explaining special arrangements for vulnerable witnesses so that they can consider which might make them more comfortable)
- ▶ to assist complainants with logistics related to court appearances
- ▶ to encourage the reporting of crime and discourage case withdrawals.

**Approved volunteers should have a nametag and a photo ID. They should also be given clear guidelines on their role and the boundaries of their involvement.**

**This Victim Support Programme could train volunteers to assist with explaining the court process to the complainant, with the assistance of materials developed especially for this purpose** (such as comic books and colouring books on the court procedure for children, similar to those in use in South Africa, and appropriate indigenous language materials for adults). Volunteers could take complainants to the empty courtroom in advance of the trial and be available to answer any questions the complainant might have about practical issues such as transport and accommodation. This would free prosecutors to focus more fully on the legal issues which are their area of expertise.

**Victim Support Programme volunteers could explain the possible special arrangements for vulnerable witnesses and help to determine the complainant's preferences.**

This programme could be piloted in cases of rape (and perhaps domestic violence as well) and extended to other crime victims if successful.

**Arrange for volunteers or social workers to spend time with complainants explaining the general court procedure and addressing practical needs,** though a Victim Support Programme or more informally.

Make sure that children are given an **appropriate orientation to court procedures** so that they will understand what is happening and feel comfortable in the court setting.

**In the absence of a Victim Support Programme, the Office of the Prosecutor-General should re-organise the workload of prosecutors involved in rape cases with their legal duty to the complainant in mind, so that they are able to dedicate more time and energy to the task of orienting rape complainants to the court process.**

**Prosecutors should take primary responsibility for suggesting special arrangements for vulnerable witnesses.**

The **provision requiring closed courts during rape trials** is not universally well known by prosecutors, legal aid lawyers and magistrates. **The Ministry of Justice should issue a circular informing existing officials of the correct legal position, and training for new officials should incorporate this issue.**

**Prosecutors should be encouraged to report long delays in police investigation to the NAMPOL complaints department** so that monitoring and supervision of this problem can be intensified.

The Ministry of Justice or the Office of the Prosecutor-General should work together with the police to formulate **clear rules on who is responsible for ensuring that witnesses attend criminal cases**, to ensure that there is budgetary provision for carrying out this duty.

**Provide prosecutors with more training on the relevant medical issues**, to facilitate their use of medical evidence.

**Reduce the administrative burden on prosecutors** by providing more support from court clerks, court orderlies or other administrative personnel for non-legal tasks.

A few of the professionals who are involved in the implementation of the Combating of Rape Act are not completely clear on some of the finer points of **the new evidentiary rules**. This should be a focus of information and training.

The **new rules on admissibility and credibility of evidence from children** are not uniformly understood and applied. This should be **a focus of information and training**.

More detailed information and training on **the legal position regarding minimum sentences, and case law developments in this area**, would assist prosecutors. All prosecutors should be reminded that the statutory minimums do not apply to offenders under age 18.

**Encourage all local media to give prominent coverage to acquittals on charges of rape, and to legal actions against complainants who lay false charges of rape.**

The provisions on privacy in the Combating of Rape Act are not being enforced in practice. **We suggest that media who violate the law on this score should be prosecuted.**

The Office of the Prosecutor-General should **alert all prosecutors and presiding officers to the existing law on attempted rape since the legal authority for this point is contained in a rather obscure statute.** This could be done in training courses or by means of official circulars.

## Revision of J-88 forms

**J-88 forms should have a particular space for indicating whether or not a complainant is disabled, and the particular form of disability should be specified.** Currently, the J-88 only contains a question on mental state, which refers to the general emotional state of the complainant and not to the presence of a mental disability.

The **booklet developed by the National Science Forensic Institute to accompany rape kits should be assessed** by the Office of the Prosecutor-General to see if it could replace the J-88 form in future.

**A Spanish translation of the J-88 form should be prepared for use by Cuban doctors working in Namibia.** Arrangements could be made in Windhoek or other urban centres for a sworn translation to be added to the docket as soon as possible.

## D. Courts

### Information and training for presiding officers

**Where postponements of rape cases are requested in court on the grounds that the lab results are not available, courts should request confirmation from the National Forensic Science Institute before granting a postponement on these grounds.** This simple expedient would prevent anyone from using “no lab results” as an excuse to cover up other shortcomings in respect of the case. Anyone who says in court that lab results are not yet available while knowing that this is untrue should be dealt with severely. Cross-checking procedures such as these would help to identify with certainty where communications have broken down, and which institution is at fault.

Although many professionals involved in implementing the law were clearly well-informed about the provisions relating to bail, some seem to be confused about certain details. This indicates that this aspect of the law should be a **focus in training sessions for magistrates**. It is particularly important to ensure that presiding officers understand that it is not the complainant's opinion on whether bail should be granted is relevant, but not decisive.

The **mandatory "no-contact" provision** should be a **focus of training and discussion for magistrates**. If the complainant and accused share the same residence, the court should always specify who is to leave the residence while the case is pending, with priority being given to the complainant's wishes unless special circumstances dictate otherwise.

A particular official at each court should be given **responsibility for processing legal aid applications and forwarding them to the appropriate legal aid office**, to allow for monitoring and follow-up.

**Encourage presiding officers to take a harder line against any legal practitioners who cause unwarranted delays in criminal cases.**

The **provision requiring closed courts during rape trials** is not universally well known by prosecutors, legal aid lawyers and magistrates. **The Ministry of Justice should issue a circular informing existing officials of the correct legal position, and training for new officials should incorporate this issue.**

**Reduce the administrative burden on prosecutors by providing more support from court clerks, court orderlies or other administrative personnel for non-legal tasks.**

**Give rape cases involving minors, or at least children under age 16, priority on the court roll** so that they can be heard promptly, before the child's memory of the incident fades.

A few of the professionals who are involved in the implementation of the Combating of Rape Act are not completely clear on some of the finer points of the **new evidentiary rules**. This should be a **focus of information and training**.

The **new rules on admissibility and credibility of evidence from children** are not uniformly understood and applied. This should be **a focus of information and training**.

More generally, **presiding officers would benefit from information and sensitisation on the testimony of child witnesses by experts in this field**. Given the prevalence of child rape in Namibia, it would be appropriate for the judiciary to arrange workshops on this topic.

Prosecutors should take primary responsibility for suggesting special arrangements for vulnerable witnesses, **but presiding officers should also be sensitised to play a more active role** just as they are expected to give special attention to the rights of an unrepresented accused.

**Court rules should require that the record of any case of sexual abuse involving a child under age 18 should indicate what vulnerable witness provisions were utilised, and the reasons for applying or not applying the potential special arrangements.** This would ensure that the vulnerable witness options are give appropriate consideration.

More detailed information and training on **the legal position regarding minimum sentences, and case law developments in this area**, would assist presiding officers. All presiding officers should be reminded that the statutory minimums do not apply to offenders under age 18.

## Court interpreters

**The Ministry of Justice should provide specific training on rape cases to court interpreters**, to increase their understanding of how to make sensitive and accurate translations on sexual issues.

Where possible, **the Ministry of Justice should provide interpreters of the same sex as the rape complainant**, or of whatever sex the complainant prefers.



## E. Legal aid

The decentralisation of legal aid services which is already underway should help to prevent backlogs in decisions on legal aid applications. However, it appears that there are sometimes **administrative break-downs between processing the application and forwarding the application to the appropriate legal aid office**. A particular official at each court should be given responsibility for this task, to allow for monitoring and follow-up.

The **provision requiring closed courts during rape trials** is not universally well known by prosecutors, legal aid lawyers and magistrates. **The Ministry of Justice should issue a circular informing existing officials of the correct legal position, and training for legal aid lawyers should incorporate this issue.**

A few of the professionals who are involved in the implementation of the Combating of Rape Act are not completely clear on some of the finer points of the **new evidentiary rules**. This should be **a focus of information and training**.

## 7. MINISTRY OF GENDER EQUALITY AND CHILD WELFARE

The Children's Act 33 of 1960 is expected to be replaced by a **new Child Care and Protection Act**. The Ministry of Gender Equality and Child Welfare should ensure that this new law contains **a provision explicitly addressing consent to medical examination of minors and the provision of appropriate post-rape medication to minors** in instances where parental consent cannot be obtained, where the minor rape victim does not want his or her parents to be informed about the rape, or where the parent or guardian is the rape suspect.

Reported rapes of both children and adults are particularly high in **the Hardap Region** by every measure. Thus, it would make sense to **target this region for particularly intense interventions on the prevention of gender-based violence, with particular emphasis on preventing and combating child rape**. Even if the distinction reflects a greater willingness to report rape rather than a higher incidence of rape, targeted intervention would still be warranted as this would still mean that the issue of rape is being dealt with more openly in this region than in others.



**Government should produce more educational materials on rape and other legal rights aimed at persons with particular disabilities which make general public information inaccessible to them.** While the efforts of government and non-governmental organisations to disseminate information on legal rights are commendable, there is a gap when it comes to persons with disabilities.

**Public awareness campaigns** should:

- ▶ seek to motivate persons to report rapes to the police by including information on the **danger of repeat rapes** by such persons.
- ▶ emphasise that **receiving compensation for a rape with the assistance of traditional authorities and laying a charge with the police are not mutually exclusive options.**
- ▶ **explain bail provisions** so that complainants will know that rapists who have threatened them are likely to be denied bail, and will be forbidden to have any contact with them even if bail is granted.
- ▶ include information on **the repercussions of false charges**
- ▶ include accurate information on **who can lay a charge**, and on the fact that **subsequent lawsuits for defamation are not possible where charges are laid in good faith.**

**Use radio and school programmes to encourage children to speak to a trusted adult promptly if they experience any kind of abuse.**

## 8. TRADITIONAL LEADERS

**Traditional leaders should be encouraged to become more involved in community outreach efforts relating to rape,** in cooperation with the Namibian Police and the Woman and Child Protection Units.

**Traditional leaders should inform their constituencies that receiving compensation for a rape with the assistance of traditional authorities and laying a charge with the police are not mutually exclusive options.** Community members should be informed of the danger of repeat rapes and encouraged to lay charges with the police for the protection of the community.

# PART B

# STAKEHOLDERS

# OUTSIDE

# GOVERNMENT

## 1. NGO COMMUNITY

Reported rapes of both children and adults are particularly high in the **Hardap Region** by every measure. Thus, it would make sense to **target this region for particularly intense interventions on the prevention of gender-based violence**, with particular emphasis on preventing and combating child rape. Even if the distinction reflects a greater willingness to report rape rather than a higher incidence of rape, targeted intervention would still be warranted as this would still mean that the issue of rape is being dealt with more openly in this region than in others.

**Non-governmental organisations should produce more educational materials on rape and other legal rights aimed at persons with particular disabilities which make general public information inaccessible to them.** While the efforts of government and non-governmental organisations to disseminate information on legal rights are commendable, there is a gap when it comes to persons with disabilities. The Legal Assistance Centre has made a small start in this direction by producing material on rape and domestic violence in Braille, but there is still a need for more materials aimed at persons with disabilities.

**Public awareness campaigns** should:

- ▶ seek to motivate persons to report rapes to the police by including information on the **danger of repeat rapes** by such persons.
- ▶ emphasise that **receiving compensation for a rape with the assistance of traditional authorities and laying a charge with the police are not mutually exclusive options.**
- ▶ **explain bail provisions** so that complainants will know that rapists who have threatened them are likely to be denied bail, and will be forbidden to have any contact with them even if bail is granted.
- ▶ include information on **the repercussions of false charges**
- ▶ include accurate information on **who can lay a charge**, and on the fact that **subsequent lawsuits for defamation are not possible where charges are laid in good faith.**

**Health issues pertaining to rape should also be the focus of public awareness campaigns.**

All service providers and counsellors should be given **clear training and information on PEP and other post-rape medications, the time frames for their use, and their importance to the rape complainant.**

The Legal Assistance Centre and other human rights organisations should take **steps to help the general public understand the concept of bail more clearly**, as part of their general education on human rights.

**Use radio and school programmes to encourage children to speak to a trusted adult promptly if they experience any kind of abuse.**

**Non-governmental organisations working with gender-based violence should share plans for workshops with the National Coordinator of the WCPUs**, to facilitate better coordination and more effective coverage of different parts of the country.

**Members of the public must be encouraged to report problems experienced at WCPUs with details** so that they can be addressed by the WCPU management.

Members of the public should be encouraged to **report longs delays in police investigation to the NAMPOL complaints department** so that monitoring and supervision of this problem can be intensified.

## **2. TELECOM**

**Telecom should work together with rural communities to provide a network of public phones and cell phones in rural areas, including “hotline” phones which allow free calls to police. In areas without Telecom coverage, perhaps local churches or traditional leaders could be equipped with satellite phones similarly programmed to make emergency calls only.**

### 3. DONOR COMMUNITY

Telecom should work together with rural communities to provide a network of public phones and cell phones in rural areas, including “hotline” phones which allow free calls to police. **In areas without Telecom coverage, perhaps local churches or traditional leaders could be equipped with satellite phones similarly programmed to make emergency calls only. Donors might be asked to consider funding such phones in selected communities on a trial basis.**

**Police must be equipped with sufficient transport to respond to such calls for help, which in some regions means 4x4 vehicles.** It is recognised, however, that such improvements in transport would be feasible only if strict and workable controls could be implemented to ensure that vehicles were not abused.

### 4. MEDIA

Encourage all local media to **give prominent coverage to acquittals on charges of rape, and to legal actions against complainants who lay false charges of rape.**

The provisions on privacy in the Combating of Rape Act are not being enforced in practice. **We suggest that media who violate the law on this score should be prosecuted.**

### 5. LEGAL PROFESSION

Following on the examples of South Africa and Canada as well as recent Namibian jurisprudence, **legal practitioners should explore possibilities for further development of the law of delict and the duty of care on the part of police and other service providers in appropriate cases involving gender-based violence.**