



*Fighting for
human rights
in Namibia
since 1988*

LEGAL ASSISTANCE CENTRE



Annual Report 2012



Mission Statement

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

Report Contents

Introduction	1
Legal Advice and Litigation	3
Education and Training	9
Research, Advocacy and Lobbying	13
Building LAC Capacity	20
Networking and Informing	21
Emerging or Potential Problems	25
Sustainability and Funding	26
Conclusion	27
Getting in touch with the LAC	27

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INTRODUCTION



The Legal Assistance Centre (LAC) engages in three main activities:

- Legal Advice and Litigation;
- Education and Training; and
- Research, Advocacy and Lobbying.

It does this through five major projects:

- **GR&AP (Gender, Research and Advocacy Project)** – works to promote gender equality and the empowerment of women through legal research, law reform and related advocacy work.
- **LEAD (Land, Environment and Development Project)** – works specifically on land, environment and rural community empowerment issues.
- **HURICON (Human Rights and Constitutional Unit)** – works directly in fighting human rights violations, mainly through litigation.
- **ALU (AIDS Law Unit)** – works to promote a human-rights-based response to HIV/AIDS.
- **Namibia Law Reports** – edits and produces the *Namibian Law Reports*, a record of reportable judgements handed down by the superior courts of Namibia.

The projects/units adopt a holistic approach to human rights by working in cross-cutting areas. This approach has enabled the LAC to move towards its overall objective, namely *the creation of a human rights and democratic culture that facilitates the effective enforcement of rights, human rights laws and citizenship participation*. This objective is not something that can be obtained overnight, and sometimes it is difficult to quantify actual progress made, but the LAC is convinced that building a human rights democracy can be compared to building a home: it is done with a proper foundation and brick by brick. The LAC believes that its work in meeting the challenge of building democracy is the material that will form such democracy.

This report summarises the **main highlights** in the LAC's three main areas of activity in 2012.

This report was prepared by the LAC Director, Toni Hancox.



"The LAC has done an excellent job of making statute law more accessible!"

- Email from a member of the public



LEGAL ADVICE AND LITIGATION



The ALU Coordinator, Amon Ngavetene, addressing a public rally against forced sterilisation (see page 5).

Human Rights and Constitutional Unit (HURICON)

Litigious matters are generally dealt with by the HURICON legal practitioners in conjunction with the other projects/units of the LAC.

Securing the separation of powers

Judgement in the Supreme Court appeal in the case of the *Minister of Justice and Another vs the Magistrates' Commission and Another* was handed down in our client's favour. The Minister of Justice was ordered to dismiss the errant magistrate, and subsequent enquiries confirmed that this was done. This matter illustrates the importance of separating the three arms of government, and the LAC's assistance in keeping the Judiciary independent. However, the dismissed magistrate has appealed the original recommendation that she be dismissed from office – despite a lengthy time lapse. This matter is ongoing.

Preventing property-grabbing

The LAC provided legal advice and legal assistance in various housing, property-grabbing and inheritance matters. To illustrate, three examples:

CASE 1: Our client is a widow who was married to the deceased by customary law. She and her five minor children are being dispossessed of all the assets in the deceased estate by her stepson who was appointed as Executor. An application was made on the client's behalf to have the customary marriage recognised as a tacit universal partnership, and to declare the Executor's conduct to be a violation of the client's right to equality, i.e. her right not to be discriminated against on the basis of sex. This matter has been concluded in our client's favour.

CASE 2: Our client and her husband have been married under customary law for over 50 years. The husband has brought a new customary wife into the common homestead, and is constructively forcing our client to move out of the homestead without sharing the assets in the joint estate. Our client is being economically, emotionally and psychologically abused. The Maherero Community Court has dissolved the marriage, but the ex-husband has refused to respect the order related to the distribution of the joint estate. An application will be filed with the High Court in 2013 to protect our client's interests.

CASE 3: Our client is a divorced woman who was being dispossessed of property by the award of a divorce order without her having legal representation. Although married out of community of property, our client was awarded compensation of N\$25 000 as part of her contribution to the common estate.

Inheritance and property-grabbing matters remain on the human rights agenda due to skewed practices which are still prevalent in the country as a result of the previous political dispensation as well as prevailing traditional influences. Interventions in these matters are bound to continue in the foreseeable future due to the systemic nature of discrimination against women and the very strong ties that bind communities to the old traditional practices.

Protecting the right of freedom of association

The LAC acted on behalf of the Public Service Union of Namibia in its quest to ensure that prison officials have the right to join unions – a constitutionally protected right which was removed with the promulgation of the new Labour Act in 2007. After several postponements, this matter was placed on the High Court roll for hearing on 23 October 2012. The Court handed down an unfavourable judgement which the LAC has appealed. Notice of the appeal was filed in November 2012, and the parties have signed special powers of attorney. The appeal should be heard in 2013.

Protecting the rights of incarcerated persons

We assisted a number of inmates at Windhoek Central Prison with their complaints that prison officers did not want to provide nutritional food prescribed for their respective health conditions, and also prevented family members from supplying the necessary food. Upon our intervention,

the complaints were addressed. This intervention was a follow-up to a High Court request that the LAC provide a Referee's Report on the conditions in Windhoek Central Prison in relation to a number of specific matters raised by a single inmate.

In another matter, the Supreme Court handed down judgement in favour of our client who was kept in forensic psychiatry despite the hospital board ordering her release. The High Court had dismissed our client's claim, but on appeal the Supreme Court agreed with the LAC, finding that the woman had been detained unlawfully for seven months. Settlement negotiations are underway as the Court did not adjudicate on the quantum.

Preventing torture, police assault, and unlawful arrest and detention

The LAC continues to address the Caprivi secessionist cases of assault/torture, unlawful arrest and/or unlawful detention. In the reporting period, 22 matters were settled favourably on our clients' behalf, with the Government paying compensation. The LAC undertook a field (outreach) trip to Caprivi to consult with family members of a number of plaintiffs who have died in detention. As a result, the cases of six deceased plaintiffs were settled by way of withdrawal. Settlement negotiations are ongoing in a number of other Caprivi matters. In one matter, our client was granted a monetary award for his claim for unlawful detention, but the Government has appealed, and the case will be argued in 2013.

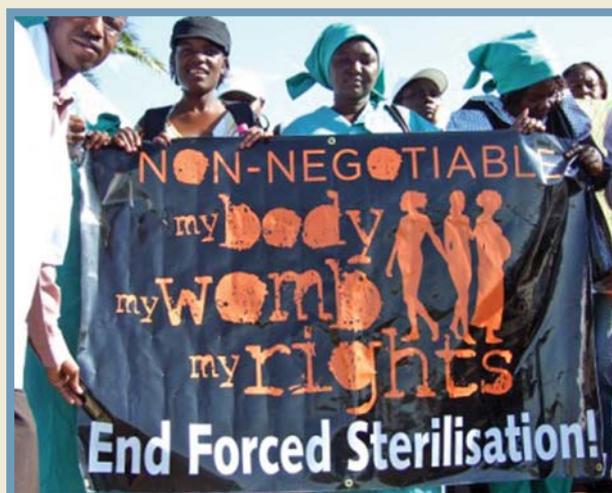
In a separate case, the LAC is assisting the spouse and children of a man who was killed by the police in Katima Mulilo, Caprivi, in March 2011. Summons has been issued for loss of support.

Outlawing medical negligence

In 2012 the LAC took on two cases of alleged medical negligence during childbirth. In one case the newborn died, and in the other case both mother and baby died after delivery. Once the LAC has studied the medical records requested in both cases, we will decide what form of assistance to offer.

Supporting the claim of "my body, my rights"

The High Court delivered judgement in favour of three LAC clients who were sterilised after giving birth in state hospitals, without their properly consenting to sterilisation – although the Court could not find that the behaviour of the applicable hospital staff was linked to the fact that all three women were HIV positive. The Government has appealed, and the appeal will be heard in 2014.



Protecting vulnerable individuals

The Supreme Court finally handed down judgement in the matter of a mentally-challenged girl who was raped by a teacher on a weekend away from the school hostel. The court confirmed the High Court's decision to hold the Ministry of Education liable for the teacher's conduct. Compensation has been paid, placing the victim's elderly grandmother (her guardian) in a position to provide for the girl's care in the future.

Outlawing discrimination on the basis of HIV status

The LAC has issued summons on a client's behalf against an employer for violation of the client's rights and discrimination of an employee based on HIV status.

In another matter, the LAC is assisting a number of truck drivers whose employer has requested them to subject to HIV testing.

ALU is assisting various other clients with similar matters.

Supporting housing groups and HIV support groups

We continue to provide legal advice and support to housing groups established to enable low-income groups to access land and housing. In particular, we hold meetings with housing groups to inform them about their rights, the structuring of their associations, how members have control over the executive committee and the election process.

To obtain community-based referrals of human rights violations at grassroots level and violations of the rights of people living with HIV (PLHIV), ALU has assisted various HIV support groups with the drafting of their constitutions. In 2012 ALU established partnerships with 15 community-based organisations of PLHIV in Ohangwena, Oshikoto, Omusati, Oshana, Kavango and Caprivi Regions.

Assisting conservancies

Through its LEAD Project, the LAC continues to provide legal support and advice to existing and emerging conservancies. In 2012 the focus was on drafting and/or amending constitutions, and advising conservancies on issues relating to illegal fencing of portions of land within conservancy boundaries – a persistent problem that robs many conservancy members of their land-use rights and resources.



Illegal fencing is a persistent problem in many Namibian conservancies.

Securing the rights of indigenous peoples, marginalised groups and traditional authorities

LEAD attended a meeting in Opuwo, Kunene Region, with leaders of the various ethnic groups who would be directly affected by the proposed Baines Hydropower Dam. The concerns raised are that the dam will cover ancestral grave sites, cultural and spiritual places and homesteads, and that vast tracts of grazing land will be lost. Another issue raised in the meeting was that the Government's failure to recognise the true chiefs of the Himba people is effectively eroding the power of the traditional chiefs on their own land, and is undermining the culture and the very existence of the Himba people. The Namibian Government has commissioned an Environmental Impact Assessment, and the Namibian and Angolan Governments are now to agree on the terms of building the dam. The LAC is closely monitoring the progress to ensure that the rights of the Himba people are not violated.

LEAD continues to provide assistance and legal advice to the Hai||om San who still reside in Etosha National Park (their ancestral land), who are struggling to assert their traditional and ancestral rights. A community meeting convened at Okaukuejo in Etosha on 22 April 2012 was attended by 35 Hai||om residents of Okaukuejo. They do not want to move to resettlement farms as the Government has proposed. The Government continues to ignore Hai||om land rights in Etosha, and an application to enforce these is planned for 2013.

Outlawing corporal punishment at school

The LAC liaised with the family involved in a criminal case against three teachers at a private school in Windhoek which is practising corporal punishment in violation of the Education Act. Although the LAC is not technically involved in the criminal case, LAC staff attended the trial to provide support to the clients and to ensure that the legal proceedings were clear to the clients. The LAC also sent several letters to the Ministry of Education requesting an investigation of the school's violation of the Education Act. We have also alerted the Office of the Ombudsman to these concerns.

Protecting refugees

The LAC has been assisting a group of Angolan refugees in a matter involving Namibia's application of the general cessation declaration to Angolan refugees without following the procedural and substantive requirements of international law. We made two applications on behalf of these clients: an urgent application to prohibit the Government from declaring Angolan refugees to be illegal immigrants by a stated date; and an application for the review of the Government's actions. The Ministry of Home Affairs and Immigration offered to settle the matter out of court, and the matter was settled to our clients' satisfaction.

There are over 2 000 Angolan refugees in Namibia. As a result of the LAC's intervention, the Government has not declared them to be illegal immigrants, but instead is issuing documents to those who wish to remain in the country in order to regularise their residential status here.

Providing legal advice and information in general

In general, the LAC dispenses advice to walk-in clients on a daily basis, on a wide range of issues, examples in 2012 being foster care, inter-country adoption, domestic violence, child custody, same-sex adoption, imprisonment for abortion, child maintenance and access, and property-grabbing (such as a case in which 10 children were disinherited).

Examples of the outcomes of LAC assistance to walk-in clients in 2012:

- The Master of the High Court refused to pay our client reserved funds available for a minor child in her care. After several correspondences, the Master allocated the requested funds to further the child's education.
- In a matter of HIV testing without consent, the doctors concerned chose to settle the matter out of court without admitting liability, and the client accepted the offer.
- We collaborated with Interpol to have our client's child, whom the other parent had abducted to Zimbabwe, returned safely to Namibia.
- We assisted Rundu street vendors in preventing the Rundu Municipality from evicting them. This assistance has resulted in the authorities actively considering the alternative options proposed by the street vendors and supported by the LAC.

If the LAC cannot assist a person, either because the matter is not within our mandate or because we do not have the necessary resources to do so, we refer the person to an organisation or a government directorate that can assist. In 2012 we screened some 349 potential cases, and directly attended to many more queries through the relevant LAC project/unit.

We continue to operate our sms response line which members of the public utilise regularly. We also provide regular assistance to clients via email.

"Thank you SO much for your help and for all the information, your web site is extremely helpful."

Feedback from a client via email

"Thank you so much for your help I really appreciate. It solved a lot of questions that I have asked. And even more that I would have had thanks a lot."

Feedback from a client via sms

Namibian Law Reports

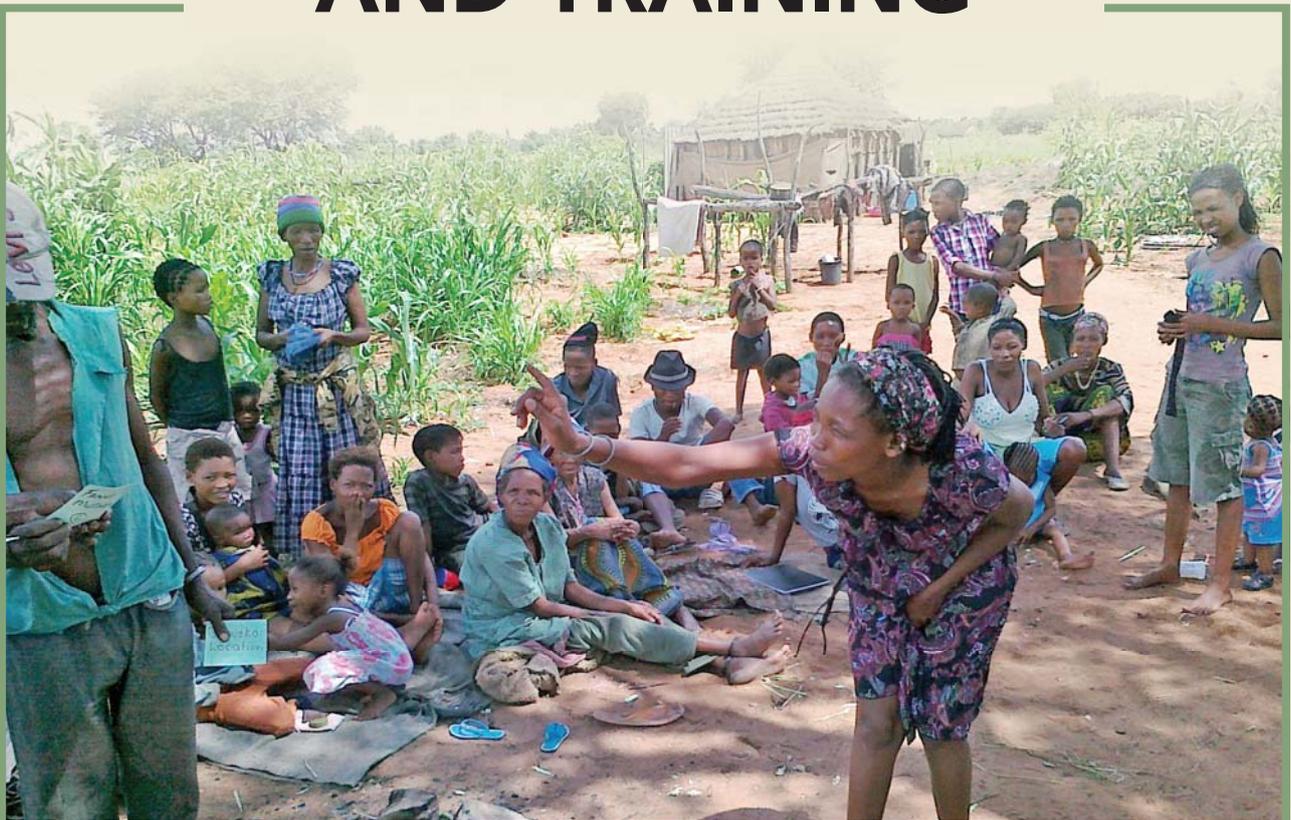
Since 1994 the LAC has published the *Namibian Law Reports* to keep the legal community (Judiciary, legal practitioners and academics) and others informed of new legal precedents and developments in the legal system. The finalised edited cases for Volumes I and II of 2012 were dispatched to the publishers, and Volume I was printed.



The LAC Director, Toni Hancox (third from left), with other delegates at a Commonwealth Law Conference in Sydney, Australia, in April 2012.



EDUCATION AND TRAINING



A community meeting with LEAD representatives at Mangetti Dune in Nꞛa Jaqna Conservancy, Otjozondjupa Region.

The LAC provides education and training to different sectors of Namibian society *continually*. In this section of the Annual Report we highlight just a few key initiatives in 2012.

Gender Research and Advocacy Project (GR&AP)

In 2012 GR&AP hosted/presented **23 workshops involving 606 people** (249 men and 357 women). Workshop participants included police, parliamentary groups, ministerial staff, paralegals, civil society representatives, students and community members.

In 2011 the Ministry of Gender Equality and Child Welfare, with UNICEF support, commissioned GR&AP to prepare Regulations for the Child Care and Protection Bill (expected to be enacted in 2013). As part of the process, GR&AP arranged for a series of consultations at magistrates' courts across Namibia, the objectives being: to consult with key stakeholders on the practicalities of

implementing the Act; to acquire an understanding of the challenges experienced by the courts; to help prepare the courts for the forthcoming legislation; and to provide an opportunity for their input on the Regulations.

The court consultations were facilitated by a GR&AP representative as well as a district judge and a social worker from the United Kingdom. The judge and social worker were invited to discuss practices in the UK and Namibia for comparative purposes, with the aim of facilitating peer-to-peer debate on the Bill and the Regulations.

The three facilitators undertook two trips – the first in November 2011 and the second in January 2012 – during which they visited a total of 15 magistrates’ courts in 8 of Namibia’s 13 regions – thus almost half of the permanent magistrates’ courts in the country were consulted. Approximately a quarter of all social workers employed by the State participated in these consultations.



The consultations at the 15 magistrates’ courts were facilitated by GR&AP representative Yolande Engelbrecht (right) together with a district judge and a social worker from the UK.

Summary of court consultations:

- 15 courts
- 8 regions
- 78 participants: magistrates, prosecutors, clerks of court, social workers, police officers



GR&AP regularly produces educational materials and provides training to community groups and service providers on the issues covered in these. In 2012 GR&AP worked with the Ministry of Education to produce an *Information Package for the Management of Learner Pregnancy* to accompany the Ministry’s new Education Sector Policy on the Prevention and Management of Learner Pregnancy. See pages 15-16 for details of other GR&AP materials produced in 2012.

Land, Environment and Development (LEAD) Project

Following is a brief summary of LEAD's major education and training activities in 2012:

- On behalf of the International Labour Organisation (ILO), LEAD facilitated a workshop in Windhoek in which international instruments and mechanisms pertaining to indigenous communities were considered.
- Illegal fencing in Namibia was the focus of a paper presented by the LEAD Coordinator at an international conference on Global Land Grabbing.
- LEAD presented a paper entitled "Indigenous Institutions and National Legal Traditions" at an international workshop organised for the purpose of canvassing developments surrounding indigenous peoples.
- At an ILO conference, LEAD gave a presentation on possible models for structuring the Namibian San Council as an organisation that advocates for the rights of San communities.
- LEAD provided training to conservancy game guards on law enforcement and general aspects of natural resource management.
- LEAD attended a workshop focusing on a poverty assessment of the San in Namibia.
- LEAD attended the second meeting of the Forum for Land Use Planning in Namibia.
- During Namibian Film Week 2012, LEAD participated in a panel discussion on guidelines for compensating San and Himba communities who are approached to feature in films.
- At the Second UNAIDS Small Grants Funds Capacity Building Workshop, attended by the 12 UNAIDS grantees in Namibia, LEAD facilitated a session on how to gain legal status. In this session, LEAD also gave a presentation on "How to create a non-profit group".

AIDS Law Unit (ALU)

ALU facilitated training workshops and information-sharing sessions on a range of issues in 2012, reaching a **total of 1 332 people**. Following is a summary of these ALU activities.

Empowering People Living with HIV/AIDS (PLWHA): ALU trained members of PLWHA support groups on the rights of PLWHA, with the main aim of addressing stigma and discrimination so as to promote empowerment of PLWHA. These trainings were region-based, with members of a particular support group gathering at a clustered point for the training. In these sessions ALU also helped the trainees to draft a constitution for their respective groups. A **total of 90 support group members** were trained in this programme in 2012.

Harmonising Customary and Civil Laws: This ALU training programme is aimed at raising traditional authorities' awareness of harmful customary laws and practices, and facilitating the reform/harmonisation of customary laws and practices which render women vulnerable to HIV. The ALU strategy is to ensure that customary laws uphold the values and principles of an open and democratic society as enshrined in Namibia's Constitution and various pieces of legislation. A **total of 51 traditional leaders** were trained in 2012.



Traditional leaders in an ALU workshop focusing on the harmonisation of customary and civil laws.

Informing Key Population Groups: This ALU training programme is aimed at building the capacity of key population groups to reduce HIV transmission among their members through comprehensive HIV prevention services and linkages to care and treatment – for the following groups especially: men who have sex with men (MSM), sex workers and clients of sex workers (including truckers, seafarers, miners and police officers). A **total of 135 sex workers and MSM** were trained in 2012.

Training Law Enforcers: As part of the “Informing Key Population Groups” programme in 2012, a **total of 73 police officers** were trained on HIV/AIDS and the Law.

Protecting Prisoners: This ALU training programme is aimed at addressing HIV prevention, care and support and human rights issues in the prisons, targeting both inmates and prison officials. In 2012, a **total of 424 inmates** were trained.

Empowering Children at School: Through its Court Preparation Programme, its Child Witness Support Project and its School Outreach Programme, ALU shares its strong belief that children who know their rights are likely to report cases of violence against themselves and other children, and to protect the rights of others, and to acknowledge their own and other people’s responsibilities connected to those rights. In 2012 the School Outreach Programme reached a **total of 433 children** in Rundu, Windhoek and Rehoboth (thus northern, central and southern Namibia respectively).

Supporting Child and Vulnerable Witnesses: In 2012 the ALU Court Preparation Programme reached a **total of 49 children and 37 parents**. Court testimonies of children stand as evidence that those children who are prepared for court through this ALU programme tend to give *good* testimonies because they do not fear the accused and are more relaxed.

Building the Capacity of Regional OVC Forums: ALU conducted training in Tsumeb for the Oshikoto Regional OVC Forum, focusing on the forum’s role (as custodians of children’s rights) in addressing child labour. There were 40 participants, including social workers (Ministry of Health and Social Services and Ministry of Gender Equality and Child Welfare), teachers, church leaders, representatives of places of safety, community members and a labour inspector.

Human Rights and Constitutional Unit (HURICON)

Two lawyers gave a presentation on human rights to approximately 13 participants in the Namibia Federation of the Visually Impaired Board Training Workshop in August 2012.



ALU Legal Educator Gabes Augustus facilitating police training on HIV/AIDS and Human Rights.



ALU Educator Florence Shivute in an information-sharing session on supporting child and vulnerable witnesses.



RESEARCH, ADVOCACY AND LOBBYING



GR&AP materials produced for its campaign against domestic violence reached all sectors of society across the country, distributed through newspapers, community groups, NGOs and government service providers – see page 16 for details.

Research activities

Land, Environment and Development (LEAD) Project

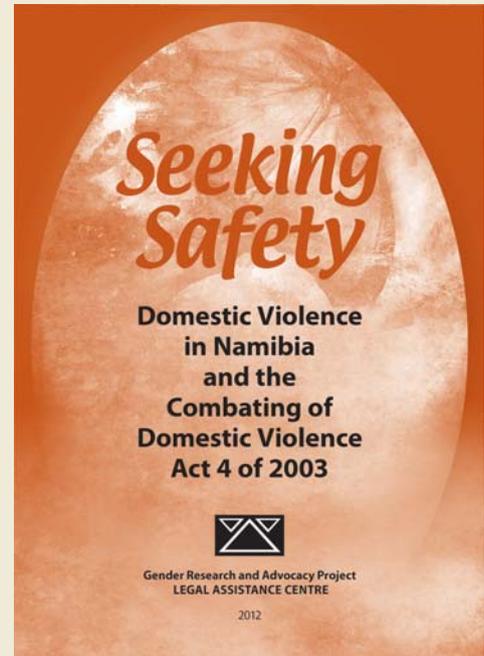
- LEAD continued with its research for a major study on the status of the San communities in Namibia. The report will be available in the second half of 2013.
- LEAD is also busy with research for a study on illegal grazing in the western Kavango Region.
- LEAD is participating in a World Bank study on the impact of climate change on indigenous peoples across the world. For this study, LEAD attended a two-day workshop in Kenya to obtain clarity on the research methodology and the timeframe. The Namibian communities selected for the study are the Topnaar of the Kuiseb River Valley in Erongo Region and the Hai | | om San of Tsintsabis and Farm Six in Oshikoto Region – regions with markedly different climates.
- LEAD finalised its study on land rights in Caprivi and launched the report in November 2012.

Gender Research and Advocacy Project (GR&AP)

GR&AP completed its study of the implementation of the **Combating of Domestic Violence Act** – a study to assess whether the law is serving its intended purpose effectively.

The 612-page study report (and 140-page summary report), titled *Seeking Safety: Domestic Violence in Namibia and the Combating of Domestic Violence Act 4 of 2003*, was launched in July 2012. About 100 people attended the launch. Namibian musician Lize Ehlers performed at the launch, and we screened our animated film on how to get a protection order. To generate interest in the report, we released a series of five press releases prior to and after the launch. We also produced a number of supplementary materials to display at the launch. These materials were designed for the purpose of popularising some of the study findings and recommendations after the launch.

GR&AP continued to campaign against domestic violence throughout 2012, concluding with an outreach push during the internationally observed “16 Days of Activism Against Gender Violence Campaign”.





GR&AP staff member Yolande Engelbrecht (right) and the British High Commissioner in Namibia, H.E. Mrs Marianne Young, at the release of a new one-page comic on child abuse. GR&AP uses this format for educating the public through newspapers.

GR&AP launched its fifth monograph, titled *Beliefs and attitudes towards gender, sexuality and traditions amongst Namibian youth*, at the Polytechnic of Namibia in April 2012. The launch was attended by students, media, and government and civil society representatives. This report summarises information collected in surveys of secondary school learners in different parts of the country, with a view to providing information that can inform educational and social programmes on HIV prevention, gender equality and sexual rights.



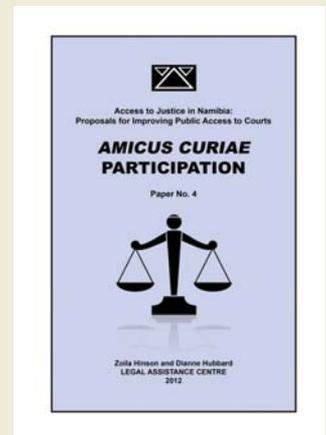
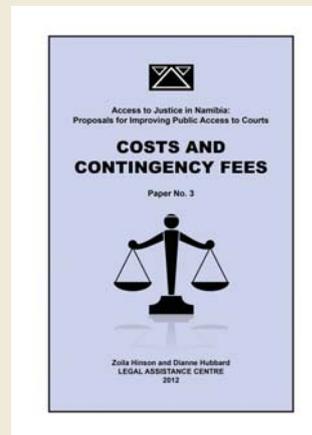
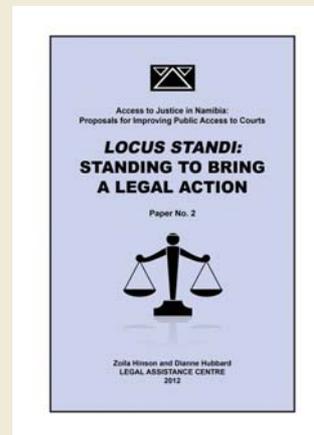
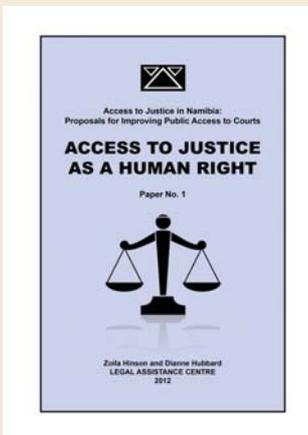
"... a great study and the right target group. I was astonished by the ignorance/naivety/limited knowledge of our youth of that age, taking into consideration that most of them are sexually active by age 15 and not knowing that you need to have protective sex etc. We still have a long way to go in terms of educating the youth especially. Despite the fact that we say Namibia has become more westernised, there is still a big knowledge gap re sex, sexuality, gender, traditional beliefs. Therefore the need for more aggressive campaigns on these issues. Thanks again for the initiative and for always sharing with us."

Veronica Theron, Ministry of Gender Equality and Child Welfare

In December, GR&AP released a series of papers on **access to justice** as a human right, aimed primarily at the legal profession.

Access to justice is both an independent human right and a crucial means to enforce other substantive rights. Namibia has a progressive, modern Constitution, guaranteeing an impressive set of rights for the individual. Yet, without a realistic means to enforce those rights, substantive guarantees can far too easily become merely a set of empty promises. The Constitution of Namibia guarantees access to justice, but some legal procedures limit the ability of individuals, particularly marginalised populations, to access the courts.

In this series of papers, we propose reforms to improve access to justice in Namibia in respect of four different topics: (1) access to justice as a human right; (2) standing to bring a legal action in the Namibian courts; (3) costs and contingency fees; and (4) the right of non-parties with relevant expertise to participate in court cases as "friends of the court" (*amicus curiae*).

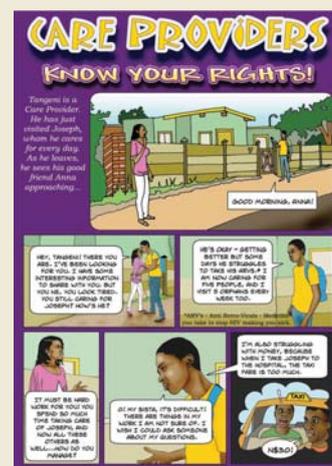


AIDS Law Unit (ALU)

ALU, in collaboration with Voluntary Services Overseas – Regional AIDS Initiative of Southern Africa (VSO-RAISA) and Namibia's Friendly Haven Shelter, conducted a study on **male involvement in community and home-based care (CHBC)** in Namibia. The study focused on exploring why men choose, or do not choose, to get involved in CHBC, and also sought to determine how the Namibian Government and NGOs in the country can more effectively promote male involvement in CHBC. The study report, titled *They Have That Heart: Male involvement in community and home-based care in Namibia*, was published in 2012.



In addition, again in collaboration with VSO-RAISA and Friendly Haven Shelter, ALU produced a comic entitled **Care Providers: Know Your Rights**, which offers advice on the Government's CHBC policy.



Advocacy and lobbying

ALU

ALU drafted a press release in response to Hon. K. Kazenambo's statement in support of the **legalisation of sex work**. ALU argued in favour of an initial decriminalisation of sex work.

ALU also addressed a cordial letter to the Chinese Ambassador and the Permanent Secretaries of Foreign Affairs and Health to protest **advertisements for only HIV-free students to apply for scholarships offered by China**.

GR&AP

It was widely expected that the **Child Care and Protection Bill** would be tabled in Parliament in 2012, but it remained with the legal drafters. Since 2008 GR&AP has worked with the Ministry of Gender Equality and Child Welfare to organise public consultation on this Bill, to ensure that it is suitable for the Namibian situation. In 2012 GR&AP continued lobbying for the Bill's passage, highlighting its importance on television and radio, and in discussions with the committee that monitors implementation of the United Nations Convention on the Rights of the Child. With support from UNICEF, Save the Children Sweden (South African office) and USAID, GR&AP produced two factsheets in 2012 to support this lobbying activity.



GR&AP also called on the Government to **extend maternity leave to six months** after the child's birth. This is because the World Health Organisation recommends that mothers exclusively breastfeed for six months. In Namibia, exclusive breastfeeding for this period is uncommon, one contributing factor being the lack of public awareness of the advantages of this practice. The recently released National Agenda for Children 2012-2016 states that one of the Government's priority strategies is to promote exclusive breastfeeding for the first six months of life. However, the Agenda document does not make clear how the Government intends to balance this commitment with the current provision of only three months' maternity leave. GR&AP lobbied a range of stakeholders on this issue, including the Social Security Commission and the Ministry of Health and Social Services.



GR&AP made two submissions on the **plight of domestic workers**: one to a sub-committee of the National Council and another to the Commission of Enquiry that was subsequently established in respect of this sector.

GR&AP wrote an **alternative report to Namibia's First, Second and Third Periodic Reports on the Implementation of the United Nations Convention on the Rights of the Child and Two Optional Protocols (1997-2008)**, and presented this report to the pre-session meeting of the UN Committee on the Rights of the Child in Geneva, with the aim of assisting the Committee to gain a deeper understanding of Namibian issues from the non-government perspective. One consistent theme in all of the presentations was the need to push for speedy passage and effective implementation of the Child Care and Protection Bill, as well as the stalled Child Justice Bill. GR&AP provided a second supplementary report after the Namibian Government responded to a list of written questions posed by the Committee upon its receipt of the GR&AP report.

GR&AP then attended the 61st meeting of the CRC Committee, where the Namibian Government discussed its progress in adhering to the CRC with the Committee. The LAC's role was to monitor the discussion and give additional information in private to the committee members as appropriate. Our attendance was useful, because although it was the government delegation's responsibility to respond to the questions posed, we were able to offer helpful clarifications. After the meeting we submitted a third memo to the Committee providing supplementary information that we felt would be of use to the Committee. The LAC also kept Namibian civil society informed about developments in the reporting process.



GR&AP Coordinator Dianne Hubbard (right) in the 61st meeting of the UN Committee on the Rights of the Child, held in Geneva in 2012.

GR&AP also worked with the Ministry of Gender Equality and Child Welfare to revise the law on marriage. A new **Marriage Bill** is expected to go before Parliament in 2013. In addition, GR&AP worked in partnership with the Law Reform and Development Commission to refine and move forward a related group of family law legislation: the **Recognition of Customary Marriages Bill**, the **Marital Property Reform Bill**, the **Divorce Bill** and the **Intestate Succession Bill**.

HURICON

HURICON drafted a submission on the **right of prisoners and Namibians in the diaspora to vote** in national elections. This was submitted to the Law Reform and Development Commission.

The Southern African Regional Programme on Access to Medicine in Southern Africa has requested Huricon to assist in getting its **Tendai Project** running in Namibia, and to serve as the intermediary organisation in Namibia. This entails obtaining approval from the Ministry of Health and Social Services for the project to be implemented in Namibia, and then recruiting monitors to monitor a number of clinics in Namibia and the medicines mostly required. The Ministry has granted approval verbally, and HURICON is awaiting written approval.

Public education materials

In 2012 the LAC distributed over **435 000 publications** in a range of languages. We continued to distribute approximately half of all our materials in English. This is a reflection of both supply (we do not have all materials available in all languages) and demand (the majority of requests for our materials are for English versions).

Media – print and broadcast

The LAC continued to engage the media through press releases, TV and radio programmes and printed matter – over 170 times in 2012. LAC staff members are regularly interviewed by both the print and broadcast media, and we regularly submit articles and other materials for publication or broadcast. In 2012 LAC staff members produced a total of 71 items for publication in various newspapers – thus an average of six items per month for the print media alone. As in 2011, LAC staff appeared regularly on NBC TV's *Good Morning Namibia* talk show and periodically on NBC TV's *Tupopyeni* talk show. We also gave regular input on NBC National Radio, NMC Damara>Nama radio, RadioWave and Radio Kosmos.



In addition in 2012, the LAC Director appeared as a guest on a TV show aired on Human Rights Day, speaking on the topic of economic, social and cultural rights. Also, Namibia's *Insight* magazine requested LEAD to write an article on the impact of mining on Namibia's environment for the magazine's special edition on mining published in March 2012.

Website and Facebook

The LAC website (www.lac.org.na) is regularly updated to reflect our current work, and to make new publications available as PDFs (downloadable free of charge).

We maintain a constant presence on Facebook (www.facebook.com/pages/legal-assistance-centre), encouraging our ever-increasing number of friends to post comments on our materials and activities.



BUILDING LAC CAPACITY

Capacity-building occurs continually in the LAC as the projects/units work within themselves and in conjunction with each other to holistically deliver the human rights message by different means. In addition, staff attended the following external capacity-building events in 2012.

Finnish Embassy Round Table and Training	An LAC lawyer, the Director and the GR&AP Project Assistant attended this event. The training component covered financial and monitoring and evaluation (M&E) management and reporting.
African Court Coalition Round Table	An LAC lawyer attended this event. The discussion topics were African human rights systems, public interest litigation, and preparation of cases before the African Commission and the African Court on Human and People's Rights.
Africa Groups of Sweden (AGS) partners meeting	An LAC lawyer attended this meeting focusing on the uncertain funding situation experienced by many NGOs, and possible solutions should donors completely withdraw their funding contributions.
UN Office on Drugs and Crime training	ALU staff members attended a training workshop on the HIV response in prison settings, organised by UNODC in Pretoria, South Africa.
Office of the Ombudsman training workshop	LEAD attended this training workshop on Indigenous Peoples' Rights in Namibia (30 July to 1 August 2012). The workshop objectives were to achieve: (a) greater awareness, understanding and implementation of policies on indigenous issues; (b) a better understanding of the government initiatives in this regard; (c) more mainstreaming of indigenous issues in national development plans; and (d) the design of a pilot strategic intervention plan to promote the rights of indigenous peoples with a focus on San.
Federal Republic of Germany Visitors Programme	A GR&AP staff member attended this event in Berlin, Cologne and Bonn on 9-19 September 2012. The focus of this visit was Female Empowerment in Africa.
German Ministry of Foreign Affairs Human Rights Exchange Programme	The Director visited Berlin and Hamburg as part of the human rights exchange programme organised and sponsored by the German Foreign Affairs Ministry. This opportunity was granted for the purpose of meeting with stakeholders in Germany's human rights protection system and engaging with them to consider how Namibia can utilise their experiences to inform our efforts in Africa. It became clear that all countries are experiencing corruption-related problems, the only difference being that, in Germany for one, a resignation usually follows such allegations – which is not usually the case in Namibia.
Solidarity for African Women's Rights training workshop	An LAC lawyer attended a training workshop in Kenya on 3-6 December, which focused on the uses of the African Court and Tribunal in matters of human rights.



NETWORKING AND INFORMING



A close-knit networking team: staff of GR&AP, the Ministry of Home Affairs and Immigration, the Ministry of Gender Equality and Child Welfare, and UNICEF Namibia.

The LAC networks widely and continually. The networking events attended every year provide opportunities for the LAC to influence popular opinion, advocate for human rights reform, initiate new collaborations and obtain ideas on best practice. The many events attended in 2012 are listed on the following pages.

Our numerous engagements make it clearly apparent that our input is valued. We are often approached to speak at conferences or to attend events to provide a legal human rights perspective. These events – which can also be deemed lobbying and advocacy activities – give us regular opportunities to discuss human rights issues in depth and to lobby for a universal understanding of basic human rights.

LAC Director and all LAC Projects/Units

The LAC met with **representatives of Africa Groups of Sweden (AGS)** on 20 April 2012 during their visit to Namibia.

The LAC continued its collaboration with the **Namibia Non-Governmental Organisations Forum (NANGOF)** as a member of the human rights sector.

Various LAC representatives met formally and informally with the UN **Special Rapporteur on Extreme Poverty and Human Rights**, to call attention to concerns such as government's limited capacity for implementing and monitoring key laws and policies.

The Director attended a meeting with the **Deputy Minister of Home Affairs and Immigration** to discuss various immigration matters and the challenges experienced when communicating with the Ministry.

The Director attended the **Regional Commonwealth Lawyers Conference** in Sydney, Australia, on 17-24 April 2012, in her capacity as Namibia's representative on the Council of the Commonwealth Lawyers Association.

The Director and an LAC lawyer attended the launch of the Democracy Index of the **Institute for Democracy in Africa (IDASA)** on 25 April 2012. We highlighted certain aspects of the chapter on "Human Dignity and Democracy" which the LAC drafted for the Index.

The Director attended the launch of the Namibian Chapter of the **Commonwealth Women Parliamentarians Committee**.

The Director attended a consultative workshop on 10-11 October 2012 to finalise the Human Rights Baseline Study commissioned by the **Office of the Ombudsman**.

The Director attended a workshop on 30 October 2012 focusing on **anti-corruption**.

The Director attended the **Aids Rights Alliance of Southern Africa (ARASA)** AGM in Johannesburg on 13 November 2012.

The Director attended a meeting with representatives of the **World Bank** in Namibia and the region on 21 November 2012.

The Director attended a meeting with the **International Committee of the Red Cross** on 22 November 2012.

The Director attended a meeting of Human Rights Defenders chaired by the **European Union** on 28 November 2012.

The Director and staff of the ALU Child Witness Support Programme attended consultations with government (Child Welfare Directorate of the Ministry of Gender Equality and Child Welfare, Namibian Police, Prosecutor-General and social workers) in October 2012 to discuss possible ways for government to take ownership of the Child Witness Support Programme in mid-2013.

HURICON and ALU attended a workshop hosted by the **International Labour Organisation (ILO)** and the **Ministry of Labour** on 8-9 September 2012 to review the National Code on HIV/AIDS.

The GR&AP and ALU Coordinators facilitated a discussion with the **Ambassadors/Charges d'Affaires and/or Political Officers of the UK, Finland, France, Spain and Portugal** on the policy implications of the HIV sterilisation cases (covered on page 5 herein).

AIDS Law Unit

ALU worked with the **Namibia Network of Aids Service Organisation (NANASO)** and the **Council of Churches in Namibia (CCN)** to build a coalition to act against the practice of faith healing which results in many people not adhering to their anti-retroviral drugs.

ALU attended a conference organised by Namibia's **Action to Information Secretariat**, titled "Towards Greater Transparency: Namibia and Access to Information". The overarching objective of this conference was to create a national platform for dialogue on access to information. Another key objective was to lobby the Namibian Government to enact a law regulating access to information.

ALU attended a meeting of Namibia's **Child Protection Partners** on 16 July 2012 to discuss the cases of child abuse and violence reported through the safety net in Kavango Region.

ALU attended a workshop organised by **UNICEF** in September 2012 on Namibia's Child Protection Systems.

ALU attended the **National Child Care Protection Forum** meeting in September 2012.

Gender Research and Advocacy Project

The GR&AP Coordinator and other Namibian delegates met with **Uganda's Parliamentary Standing Committee on Legal and Parliamentary Affairs**. The primary topic of discussion was civil society's experience with law reform and parliament. Namibian parliamentarian Hon. Ben Ulenga was also present, and he strongly supported the LAC's efforts to persuade the Ugandan delegates that their proposed anti-homosexuality law would constitute unfair discrimination against a minority.

The GR&AP Coordinator attended a presentation by Dr Henning Melber, Director of the **Dag Hammarskjöld Foundation** based in Upsala, Sweden, titled "No Future Without Justice: Towards a Vision for a Stronger Namibian Civil Society", hosted by NANGOF.

The GR&AP Coordinator attended an informal meeting with a few other Namibian guests and four **USAID** representatives (including the US White House Advisor on Faith-Based Organisations), to discuss gender-based violence and the general Namibian political environment.

A GR&AP staff member participated in a panel discussion on gender-based violence (GBV) at an event organised by the **House of Women** on 6 December 2012. She also attended a discussion on GBV organised by the **US Embassy**.

Land, Environment and Development Project

LEAD participated in an international conference titled "Planet under Pressure", organised by the four **Global Change Programmes (IHDP, IGBP, WCRP and Diversitas)** in London on 24-30 March 2012. The conference focused on solutions to the global sustainability challenge, with 2000 scientists from all over the world attending the plenary and parallel sessions. LEAD presented a paper titled "Access and Benefit Sharing: Examples from Namibia".

LEAD participated in a conference titled "Climate Change and Food Security", organised by the **Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)**, which brought together GIZ staff from all over the world to discuss the issue in plenary sessions and working groups.

LEAD participated in the International Biotrade Conference organised by Namibia's **Ministry of Environment and Tourism** and **GIZ** on 30 May to 1 June 2012.

LEAD attended a conference on “Rights, Natural Resources, Food and Trade” and “Rights, Working and Living Conditions” organised by **Africa Groups of Sweden** in Cape Town on 3-5 July 2012.

LEAD attended the National Biodiversity Strategy and Action Plan (NBSAP) Review Workshop organised by the **Department of Environmental Affairs** of Namibia’s Ministry of Environment and Tourism on 25-26 July 2012.

A LEAD staff member attended the conference of **parties to the Cartagena Protocol and the Nagoya Protocol under the Convention on the Protection of Biological Diversity**, held in Hyderabad, India, on 28 September to 22 October 2012. LEAD informed the negotiations around the issues of access and benefit-sharing in relation to the utilisation of genetic resources associated with traditional knowledge.

A LEAD member attended a workshop in Nairobi, Kenya, in November 2012, which focused on the effects of climate change on indigenous peoples, and more specifically the World Bank global study on this topic, for which LEAD is conducting the research in Namibia.



Members of the Topnaar community harvesting *Inara* melons from the Kuiseb River Valley in Erongo Region. This photo was taken during the field research for the LEAD study on climate change and indigenous peoples. The other Namibian indigenous community participating in the study are the Hai||om San living at Tsintsabis and Farm Six in Oshikoto Region.



EMERGING OR POTENTIAL PROBLEMS

A number of risks have potential to affect the work of the LAC. The LAC will continue regularly assessing and evaluating the risks, and making the necessary adjustments. Steps will also be taken to minimise risks within the organisation's scope and powers. The nature of the LAC's work is such that we have to remain flexible in terms of our ability to respond to topical human rights issues timeously, and to attract institutional support. The major risk factors are as follows:

- Donors may withdraw at short notice, thereby affecting the LAC's financial situation and projects very negatively. Efforts are made to secure long-term funding, but increasingly donors want to fund on an annual basis only. In this regard, Africa Groups of Sweden (AGS) is a notable and welcome exception.
- Donors tend to commit to new cycles of funding only once the previous cycle has been finalised and audited. However, the timing of audits is not always within the LAC's control, thus we may not be covered by donor funding for extended periods of time, and this jeopardises the continuity of specific projects.
- Donors may not be able to honour their commitments due to changing economic situations worldwide. One major donor has already informed the LAC that its budget has been cut by over 30% for the next funding period, and another has withdrawn its support completely.
- Donors funds committed are not always timeously remitted, and this contributes to intermittent cash-flow problems which in turn have detrimental knock-on effects.
- As Namibia is a vast country, some remote areas are not easily accessible, and this affects the LAC's outreach work from time to time.
- The Government may adopt a more authoritarian attitude towards the LAC, particularly where we act for victims of human rights abuses and communities who oppose government programmes. Thus far the LAC has managed to avert this potential risk, but this is partially due to the incumbents in government posts, over which the LAC has no control.
- The LAC may lose important project staff, which could cause delays in project implementation due to the shortage in Namibia of legal practitioners skilled in the field of human rights. The professionals at the LAC have no prospects of partnership – unlike those in commercial law firms – which means that competitive salaries must be paid. This is often not possible as many donors do not want to cover salaries at all. In addition, the volatility of a donor environment drives some employees to seek a more stable income environment.
- Finally, the overall effect of HIV/AIDS on the holistic human rights environment in Namibia, the deteriorating socio-economic conditions in the country and the tendency for economic priorities to take precedence over human rights issues are risks that the LAC must find ways to overcome.



SUSTAINABILITY AND FUNDING

Sustainability is continuously on the minds of the LAC Director and all LAC Coordinators. The reality is that Namibia does not have the numbers of financially stable inhabitants necessary for sourcing sufficient in-country funds to support the LAC projects. However, by various means we continually endeavour to supplement the financial support received to support our institutional needs and our projects.

We are currently considering a strategy of approaching corporate Namibia – although this would entail a change of mindset among corporate entities as the LAC’s work is not always popular and/or quantifiable.

We have prepared a Resource Mobilisation Plan to use for improving our potential to attract funding.

All of the LAC projects/units constantly and consistently attend to donors’ calls for proposals that enable them to assess the possibility of future funding partnerships.

Sometimes change takes years. However, many of the changes brought about by the LAC’s work – whether through litigation, research, education, training or advocacy – have the potential to generate long-term effects which will further the entrenchment of a human-rights-based democracy and holistic progress.

The LAC will be able to continue with its current projects to a large extent in 2013.

OUR DONORS IN 2012 (in alphabetical order)

- Africa Groups of Sweden
- Biking for Children
- British High Commission
- Charapa Consult
- Dutch Ministry of Foreign Affairs (MDG3 Fund)
- Etosha-Haikom-Buch
- European Union
- Evangelischer Entwicklungsdienst (EED)
- Finnish Embassy
- Ford Foundation Capital Reserve
- Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)
- Global Fund to Fight AIDS, TB and Malaria
- Human Rights Development Initiative
- International Labour Organisation (ILO)
- Ministry of Education
- Ministry of Gender Equality and Child Welfare
- Ministry of Safety and Security
- Namibia Law Report
- Open Society Initiative for Southern Africa (OSISA)
- PACT Agencies Collaborating Together
- Parliament visit
- Pupkewitz Holdings
- Save the Children Sweden
- Society for Family Health
- Spanish Embassy / Spanish Agency for International Development Cooperation (AECID)
- Swedish International Development Agency (SIDA)
- United Nations Educational, Scientific and Cultural Organisation (UNESCO)
- United Nations Children’s Fund (UNICEF)
- United Nations Development Programme (UNDP)
- Urban Trust
- United States Embassy
- Voluntary Service Overseas (VSO) Aids Initiative of Southern Africa



CONCLUSION

The LAC continually devises new strategies to ensure maximum exposure to human rights education and training, and more and more members of the public are being reached every year in this regard. Improvement is always possible, and the LAC will continue striving to maximise its service delivery to the people of Namibia, and to achieve the highest possible impact with well-managed resources. We are confident that the work done in 2012 will form more of the building blocks needed to achieve our ultimate goal – a human-rights-based democracy.

GETTING IN TOUCH WITH THE LAC

A large volume of information on the LAC's activities (projects, cases, publications, etc.), donors and finances, as well as digital versions of most LAC publications, are available on the LAC website: www.lac.org.na. (Hard copies of publications are available at our office.)

We also have a very active Facebook page: www.facebook.com/pages/Lac-Namibia/

Website link for general contact details: www.lac.org.na/about/contact.html

Website link for financial details: www.lac.org.na/finances.html

Website link for publications: www.lac.org.na/pub/publications.php

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