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LAW REFORM AND DEVELOPMENT COMMISSION

**VIOLENCE AGAINST AND ABUSE
OF WOMEN AND CHILDREN PROJECT:
FORMAL ADDRESSES MADE AT THE
NATIONAL HEARING**

MAY 1997

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The members of the LRDC (on 1 April 1999) are:

Mr U D Nujoma (Chairperson - Full-time)
Adv B Gawanas (Ombudswoman of Namibia)
Adv I E Scheepers
Adv V Erenstein Ya Toivo
Mr A Vaatz
(There are three vacancies)

Secretary: Mr W J Potgieter

The Secretariat of the Commission (Directorate Law Reform) is housed in the Ministry of Justice, Justitia Building, Independence Avenue, Windhoek.

All correspondence to the Commission should be addressed to:

The Secretary
Law Reform and Development Commission
Private Bag 13302
WINDHOEK
Republic of Namibia

Fax: (+264 +61) 240064
Tel.: (+264 +61) 280-5111
E-Mail: minjust@iwwn.com.na

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INTRODUCTION

The National Hearing on the Violence against and Abuse of Women and Children Project of the Law Reform and Development Commission (LRDC) is published in two publications, viz. this one (LRDC 7) contains the Formal Addresses made at the National Hearing and the other one (LRDC 8) contains the Verbatim Discussions between these formal addresses.

More detail about this Project of the Commission is reflected under the Welcome Address of the Chairperson of the Commission at the National Hearing – see Chapter 1.

This National Public Hearing was preceded by Public Hearings held throughout Namibia as follows:

| | | |
|---------------------|---|------------------|
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| Tsumeb | - | 11 November 1996 |
| Keetmanshoop | - | 12 November 1996 |
| Rundu | - | 12 November 1996 |
| Khorixas | - | 18 November 1996 |
| Swakopmund | - | 18 November 1996 |
| Gobabis | - | 25 November 1996 |
| Oshakati | - | 25 November 1996 |
| Opuwo | - | 28 November 1996 |
| Lüderitz | - | 18 February 1997 |
| Rehoboth | - | 20 February 1997 |
| Walvis Bay | - | 26 February 1997 |
| Okakarara | - | 5 March 1997 |
| Otjiwarongo | - | 6 March 1997 |
| Windhoek (Katutura) | - | 12 March 1997 |
| Windhoek (Central) | - | 13 March 1997 |
| Gibeon | - | 15 March 1997 |
| Katima Mulilo | - | 8 April 1997 |
| Eenhana | - | 28 April 1997 |

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CHAPTER 1

Adv. B Gawanas; Chairperson, Law Reform and Development Commission (LRDC) and Ombudswoman

WELCOME ADDRESS

Distinguished guests
Ladies and Gentlemen

Today marks the final stages of the Project on Violence Against and Abuse of Women and Children which was initiated by the Law Reform and Development Commission (LRDC) and its Women and Law Committee in co-operation with various stakeholders last year.

This initiative came about as a response to the widespread incidence of violence and abuse and petitions to the Ministry of Justice calling amongst others for law reform and enhanced social service measures to be taken. As a matter of urgency, the law on rape has been dealt with as a separate project and is reaching its final draft.

The LRDC does not view violence and abuse as merely legal issues to be dealt with through law reform but also as social issues which should be addressed through national action and widespread community involvement.

Through this project we had also hoped to lift the veil of silence on an issue which has been treated for too long as not a public issue. As a rape victim said recently in South Africa, that by coming out and speaking about her experience, she had hoped to tell the rapist that she had no pact of silence with him. She had therefore attempted to break the wall of silence behind which many women and children painfully endure their ordeal.

We also hope to raise concerns about the gender bias within our legal system, the assumptions made by society about women's behaviour and role, and above all, that violence is recognised as a violation of fundamental human rights. Article 8 of our Constitution calls for the respect of the dignity of all the people and we must ensure that the dignity and worth of women and children is respected at all times; be it in the intimacy of their relationships, in the homes and in the broader society.

Thus the project hopes to address publicly the current problem of violence against and abuse of women and children. Our starting point is that this type of action constitutes a violation of the human dignity of women and children, and diminishes the quality of life for all members of the community.

The project comprises four phases:

- Research carried out by legal and social science researchers
- Regional workshops co-ordinated by NANAWO in co-operation with other role-players such as NGOs, churches, CBOs, traditional leaders, regional and local councils etc.
- Public hearings (consultations) conducted by the LRDC
- National Conference

Today marks the beginning of the National Hearing that will be conducted over the next two weeks. We have invited individuals and institutions to present their input into our project and I can only hope that they will come forward and make this project a worthwhile exercise for the benefit of our women and children.

Let us ensure that they walk the streets, form family bonds and enjoy overall the protection offered by the Constitution to all the citizens of this beautiful country.

The hearings will take place in the mornings from 10h30 today until Friday in this Conference Room and from the 22nd to the 23rd May 1997 in the mornings at the Katutura Community Hall. If there is any one or other organisation which has not been invited due to an oversight on our part and who want to give its input, could you please contact Mr Bankie at the Ministry of Justice, telephone 239280.

This project has thus far been generously sponsored by the GTZ as part of its Legal Capacity Building Project with the Ministry of Justice. However, this is only the initial stage as the final report and recommendations will point the way forward for further legal research with a view to law reform and I want to take this opportunity to also appeal to other donors to provide assistance. We hope to organise a meeting with donors in due course. In this regard may I also thank the U.S. Embassy for their sponsorship of the Multi-media Campaign on Violence Project, under the Ministry of Information and Broadcasting and which has given a tremendous boost to our project.

The Opening Address will be given by Hon. Ms Netumbo Ndaitwah; Director General of the Department of Women's Affairs in the Office of the President and who are also the President of NANAWO and the Chairperson of the Preparatory Committee for the Beijing Conference.

Ms Rünger who is the GTZ Chief Technical Advisor to the Ministry of Justice will make some remarks on the GTZ assistance for this project.

The Bricks Community Theatre will also make a presentation.

CHAPTER 2

Ms N Ndaitwah; Director-General, Department of Women's Affairs, Office of the President

OPENING ADDRESS

Thank you Madam Chairperson of this Opening Ceremony, and Chairperson of the Law Reform and Development Commission and Ombudswoman Advocate Gawanas. Your Excellencies, members of the Diplomatic Corps, dear participants to this meeting, violence by its nature regardless of who is the victim, is a serious violation of human rights and should not be accepted at any time and in any form. It is against this background that both the global platform of action adopted at the Fourth World Conference of Women and the African Platform of Action adopted at the African Regional Conference on Women have addressed the issue of violence against women. If you can allow me to quote from the Beijing Platform of Action; it reads:

“Violence against women is an obstacle to the achievement of the objectives of equality, development and peace.”

Definitely we all agree in Namibia that if our women and children continue to be abused, there is no way we can talk about peace. It is very saddening to note that regardless of the serious campaigns that are going on in the country against violence against women and children, the increase in violence is recorded every day. Even today in our papers on the front page of 'The Namibian' we are reading of a lady who was abused over the weekend, beaten by the so-called husband. And the medical reports are telling us that she's likely to lose one of her eyes. What is happening with our society that we do not want the peace that we have fought for, for many years? Madam Chairperson, I'm glad in many of my capacities that you've mentioned in introducing me, to have been associated with this project, which I found is a very fundamental program, because if there is no peace, there's no way we can talk about equality and development. And when we talk about peace, we should not only think in terms of war and military conflict, but we're also to think in terms of individual peace. When a person is abused, becomes a victim of violence be it at home or in the work place, definitely that person does not have peace. And the fact is that we have many of our people, who are becoming victims of violence, so we are saying that we don't have peace within our community. An absence of peace for an individual has also a direct effect on the community around that particular person. It is against this background that it is very necessary for all of us to make concerted efforts to bring peace in our country, and to bring an end to violence against women and children. One might say this is impossible, because it has been too much entrenched in our society. I am amongst those people who do not believe it is an impossibility. We have identified the problem.

Violence against women and children is something that we cannot live with. And definitely we have to find a way. Even the international community has recognized that. And that's why in the Platform of Action it was made clear that what we need to do is to develop a holistic and multi-disciplinary approach, in order to challenge all those who are perpetuating violence so that we make sure that there is peace in our family and in our community. It was agreed that that is possible and it could be done, unless people are not making an effort.

Madam Chairperson, having been associated with the project in my capacity as President of NANAWO, I'd like to thank all of you who have participated in the regional workshops. I can recall the one in Khorixas where I was delegated by my organisation to witness it and to be present and to be one of the facilitators. The response and the participation were very much encouraging. I was happy to note that the high number of participation by men. Because this to me is a clear indication that we are making progress in our genderisation program, because should we have organised such workshop in 1991, you might find only women who will attend as people would say that is a women's issue. Having conducted the workshop in 1996, we had a number of men participants. And from the reports from all the workshops, I am informed that the participation of men was very commendable. We have to thank our community because we are coming now to understand that violence against women and children is not a

women issue, but a national issue that needs to be tackled by all of us. And that is why we have men present here. I also have to give special thanks to the Ministry of Home Affairs, more specifically the police who have been always at hand during these workshops, explaining to others and also participating fully in the deliberations.

By mentioning the police I do not want to say other players were not important in the field. But you should all appreciate the important role the police can play in this whole area, because when there is violence against women and children, the perpetrators are dealt with by the police. Now and then the police do not take their work serious. So we feel comforted when they are with us, so that together we can elaborate the strategies which they could also implement. It was also encouraging to note the participation of traditional leaders, church leaders and the community leaders, people who have a role to play within our community. This is important because violation against women and children is something that is also entrenched in our community because of our historical and cultural background, which makes a women a subordinate to man. Hence, whatever happens to her was justifiable. Therefore if we have traditional leaders, church leaders and community leaders with us, they will be able to understand that we should all accept equality between men and women as something that we need in this country if we are to develop. So that education is done by all of us, because once that is done then we know there is respect of women in our communities. Madam Chairperson, I am sure that at the National Hearing, as it was done with the Regional Hearings, we will continue to enrich ourselves, and understand the problems and draw up programmes that will enable us to solve this problem once for all. As you have rightly said, at the end of the day there will be a National Conference. The Department of Women's Affairs, that has been part of this programme from the beginning by facilitating some of the workshops, will co-ordinate the National Conference. I would like to assure you from the Department's point of view that we will continue, as we have done in the past seven years, to co-operate with all of you in developing all these programmes and in implementing them in order to bring about gender equality in our country. We will do our part to organise this National Conference when the time comes and we will continue to work closely with the Women and Law Committee and the Law Reform and Development Commission in this endeavour. With this, Madam Chairperson, I would just like once again, as you have done, to call on all of us to really participate in this hearing, and to give evidence and to make proposal as how to solve the problem because, once again, unless we have peace, there is no way we can talk about development and gender equality in our country. So in a nutshell, I would like to thank all the donors who have made a contribution to the realization of this project. We would like you to be with us, as we realise this is not going to be a one-day job. But it is something that we have to continue, as we have to change the attitude of our people, to respect women and children and to see them as equal partners in development. Once again, thank you very much for inviting me to participate and to open this conference. I would like to declare this National Hearing officially opened. I thank you.

CHAPTER 3

Dr. M C Rünger; GTZ Legal Advisor to the Ministry of Justice, and Co-ordinator of the German contribution to the Legal Capacity Building Programme of Ministry of Justice

Good morning, ladies and gentlemen. I have the odd job to talk about money, but before I do so I would like to make some other remarks.

First of all I would like to introduce the Legal Capacity Building Programme of the Ministry of Justice, to which the Federal Republic of Germany, through its Agency for Technical Co-operation (GTZ¹), contributes substantially, i.e. up to 7.5 million Deutsche Marks (about N\$20 million) in terms of services, equipment, training etc., since 1992.

The contributions are made for different components of the Ministry's Legal Capacity Building Programme, namely the Law Reform and Development Commission, the Accessibility-to-Law Project with *inter alia* its Consolidation and Annotation of the Namibian Statutes which will be published by JUTASTAT South Africa as a CD ROM, and the Office of the Attorney General in the area of economic and trade law. Furthermore, the Ministry of Justice is supported in all endeavours of law reform, that are not covered by the Law Reform and Development Commission, in particular criminal law and procedure.

The most important task for today I believe is to congratulate the Chairperson of the Law Reform and Development Commission, Adv. Bience Gawanas, and the Chairperson of the Women and Law Committee, Adv. Vicki Erenstein ya Toivo: I have seen from very close what effort was required to carry this project through, from the very initial stages, to gather and mobilise people and different organisations, to bring together at today's National Hearing the different stakeholders in Namibia. It was very gratifying to see how well all organisations worked together, such as the NGO scene, the University of Namibia, and the Legal Assistance Centre. I think it really needs a big thanks to all those people involved who completed these tasks besides their very demanding "normal" work assignments.

One must also appreciate, and I wish to emphasise this because of its agreement to spend that very money assigned to the Legal Capacity Building Programme for this Violence against Women and Abuse of Children Project that the Ministry of Justice has never ever doubted the importance of bringing in the social sciences into this Programme, because our Minister of Justice has always underlined that violence is not a legal phenomenon alone. This shows you that the Ministry of Justice itself is really ready to support all efforts concerning the fight to reduce violence against, and abuse of, women and children.

Coming back to the real figures, the Legal Capacity Building Programme has contributed next to N\$300 000 to get this Programmes to the present stage. We did not really expect the Programme to come to that amount when we started. However, the money was used for a number of consultancy work which is reproduced in this Volume, for National Hearings throughout the country, of which I attended one in Rundu, NANAWO's involvement for preparatory workshops in the Regions and in Windhoek, publication costs etc. What we learnt from this exercise is that participation in programmes and projects is a costly endeavour, and especially if one wants to have national participation in such efforts by including all the Regions. I hope that the message may be to all those who are responsible for budgeting, that it is not always a donor or a Programme or a Technical Co-operation Programme which can and even should finance such national endeavours. Participatory methods supporting democracy and participation are costly. To make democracy and hence participation possible I think one must really urge the Government of Namibia to cater for the participation of other stakeholders than governmental ones.

I think there is a very close link between achieving democracy and ensuring genuine participation. And

¹ Deutsche Gesellschaft für Technische Zusammenarbeit mbH (GTZ) which is the implementing agency for technical co-operation of the Federal Ministry of Economic Co-operation and Development

without the living participation of all players. be it antagonistic players, be it players with different perspectives, no living and lively democracy may come about. I think when talking about funding of participatory projects one should accept the plea or request that there be more donors involved than just one donor. It also opens wider perspectives and makes the recipient country less dependant on donors' views or budgetary guidelines.

Once again, let us give a big applause to thank the Law Reform and Development Commission and its Subcommittee on Women and Law for their continued, continuous and really strong effort in getting the topic, the project off the ground throughout the year, making a lot of personal sacrifices travelling around to the north, to the south, to the west, to the east of the country, without any pecuniary benefit from the exercise. I would like to believe that what drove this project was a commitment and hope that peace is not only the absence of war, but also the reduction of violence based on mutual respect between human beings without any discrimination.

Thank you.

CHAPTER 4

**Ms R Niigambo; Human Rights and Documentation Centre (HRDC),
Faculty of Law, University of Namibia, and
Dr H Becker; Centre for Applied Social Sciences (CASS), Faculty of Law,
University of Namibia**

GENDER BASED VIOLENCE AS A HUMAN RIGHTS ISSUE

INTRODUCTION

Women's rights as human rights suggest a profound change in the way people see international human rights. It means that, just as I have a right to life, liberty and security of the person, so do all women have the right to be free from violence in the street and the home, because that is what life, liberty and security means from a woman's point of view, as is provided for in the Namibian Constitution under Article 6 which protects the right to life, Article 7 which protects the right to liberty, Article 8 which protects the inviolable dignity of all persons, and Article 16 which protects the right to property.

It means further that, just as I have the right not to be subjected to cruel, inhuman or degrading treatment, so should women be freed from forced childbirth, forced prostitution, clandestine abortion and genital mutilation - all of which are cruel, inhuman and degrading.

It means that, just as I have a right to education as is provided for under Article 20 of the Constitution, so do the women who live in rural towns; yet only a small percentage of these women are functionally literate.

The right to equality before the law which is granted and protected by the Constitution under Article 10 means that, as human rights advocates, we must stand up not simply for the rule of law, but simultaneously against all laws which discriminates against women.

WHY IS THIS VIOLENCE A HUMAN RIGHTS ISSUE?

Indeed, why is there a need to classify this violence on its own as a human rights issue? Surely women, in their demand to be treated as men's equals must also be men's equals in all the Human Rights Instruments of the world, without special reference to them, and special injustices suffered by women only. So what is this new demand?

Is it really a new demand or is it a long overlooked demand? The answer to this question will put the questioner well on his path to find the truth. Women have for so long been deprived to enjoy and enforce their rights to equality, non-discrimination on the basis of gender; human **female** dignity needs to be respected. The deprivation was not wrought by the lack of constitutional protection, rather by the lack of legal protection, as can only be offered by the State by means of legislation and national policies against gender based violence. At times it may even be said that the women are denied their rights due to the lack of the protection thereof.

We are living in two worlds: one world for the men and the other world for the women. The world of women is very much invisible in comparison to the world of men. Is it not evident that although women comprises the majority of the nation only a small number of women are involved in the political decision-making process and as such seriously under-representing us in legislative bodies of the government?

Discriminatory practices and institutions which severely affect women and hold them in a subservient position - whether these are discrimination in nutrition and health care, violence in the family, rape, denial of the right to abortion, exclusion from public life, or traditional customs which often involve outright forms of violence against the female person - are not usually analysed or handled as violations of the human rights and fundamental freedoms of women in terms of existing national and international instruments. The reason may be attributed to the fact that most of the provisions are couched in a generalising language.

In this sense women are being treated equal to men - yet they are being discriminated upon in that they are denied their human rights. So, what is this discrimination that has been mentioned ever so often in this paper? Article 1 (one) of the Convention on the Elimination of all forms of Discrimination Against Women defines discrimination as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women" of their human rights and fundamental freedoms in all fields on a basis of equality with men. Is it then so wrong to demand that these human rights that are violated so frequently be respected and protected.

What is at the core of this paper is that gender based violence violates the human dignity and self-respect that a woman has as of right and this dignity and self-respect must be protected and uplifted in future legislation.

WHAT IS GENDER-BASED VIOLENCE?

Article 10 of the Namibian Constitution forbids discrimination on the basis of sex, race, colour, ethnic origin, religion, creed or social or economic status.

What is in question here is discrimination on the basis of sex - being discrimination on the basis that a person is female, and as such not being afforded the same treatment as would have been afforded to a male person. The relevant treatment under discussion is violence against women, because they are women.

Violence against women is not a new problem. There exist numerous evidence that it has always happened everywhere. What is new is that many people no longer want to condone this practice, and that women all over the world are demanding that their rights be respected and that they be allowed to exercise their right to live in peace.

So how do we define this violence against women?

For a start, we focus on **domestic violence**:

This type of violence against women is the most common manifestation of male violence, usually appearing in the form of wife-beating and/or battering which is complicated by its hidden nature within the sacred confines of the family.

In the Universal Declaration of Human Rights as well as the African Charter on Human and People's Rights the right to a private family life is guaranteed and protected; the Namibian Constitution also does the same by way of Article 14. It must be stressed here that nowhere in any of the above-mentioned instruments is this right to a family life extended to include the right to abuse family members.

Nevertheless, domestic violence can either be physical violence or psychological or mental violence: physical violence stresses direct harm on the woman's person, be it punching, choking, stabbing, raping, locking the woman out of the house, throwing objects at the woman; in fact any bodily violation; Psychological or mental violence can be repeated verbal abuse, harassment, confinement and deprivation of physical, financial and personal resources. Contact with family members and friends may be controlled. The effects of psychological, mental or emotional abuse are not as clear as those of physical or sexual abuse, but can be just as damaging. Such abuse usually destroys or is aimed to destroy the woman's confidence and/or self-respect.

Secondly we focus on **rape**:

Rape is defined as unlawful, intentional sexual intercourse by a man with a woman without the consent of the female - the element of force need not be present, only the lack of consent or permission. It has been stated by various writers on the subject, among others Armstrong that "The right of a woman to have sexual intercourse only when she consents to it is a fundamental human right" since it is narrowly attached to the right to her dignity as a person. Efforts to combat rape should start from the above statement because to be forced against your will and as such be physically violated creates a gross infringement of your bodily integrity, privacy and dignity.

Although rape is punishable by law in the criminal courts, the victims of the act are not protected by the same applicable laws effectively, not so long ago state witnesses' evidence in rape cases were subjected to cautionary rules of criminal justice - fortunately this practice has died. The treatment of rape victims

by the police and the court officials and the justice system at large is not sensitive to the trauma and shock the victim has experienced.

Which brings us to a third point of our discussion namely **indecent assault**:

In instances where the facts would have established a rape but due to the fact that there was no penetration or partial penetration by the male organ of the female sex organ no rape had been concluded, one deals with the crime of indecent assault. It must be stressed right here that this does not constitute the only form of indecent assault - there are various forms of indecent assault. The difference between these two crimes is that rape carries a higher penalty or sentence than indecent assault as can be established by case law. However, what is clear is that both crimes have a traumatic and at times a devastating effect on its victims no matter whether the woman was forced to perform oral sex against her will or to have an object inserted in her vagina against her will.

The above-mentioned forms of gender based violence can be classified under one class namely **abuse**:

Abuse is where someone is -

- 1) causing or attempting to cause physical harm
- 2) causing or attempting to cause emotional pain and suffering
- 3) placing someone in fear of immediate physical harm
- 4) causing someone to engage in sexual relations against her will, by force, threat or duress.

No matter whether this someone is a stranger, friend, boyfriend, relative or husband, it is still abuse.

THE WAY FORWARD

Future legislation should include Acts on the:

- Enactment of legislation to introduce shorter, simpler and more effective remedies, in order to ensure the prevention of domestic violence.
- Reform of the law on rape, which protects the interests of the victim.
- Abolition of all discrimination against women because of their sex, marital status or pregnancy, and
- Promotion of equal opportunities for men and women, including, inter alia, equal wages for equal jobs.

A DISCUSSION OF HUMAN RIGHTS AND CULTURAL ATTITUDES TOWARDS VIOLENCE AGAINST WOMEN AND CHILDREN:

THE NEED FOR HUMAN RIGHTS EDUCATION:

Government agencies and non-governmental organisations dealing with gender-based violence as a human rights issue need to take into consideration the cultural aspects of both violence against women and children, and human rights.

The incidence and nature of violence in different societies are largely based on culture, and people's corresponding attitudes towards it. All societies have forms of violence against women and children that are socially proscribed and others that are tolerated, or in fact condoned, by social custom and norms.

In some Namibian communities, for example wife-beating is socially acceptable under certain circumstances, and may be even justified by the saying that a woman would feel her husband would not love her if he did not beat her. In other Namibian communities, an uncle is perceived as having a right to sexual intercourse with his young niece, from the time her breasts begin to grow, which may mean girls as young as ten may be subject to this. This sex, which could be labelled 'incest' as well, happens under the guise of acquainting the girl with the facts of life when she reaches sexual maturity. Acts of violence, therefore, frequently are excused as matters of 'culture and tradition'.

On the other hand, the concept of human rights differs under different socio-economic and cultural circumstances. It is often said that human rights, as enshrined, for example, in the Namibian Constitution, reflect a Western socio-economic context and individualistic philosophy, which would be in contradiction to African communal principles.

It should be taken into consideration, however, that concepts such as dignity, justice, and community rights and duties, although based on a philosophy of communalism rather than individualism, are rooted in African philosophies as well. Truly 'traditional' African cultures also included mechanisms for the protection of the same needs and interests of the individual and the community, which are provided by

'modern' human rights norms. This viewpoint disclaims the assertion that African culture and customs, and human rights are mutually exclusive. A perusal of gender-based violence as a matter of women's rights and human rights should follow the African Charter of Human and People's Rights. The African Charter charges the state with law reform to ensure the elimination of discrimination against women while at the same time safeguarding customs and values recognised by the community. In other words:

Neither can gender equality be attained through the abolition of culture, customs and customary law nor can customs be tolerated which discriminate against women.

The question remains how this can be achieved through efforts to combat violence against women and children.

Here it should be considered that culture and customs are dynamic concepts. They may change as a result of changes in larger society, but communities are also able to endogenously change their culture and customs. Further, culture and customs are not interest-free matters, but may express the personal, economic or political interests of certain sections within a certain community. Just as those who attempt to change customs may have personal interests in that change, so also do those who attempt to preserve customs. It certainly cannot be tolerated by a democratic state and society, such as Namibia's, that one group of society, or section of a certain community, is entitled to impose certain traditions and customs on another group, because they suit the former group's interests, such as preserving male privileges.

Incorporation of human rights into the legal system is a necessary step. In the context of fighting against violence against women and children it will be of utmost significance, for example, to reform all laws which still reflect the perception of women as the property of men, such as the marital rape exemption. As abundant cross-cultural research on domestic violence, rape and physical child abuse has shown, societies, which are gender violence prone, are normally characterised by extreme gender inequality and a pattern of using physical violence to resolve conflicts.

However, in light of the complex interaction of culture, and human rights the incorporation of human rights into the legal system is not sufficient to change customs and attitudes. This is where the challenge of and need for human rights and legal education arises. While teaching is not a remedy for society's problems nor a substitute for genuine structural change and development, it is essential for the formation of public opinion and the generation of public pressure for compliance with human rights.

We therefore recommend that, apart from the envisaged legal reforms, the efforts to combat violence against women and children should focus on efforts of legal education, which should emphasize the human rights aspect.

Educational programmes should emphasise the following aspects: firstly, violence against them violates the inviolable dignity of women and children; secondly, striving for a gender violence free society necessitates that the gender equality provisions of the Namibian Constitution become reality; and finally, individuals need to be educated around finding non-violent solutions to problems that evoke stress and anxiety, in order to end the culture of violence which permeates Namibian society today.

CHAPTER 5

Ms E Neels; Deputy Director, Department of Women Affairs

Thank you, Mr Chairperson. Well, for the Department of Women Affairs I think it should be the easiest task to talk this morning, because I having all my Department agencies here, so if I'm missing out something, I'm sure they will add it.

The Department of Women Affairs main role and mandate is only to co-ordinate and facilitate, so there is actually no actual program of the Department of Women Affairs. We seek to eliminate violence against women and children, but we are only facilitating the different programs from different ministries and different NGOs to provide a service to society at large. But since the establishment of the Department of Women Affairs in 1990, the Department of Women Affairs facilitated the different programs and activities to enhance the status of women in Namibia. In co-operation with line Ministries and NGOs in the civil society at large, the Department of Women Affairs established nine Gender Sectoral Committees and each of these Committees is led by a line Ministry. They have different member agencies. The most important one, which I think I would like to bring up today, is the Gender Sectoral Committee on Violence against Women and Children. There are two others that are actually going hand in hand with that one, that is the Gender Sectoral Committee on Information, Education and Communication, because if we don't make use of that Sectoral Committee then the message cannot reach all the women in all areas. The other one is the Gender Sectoral Committee on Legal Affairs and I am very happy to see that both Sectoral Committees' Chairpersons are present here. We have the Minister of Information and Broadcasting, and Advocate Vicky ya Toivo from the Office of the Attorney-General as the Chairpersons for the Legal Affairs Central Committee, and the Gender Sectoral Committee.

So, those are the three committees that are working on, or facilitating some programs on violence against women and children. The Gender Sectoral Committee on Violence against Women and Children facilitated some problems which I would like to highlight here since 1990 up to where we are now here. This was in some way to eliminate violence against women and children, but most of the time was to make women aware and children aware of some services available in the country, rather rendered by community based organisations, churches, ministries and NGOs etc.

The first thing that we did was on legal rights education. The Department of Women Affairs facilitated and co-ordinated the simplification and translation of the UN Convention on the Elimination on All Forms of Discrimination against Women and Children (CEDAW) into seven locally spoken Namibian languages and this was one of the projects which was generally funded by UNICEF. A booklet on the CEDAW document was made by the Legal Assistance Centre for the Department of Women Affairs. So when it was ready the Department of Women Affairs organised live enrichment Workshops in some of the regions to educate women specifically on their rights and at the same time we make use of the simplified Namibian Constitution by Legal Assistance Centre which were also introduced to the communities in the regions. The CEDAW Booklet is simplified in such a way with beautiful illustrations so that even the innocent women could read the document and understand their human rights as women.

At the same time it was also one of the documents in which we involved the community at large in the whole pretesting of the document itself. Communities were involved, so that at the end of the day the result was that people themselves especially women had the feeling they are stakeholders, they are part and parcel of the development of the whole process. They understood the document much better. It is not a document that was developed in some offices or in some workshops that they didn't attend, but it was a joint effort. The Department of Women Affairs also organised regional workshops in general to introduce the Department of Women Affairs, when this document was introduced to the community and at the same time it educated women on their rights and especially on the issue of violence against women and children. So this was the strategy that we used to popularise the CEDAW document. But when the document was finalised and introduced to the community, the Department of Women Affairs facilitated a program where we actually developed a national communication strategy, where we put up some programs to ensure that we supported the implementation of CEDAW and I can say that we reached the stage where we, with the assistance from the Legal Assistance Centre, drafted Namibia's first report on

CEDAW which will very soon be presented and defended at the UN in New York.

The Department of Women Affairs also organised public meetings and seminars to address the issues specifically on violence against women and children. We organised in all thirteen regions workshops targeting the community at large, decision makers in the community, the community leaders, the church leaders and also the policy makers, the parliamentarians who address that issue. That was the strategy to ensure that we make everybody aware of the problems.

The Department of Women Affairs then talked with the different groups one of which was The Ecumenical Women of Namibia. This is a church group of women consisting of 74 denominations that were actually used as a mobilisation front. Through public hearings we were able to make use of the church groups in the different communities in the regions to organise, identify and mobilise people to participate in the public hearing and also to attend the regional workshops on violence against women and children. Ecumenical Women of Namibia is actually dealing with social issues, so they are rendering some services such as conferences and workshops. They are providing, free of charge, child-care facilities to ensure that women can attend conferences and workshops. And at the same time they generate income by doing some catering although they are not an income generating project or group. The income that they are generating they are using to execute activities, for instance they contributed sport equipment for the amount of N\$10 000 to six rural community schools in Tsumkwe area. The reason for contributing these equipment to the schools is, they believe that, if you keep the young boys and girls busy, they will not dream, they will not misuse alcohol, they will not rape, they will not kill and it seemed according to the reports, that they received from the rural schools that their assistance works out very successfully in that way.

Then the Department of Women Affairs also supported some other groups in the community; for instance we have the Social Diaconic Action Young Women group. This is a group that is very concerned with violence against women and children. They are providing counselling services not only to battered women and battered children, but in many cases also for those who are in very high stress conditions because of unemployment and other issues. People who would like to commit suicide are having counselling services for them and at the same time they are accommodating battered women and their children, but unfortunately due to financial constraints and accommodation problems they can only accommodate women for about 48 hours. So in 48 hours the group assists the women to have access to the Women and Child Abuse Centres, the Women and Child Abuse Centres also assist the very urgent accommodation needs of the children. The name of the place is the Friendly Haven. So far according to statistics available, more than two hundred women turned up for short-term accommodation and also for counselling services.

We also facilitate some of the programs of the Social Diaconic Action Group of Young Women where they are embarking on marriage enrichment workshops and seminars. Normally we addressed the issue of marriage counselling, but as soon as you mention the word counselling, then people don't want to attend those workshops and meetings, because then they feel you identify their problems. Based on that the group worked out another strategy and they called that marriage enrichment. So the aim of the workshops is to enrich everybody's marriage so it is something to grow with and not something really to isolate, discuss and blame. At the same time they address the issue of alcohol, but they don't call it alcohol counselling, they call it the power of alcohol. They put a bottle of alcohol in the middle of the table and the couples sit around in groups and discuss. The problem is there in the middle, so we address the problem of alcohol rather than using or misusing it and it seemed to work. It is one of the only groups where I or where the Department of Women Affairs have seen couples turn up, husbands and wives, young women and men who would like to get married, so it seemed that the strategy that they are embarking on is working. They had these types of meetings in Kavango region, Khomas region and the Omaheke region and the demands of the community are very high, the people like to have them.

But there is one thing that I missed out on the Ecumenical Women. They perform plays in the communities on violence against women and children at a popular level, so that everybody feels they can participate. It is very interesting to see how the community in Tsumkwe participated in the issue of wife battering. The women act-out their own experiences, so it is an open play and at the end of the day most of them know exactly what it means to be violated etc. Then the Department of Women Affairs also facilitated workshops, targeting counsellors in different ministries and churches and community based organisations. The aim of these workshops was actually to strengthen the counselling services in Namibia and it seems that there is now in some way a good relationship between the different counsellors in different ministries, so people are now directing people from one institution to another to

get some assistance and help.

Then the Department of Women Affairs also facilitated some workshops that were organised by males in the Erongo region. They called themselves the Anti-rape Committee. It's very good to know that a group of men in the community stood up and addressed the issue. I have to stress the important role that the Ministry of Information, the NBC for instance, plays in promoting the issues in the newspapers and on the TV etc. So men from other regions are linking up with the group in Omaruru now and they are organising regional workshops for which we are trying to solicit funds for them. It seems that it is not only women that are concerned about rape, but that men really would like to talk about it too.

Then on the issue of counselling at the Namibia Women Centre, we also facilitated some counselling programs. There are women who are doing counselling services not only for the community because it seems from other communities people are also going to the Namibian Women Centre to get some counselling services. What we heard according to their report and information is that many men are also making use of that centre and it seems now that at least one in a thousand men are also being battered by their wives.

The Department of Women Affairs facilitated training programs and workshops for the regional coordinators of NANAWO, when NANAWO was facilitating the regional workshops on violence against women and children. We also facilitated the participation of the different members from the Gender Sectoral Committee on Violence Against Women, to testify in the Public Hearings. The Single Parent Group is a group in Rehoboth and their issue and concern is maintenance. They organised a workshop or a big public meeting in Rehoboth last year and more than a thousand women turned up. In some way the meeting nearly changed into a chaotic situation, because of the demands and the crisis that the women were in. Each one wanted to talk and so on. And there were a lot of proposals which they made and we put up some proposals which we think the Law Reform Development Commission could maybe take. So I am having here what we have facilitated so far, but I would like to read just the proposals, in case somebody would like to know it.

According to the information from the different programs from 1990 up to where we are now there were some demands. The issue in most cases of the violence against women and children are that the cases are taking too long. People said that after four years you see the perpetrator is walking around. So that is one point, cases of Violence and Abuse must be disposed of by the courts early. We have to ensure that when there is a case action is taken and something must happen.

In an effort to free courts up we proposed that Municipal Traffic Courts be created to deal with certain categories of traffic offences like non-payment of traffic fines and driving without licences, because many parents, especially mothers said their children are killed because of drunk drivers etc.

Traditional leaders and their headmen should be given basic training and limited jurisdiction to try offenders for certain categories of crime, this is to ensure that something is done. These leaders should also be given guidelines for possible sentences. Crimes therefore for trial by traditional leaders and headmen might include stock theft, damage to property, domestic violence, theft, housebreaking, etc.

The possibility of Small Claims Courts should also be considered. Here retired legal personnel and law students under the auspices of UNAM's Law Faculty could be considered for employment on an hourly basis or remunerated per case settled. On law enforcement officers, the police are not generally perceived as being helpful and able to deal with violence against women and children. The Ministry of Home Affairs is a lead agency and we facilitated many of their programs and we know how much effort they put in, but it seems that they are also in a very negative way portrayed. So we also have to ensure that what the police are doing is portrayed positively.

It is the opinion of the Department of Women Affairs that more recognition should be given to the police for their fight against crime. Special effort should be made to portray them in a positive light so as to restore and to enhance the confidence of the community in them. It is also proposed that the conditions of services of the police should be reviewed and made more attractive. There is a need to ensure the recruiting of the best possible candidates into the police services. This will reduce possible corruption, theft, bribery, etc. in the police. Effective attention should also be given to more specialisation and capacity building in the service. Strict discipline should be enforced in the service to ensure that the resources available are utilised in the most cost effective manner to the benefit of the community. Sentencing to prison should be minimised for non-payment of maintenance. At the meeting in Rehoboth

the women said, if the man cannot pay because he is unemployed and he doesn't have an income, let him come and work in the fields and let him produce vegetables etc. and let their children eat the fruits of the labour, instead of just allowing the men to walk around, because they are unemployed.

CHAPTER 6

Ms R Selle; Director, Print Media and Regional Offices in the Ministry of Information and Broadcasting and Co-ordinator, Multi-Media Campaign on Violence and Abuse against Women and Children

Thank you, Mr Chairperson. I feel humbled to have been invited to participate in this National Hearing under the auspices of the Law Reform Development Commission and its Women and Law Committee.

The Ministry of Information and Broadcasting is not one of the main players in this important, can I say fight, that we have against violence against women and children. But we became involved by default. Before I go into what has been done under the Multi-Media Campaign, I must congratulate the organisers and sponsors for the effort they have made in convening this historic meeting.

When the Minister of Information and Broadcasting was informed by the then US Ambassador, Marshall McCallie, that his Government could fund a multi-media campaign on violence against women and children, we felt hesitant about taking this on, not because we doubted our capabilities in multi-media, but because the Ministry up to that day had not dealt with the issue of violence against women and children. However when we started identifying the players who would be our partners and who have been active in this field before Independence, after Independence, and still today, the enthusiasm and response that we got from them was overwhelming. In fact the Ministry only acted as co-ordinator with organisations such as Women Solidarity, Legal Assistance Centre, Sister Collective, the Gender Network Committee, the University of Namibia, the Namibian Police and their Women and Child Protection Centre, CCN, and many others were involved, some just by giving us advice and so on. We worked closely with the Women and Law Committee, with them advising us more than anything.

With the first grant of US\$100 000 that the American Government made available for the Multi-Media Campaign, we had a Focus Week where we had invited through the Department of Women Affairs and Legal Assistance Centre, 30 volunteer counsellors mainly from the south west and a few from the north of Namibia. Our highlight for the Focus Week was a programme called Grow For Life, a training programme that equips people who might not have a high scholastic finish to look at themselves and to look at counselling. It is a programme that is presented by Danie Botha and most of the volunteers afterwards said that this was really something that equipped them now to be better volunteers in future.

We hope that with the next campaign which the Americans have already indicated that they will fund, we can have two more of these Grow For Life training programmes for volunteers, perhaps in the North and one in the West. Then we had three self-defence workshops that were organised by Sister Collective. But I think Sister will tell us more about that when they make their presentation.

A special supplement of Abacus was printed, it only arrived from the printers about two weeks ago and will be launched and distributed through schools in Namibia in the next week or two. Then we printed materials, copies of which can be obtained from our library or from Women Solidarity which was the acting agent in the preparation of those posters.

The police training workshop was probably one of the highlights of the Multi-Media Campaign. Previously Legal Assistance Centre and Women Solidarity were involved in police training. When a new group of police recruits were receiving training, Women Solidarity and Legal Assistance Centre would be given one or two slots to talk about the issue of the abusing of children and women which, obviously, cannot be adequate especially when the trainees are still new and they are being bombarded by law enforcement training. But during this two week training workshop, which is definitely not adequate to train police officers fully, we had 23 police officers from throughout Namibia, from all 13 regions of Namibia and 3 from the police training college. What was very heartening was that 50% of the trainees were men, 50% women. That really, I think, is what we have to look at. It is no use making charge officers who have to look at violence against women and children only women. Men have to be part of that as well. And unfortunately we have not had any evaluation done of what came out of the training. For instance is there a better attitude from the police towards violence against women and

children since the training? But from the comments of trainees it sounded as though they had a better understanding. We ran into a big problem with the training. As the training was under way and some issues had to be funded, it came out that the American Embassy actually is not allowed to fund any training for police outside America. It is a law in their Foreign Act, or it is some regulation in their Foreign Act. That caused us a bit of a problem, but then Legal Assistance Centre came to us, helping with funding that project and then being refunded by the Americans for another project. But we need to look at more such training courses for police.

We are working on a bigger production, a docu-drama that looks at the issue of drama in the family, but also rape at parties and things. It is a 50-minute or 60 minute production; it should be finalised by about June. It was commissioned to the company Afri-Nature after we had received proposals from various companies. The original script was not very successful. For instance in one scene the boy beat his sister down but nobody addresses it. The boy is still the hero; nobody addresses the issue of right and wrong. So the script had to be reworked totally. And I think the script is addressing all these education things as well. They're busy editing it. So I don't know what the quality is yet. We hope to screen that on NBC TV and also countrywide.

Soon after the arrival of the new US Ambassador, George Ward, he signed a contract with all the active participants who were only NGOs. Although the Ministry of Information and Broadcasting is co-ordinating it, the active partners are NGOs. Then he announced that his Government would give us support for a second phase to an amount of US\$80 000, which they hoped we could use for radio, television, and perhaps community theatre. Project proposals are in preparation, one from NID to do television shorts that we will flash regularly on television and also take throughout the country by our Ministry. The messages that we are thinking about are things like 'children have a right to love and protection', first showing a scene that perhaps that's not right. And then if the father abuses or a man abuses his wife, who should protect her. We're looking at that. Then we have Bricks Community Theatre who are in a process of drafting a radio play as well as radio shorts to also be broadcast regularly. And a puppet show that we hope they can take together with Women Solidarity and Legal Assistance Centre when they go to communities and to schools in their regular programme, that this can be part of that. As I mentioned earlier the second phase is also looking at two more Grow For Life training courses for volunteers.

Mr Chairperson, ladies and gentlemen, the Multi-Media Campaign on violence against women and children are an ongoing campaign. The campaign aims at the supporting ongoing activities. We do not feel that we can operate without recognising the other players already in this field and we welcome all participants and all projects and we've now got a project from the Erongo Anti-Rape Group as well, and we hope to work in the second phase. One of our main partners in any Multi-Media Campaign should be the media. The media should be congratulated for bringing the issue of violence against women and children regularly to the forefront. However, not to detract from those congratulations, one has to ask why is all the reporting only incident based. When there is an actual rape, when there is a court case, why is the media not also doing research and background material. For instance last year in June when the Honourable Minister for Information and Broadcasting, Ben Amadhila, launched the Multi-Media Campaign, we suddenly after that saw a vast increase in the number of reported incidents of violence against women and children. It had nothing to do with the Campaign, but there were almost daily reports in the newspapers for the first month after those newspaper articles. One story was that of the little girl who was taken by a taxi driver and raped in a river and I think killed eventually. It was all in that period.

One would like to see the media working together with Centre for Advanced Social Studies, the Legal Assistance Centre and with the Department of Women Affairs, going to victims, giving their story a face, because one of the things that Ben Amadhila stressed when he launched the Campaign was, does a video production work, does the puppet show work if that victim does not have a face that you can identify with? If we can get the victim to come out, but also perpetrators to say I did it, these were my reasons or I don't know why I did it, at least providing a face. I think if people know that I as a child – and this is a true story – that I as a child had been raped by two of my uncles at different times over the years, around the ages of five years old, they can easily identify that that can happen to you, that is happening to the next door neighbour, that is happening to that one. I think this is something we have got to look at as well. How can we give newspaper reports a face? You don't want to identify women, not the way the New Era recently did in the case of the Kavango woman and the witchdoctor who had prescribed medicine for her husband and her. The husband then raped his wife. They identified the husband so the whole community knows exactly who it is. That should not be done. But that wasn't addressed by anybody either. When I phoned the newspaper they didn't have anybody else that came back to them, that this

person was in fact identified, which is against the current law.

I think that we have to look at the fact that the media can also play an important role in telling women on a regular basis, like they do with water, giving hints on how to save water, what are the options for women. Where can women go? Perhaps every month or every week, like Women Solidarity has been placing advertisements to say what they can do. If there could be regular repeats of advertisements or of articles on such as the Erongo Group and groups in Lüderitz and Swakopmund and what services they can give to women, in the newspapers and on the radio and on television.

There should be more emphasis on rural communities. Also people like to know their rights. It's no use having rights if you don't know what your rights are. The Ministry of Information and Broadcasting has a very important role to play there. But unfortunately we are also weakened by a very low budget and a very limited staff in the regions. However there are other places. The Department of Women Affairs has been strengthening regional offices. We can work through regional governors' offices. There are organisations such as Women Solidarity, Legal Assistance Centre, and also I think with the public hearings we have seen that there are many other organisations that can be used for the dissemination of information. And our Ministry will even take material up, we have the facilities to take it up to the different regions.

The other thing we have to look at is the role of civil society. We always talk of the role of Government, we always talk of the role of NGOs, but civil society has a role to play and I don't think this role is emphasised fully. I think what we saw recently at the squatter camp community in Katutura was amazing, where the community stood up and said "we will not take criminals in our community". Fine, we don't want them to go knocking down people's huts and so on, but perhaps if we can get society to realise, if I know my neighbour's child is abused, I should not keep quiet. What can I do, where can I go to make sure that this child has a future? What are teachers' roles? What are the roles of health workers when they come across this? I think that is not emphasised enough in our Multi-Media Campaign, and also needs to be emphasised at other levels as well.

Then of course the evaluation of the campaign. We can campaign but we don't have the staff to evaluate the campaign. I think the players whose work can be evaluated are the people working at the regions. Again I'm talking here of the researchers, I'm talking of Women Solidarity and the Department of Women Affairs. This message can come out totally skew. I think we need to know that information. We have to have the active interaction of an exchange of information between all the players.

There is another thing about the police. I think it is an education problem more than anything else. But the education problem starts at home. It starts in our kindergarten and our primary schools. I have seen a little boy push over a girl at kindergarten, and when the girl goes crying to the kindergarten teacher she says: "Agh, just leave Johnny, he's just naughty", not addressing it to Johnny, and saying you've got no right to knock over anybody. I think we've got to start with campaigns there as well. What is the role of the teacher, is it to perpetuate the stereotypes that we have? For instance my eldest son before we went to kindergarten he used to play with dolls, cars, everything. When he went to kindergarten he didn't want to touch a doll any more, he didn't want to touch earrings, he didn't want to, only cars and only guns. But these are the stereotypes we are perpetuating and I think these are things we have to address as well. I am sorry if I digressed a bit, but thank you.

CHAPTER 7

Ms I Malunga; The Namibia National Students Organisation (NANSO)

My name is Ingrid Malunga, and I represent the gender sector in NANSO. Last year we had our congress and we decided to change our name from Women Sub-Committee to Gender Sub-Committee. The reason for this was that our young people felt that the Women Sub-Committee was only mostly for young girls and women, so we didn't have any men or young guys attending it. So that is why we decided to change from Women Sub-Committee to Gender Sub-Committee. We have about 106 branches throughout the country, and at each of these branches we have at least a section which is a Gender Secretariat where each of these members deal with gender issues concerning young people. So since last year our programme on the gender side has been operational. We established AIDS clubs in the schools throughout the country to help students deal with issues such as teenage pregnancies, alcohol abuse, and teenage suicides. And what we do is, we train about five to six students in each schools on how to help the other students with the problems I just mentioned, so that when they have for example teenage pregnancies or suicides they can come to these five students in that school to help them deal with these problems.

This year we are trying to work with the Ministry of Health and Social Services. They help us get counselling rooms in secondary schools where at least once in every three months a nurse comes in to give counselling to both girls and boys on the correct methods of using contraceptives or condoms. We are not trying to promote sexual activities amongst students, but we have discovered that the age group of thirteen is already sexually active.

We felt the need then to have discussion meetings in secondary schools where the nurses come and they talk to the students, at least giving them counselling on how to use the correct methods of contraception if they are already engaged in sexual activities. These AIDS clubs are quite effective because they are helping some of our young people. We also have a project going on which is funded by NORAD where we train our field workers to go out into the regions, especially schools to give counselling and help the students also. This is quite effective. I know most of you know Emma Taipwa. She is one of our field workers, and the one who came out publicly that she has AIDS. So she works with us now. Once we go out on this field work, she goes with us and then she relates her experiences to the students. So it is much easier for them to also come up with any problems they have. She is quite a good role model for our young people and the community and that is why we are using her. We call it Vision 2000, and we are trying to implement it to the year 2000 and maybe after that. If the donors agree to fund this project we will carry on.

CHAPTER 8

Ms N Terreri; UNICEF, Namibia

1. On behalf of UNICEF I would like to thank you for the opportunity to make a statement at this hearing. Under the Convention on the Rights of the Child (CRC), UNICEF was appointed the responsibility to assist member states and civil society to monitor the situation of children and the implementation of the Convention. Likewise, UNICEF supports the implementation of the Convention on the Elimination of all forms of Discrimination Against Women. It is in the framework of both these Conventions that I speak today.
2. My Statement today covers 6 issues or aspects of violence against women and children.
 - (i) Violence and fear of reporting
 - (ii) Definition of Rape
 - (iii) The Child Care and Protection Bill
 - (iv) The juvenile offender and violation of his/her rights
 - (v) Violence within boy/girl relationships
 - (vi) Monitoring the CRC
3. I would like to predicate the comments here by stating that UNICEF recognises that much progress has been made, both in publicising the extent of violence against women and children and in providing required services. Today's statement is intended to identify ongoing problems and required actions.
4. Violence against women and children is a widespread problem in Namibia. Unfortunately many cases of violence against women and children are silently carried by the victims. Research has shown that violence against women and children is the most under-reported crime. This is due to several issues such as the victim feeling humiliated and shamed and sometimes even guilty, long distances to the nearest police station, lack of trust in the police and lack of user-friendly services etc. When women and children speak up, few people are prepared to listen or to take them seriously, as a result they choose to put up with abuse rather than risk family break-up or social ostracism.
5. Violence against women and children limits their choices directly by destroying their health, disrupting their lives, and narrowing the scope of their activity; and indirectly by eroding their self-confidence and self-esteem. Violence also impedes women's full participation in society.
6. Abuse against women and children are closely linked. Statistics show that most men who batter their wives also abuse their children. Children whose mothers are victims of domestic violence are more likely than others to engage in delinquency or form violent families when they grow up.
7. In the past, the law in many countries ignored domestic violence which was usually viewed as a private family matter. But in recent years people have become more aware of domestic violence as a serious problem that affects the community and the nation as well as the family.
8. Namibia as a country has taken several steps to combat violence against women and children. Among them is the ratification of the United Nations Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1990 and 1992 respectively. By ratifying the two Conventions, the Government of Namibia has agreed that these Conventions will become part of Namibian law.
9. Article 19 of the CRC clearly stipulates that the State has a responsibility to protect children from all forms of maltreatment by parents or others responsible for the care of the child and to establish appropriate social programmes for the prevention of abuse and the treatment of victims. Article 34 also talks about the State's obligation to protect children from sexual exploitation and abuse, including prostitution and involvement in pornography.

10. The South African Act 33 of 1960 is still the main legislation in Namibia governing children's issues. The Act has not yet been amended since it became applicable in 1977. The Namibian Child Care and Protection Bill, which ensures the State's intervention to protect children at risk of abuse or neglect, has yet to be put before Parliament even though its preparation was completed over one year ago. Urgent action is required to ensure that Namibia's laws that protect children are in line with the CRC.
11. There is also a great need to replace existing laws which were put in place before Independence with new ones to reflect the existing reality of life and the needs of the people. For example, the law defines rape as "unlawful sexual intercourse with a woman without her consent." The definition causes some problems:
 - unlawful sexual intercourse implies that a woman cannot charge her husband for rape;
 - the definition ignores the fact that men are also raped;
 - it focuses on sexual intercourse and excludes other sexual violations of the body that are just as serious;
 - absence of consent as an element of crime leads to a focus on the victim's dress, behaviour and sexual history rather than on the use of coercion by the rapist.

Revision of this definition within the law should be given priority.

12. With the establishment of the Woman and Child Abuse Protection Units in Windhoek, Keetmanshoop, Oshakati and Walvis Bay, Namibia is moving in the right direction of providing protection services for women and children. However, much remains to be done.
13. For three months of 1994 UNICEF invited Inspector Cath Adams, from the West Yorkshire Police in the United Kingdom, to work with the Katutura Woman and Child Abuse Centre. She was invited again in 1996 to assess the progress made by three Protection Units, Oshakati, Keetmanshoop, and Katutura; and to make recommendations on how to strengthen their operation. The recommendations include:
 - the Protection Units should be placed under the authority of one co-ordinator and placed together in a single police unit;
 - there must be enough well trained staff to enable each Protection Unit to carry out all of its tasks;
 - the Protection Units need a higher status within the police force in order to reflect their priority work;
 - the police need to put together a clear policy statement on how to deal with cases of domestic violence;
 - the Abuse Centres need to be available 24 hours a day, since many incidents of violence happen after working hours.

To date, a co-ordinator has yet to be appointed and none of the units remain open 24 hours.

14. While this Commission is exploring the issue of violence against women and children, UNICEF is also concerned for the young offender who sometimes is the perpetrator of such violence. Young offenders sometimes become the victims of violence, or at the least, violation of rights at the hands of the justice system itself. The United Nations Committee on the Rights of the Child in its observations on Namibia's first report (1992) on the implementation of the Convention on the Rights of the Child, indicated that the system of the administration of juvenile justice in Namibia must be guided by the provisions of Articles 37 and 40 of the Convention on the Rights of the Child as well as the relevant international standards in this field, including the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for Protection of Juveniles Deprived of their Liberty. The Committee also recommended that measures be taken to train law enforcement officials, judges, personnel working in detention centres and counsellors of young offenders about international standards for the administration of juvenile justice.
15. In January 1994 UNICEF, in collaboration with the Ministry of Prisons and Correctional Services, Ministry of Youth and Sports, and Legal Assistance Centre published a study which looked at the situation of young offenders (under 21 years old) serving prison sentences. The study results indicated that 93% of the sample had been sentenced to a term of imprisonment without any legal representation whatsoever and almost half had appeared in court without their parents or guardians being present. Pre-trial detention was the norm with the average period of detention being 3 months

before the case was finalised. The respondents were in constant contact with adult prisoners, at times sharing the same cells. Many stated that they had been sexually, physically and emotionally abused by adult prisoners. The study also discovered that there was little counselling done by prison social workers which results in juveniles having less chance of being rehabilitated.

While the Juvenile Justice Forum and an Inter-ministerial Committee have since been formed and some actions taken, more needs to be done regarding juvenile justice in Namibia. UNICEF has been working with various partners, both government Ministries and NGOs, towards a comprehensive system of juvenile justice in Namibia that is fair, equitable and in line with international standards. However, without a clear juvenile justice policy, officials are not able to implement all the activities that will ensure that the State takes responsibility for the delivery of preventative and aftercare services to children who come in conflict with the law. This has resulted in the justice system perpetuating a violation of the rights of young offenders.

16. An additional area of concern is the violence faced by young women in their relationships with young or older men. As part of the UNICEF assisted Youth Health Development Programme during focus group discussions, with boys and girls alike, often stated that it was acceptable for a boy to beat up his girlfriend if she refused to have sexual relations with him. The ... "My Future, My Choice" ... life skills programme now being implemented in schools and youth centres, in five regions, hopes to change these attitudes. Especially to improve girls' self image. The programme will go national in 1998.

We are pleased that the Law Reform and Development Commission has taken the initiative to hear the public's recommendations to further protect women and children from violence in Namibia. It is clear that there is a need for the provision of more resources for women and children, first in raising awareness and, secondly, in providing services. On awareness raising the Commission is requested to support a recent initiative by the Management Committee of the Windhoek Women and Child Abuse Centre to develop a school awareness package on child abuse, and to see it implemented in all Namibian schools. There is an urgent need for the government to take stronger steps in dealing with those who violate the rights of women and children as stipulated in the Convention on the Rights of the Child, and the Convention on the Elimination of all forms of Discrimination Against Women.

It is important that a committee be established to monitor and report on Namibia's implementation of the CRC. This committee should be established now, as ratification took place almost 5 years ago, and no monitoring system has yet been put in place.

The 1997-2001 Programme of Co-operation between the Government of the Republic of Namibia and UNICEF will contribute to the realisation of the rights expressed in the two Conventions for increasing numbers of children and women in Namibia. The main focus of the Programme is to continue to develop capacity within Government and partner civil institutions to plan and implement effective services, to empower households to practise positive behaviours and make full use of available services, and to advocate for increased attention to the needs of children and women. The documentation of these plans is hereby submitted to the Commission.

CHAPTER 9

Ms L Shinaveni; Division of Rural Development Planning, Ministry of Agriculture, Water and Rural Development

VIOLENCE AGAINST WOMEN IS A CRIME: MEN AND WOMEN ARE PART OF THE SOLUTION

Violence against women means "an act of gender based violence that result in or is likely to result in physical, sexual or psychological harm or suffering to women, including threats or acts, such as coercion or arbitrary deprivation of liberty, whether occurring in public or in private life".

This includes sexual harassment, sexual assault, rape, incest, pornography, femicide and women battering. Based on the idea that women are men's property, it maintains the system of male domination through violence and fear of violence.

The incidence of rape and other forms of violence and abuse of women and children in Namibia are alarming. Children as young as 3 years have been raped and women in their 70's have been raped. It has been noted that violence against women and abuse of children is common among Namibians of all races. It expresses itself in woman and child bashing. Sometimes this practice is distorted and misinterpreted as part of the tradition by some tribes. Unfortunately some women regard bashing as a sign of love from their husbands or boyfriends.

Violence is also manifested in various ways and at all levels of society. The ugly practice of raping schoolgirls and young women and kill them afterwards are becoming very common in our society. We have parents who accompany their children to and from school for fear of sexual harassment.

The question of males using their authority to make sexual demands in exchange for employment and other needs is also causing concern. Violence towards women in the workplace manifests itself in the form of sexual harassment. Violence like rape or bashing is a hidden crime and is very common in our society. Normally, people don't talk about it as victims are scared that other people will blame them, which would make them feel ashamed.

Violence is used to control others. It is usually used by people in more powerful positions to make others without power behave and do what they are told to do. In a bashing situation men use their power (physically) to dominate, intimidate and keep women fearing them and this fear is used to control women.

There are fresh examples in which a wife or a girlfriend was killed by the husband or a boyfriend. The excuse was always: He was acting in self-defence or it was not done with intention. To make things worse, these killers will be granted bail with a minimum payment. At the end of the day, these criminals will commit another similar crime while awaiting their trial. How does one justify this?

The majority of cases show that males predominate in jobs with higher salaries, while female employment has been limited to a job with lesser pay. One can correctly argue that this society continues to cling to traditional norms that assign the division of labour along sexual lines with strong biases against women.

Although there are encouraging steps, however, that are steadily being taken by the Government and Women's Organisations in the country to eliminate these prejudices, more awareness and law enforcement need to be re-enforced to redress the situation.

Another issue of great concern is the issue of inheritance in some areas, where, upon the death of the husband, relatives collect everything from the household including the land, and the widow is chased away from the house and the land they have built together. The right of women should be established and protected by law in both customary and civil marriage.

Women in general and particularly rural women are subject to the following:

- women don't own land in their own name;
- lack of access to educational (the girl child) opportunities;
- their exclusion from decision making process;
- making process, including the right to control their fertility;
- low levels of education;
- lack of employment opportunities, enabling them to lead decent lives;
- unsafe environmental and working condition;
- inaccessibility of facilities to ease their strenuous work load, especially in the light of the additional home based tasks they have to perform in the home;
- poor health-care facilities, especially in the rural areas as a result of which women do not get essential and adequate health care, in most cases women are more vulnerable to diseases such as HIV-AIDS, STD etc;
- lack of credit facilities to enable women to establish self help projects or to go into proper business.

It was noted that, in Namibia, women are absent from the decision making process of political parties and organisations, as well as from policy making organs of the state. The major causes being the gender stereotyping, lack of training and education of women as well as bureaucratic approaches to decision making. Decision making is regarded as the preserve of men in patriarchal society such as ours. With regard to the training and education of women, gender stereotyping means that even where women exist for posts in such bodies, they are never considered.

The Ministry of Agriculture, Water and Rural development recognised the role women play in agricultural development, as farmers, food producers, and this role has not been acknowledged. The Division of Rural Development was created within the Ministry, with the mandate of rural development policy formulation, rural development planning and co-ordination of rural development activities. This division has also created a Gender in Development Unit, with the aim to reorient the agricultural services towards addressing household food, security and gender differences. The division has therefore the responsibility for a recent development initiative to integrate women in rural and agricultural development services. It is in this regard that the Division of Rural Development Planning with the Technical and Financial assistance from FAO held a number of consultative workshops, at regional and national levels which led to the development of the Gender Action Plan within the Ministry of Agriculture focussing on key strategic areas for agricultural development.

To realise this goal it necessitates agricultural professional and other development planners to acquire "a new set of conceptual and analytical perspectives and skills in order to deal explicitly and efficiently with women related issues in the spectrum of projects in which they became involved."

Gender analysis approaches made a contribution to agricultural development and Food Security and Nutrition by informing us about ... Who does what and when, who has access to resources and who controls, and who is the ultimate beneficiary. Equipped with this information, extension officers, researchers, and programme planners can clearly identify both practical and strategic needs of men and women, as they would have Gender desegregated data, enabling them to plan on facts rather than on assumptions.

The National Agricultural Policy acknowledges the constraints and discriminatory practices facing many female headed households and the youth in rural areas throughout Namibia. It further stated that existing norms and values related to women and gender discrimination must be changed. In the same way the Food Security and Nutrition Policy and Action Plan recognises the socio-economic, political and cultural constraints faced by women, youth and other disadvantaged groups in terms of access and control of household resources, to skills and knowledge, and access to supportive services.

It is also acknowledged that the impact of drought, hunger and malnutrition is mostly felt by women because of their productive, reproductive and community management, gender roles and responsibilities which links them to ensure the social and the nutritional well being of their families.

Some of the Policy objectives are as follows:

- ensuring Food Security and improved nutritional status
- create and sustain variable livelihood and employment opportunities in rural areas

- improve the living standards of farmers and their families as well as farm labourers and to contribute to balanced rural and regional development based on comparative advantage.

The Division of Rural Development Planning chairs the Committee on Rural Women Support Programmes and Environment, of the Gender Sectoral Committee, within the Department of Women Affairs.

Actions to be taken:

1. Implement programmes that are aimed at increasing the knowledge and understanding of the causes and consequences of violence against and abuse of women and children.
2. Enact and enforce legislation against perpetrators of practices and acts of violence of women and children.
3. Provision of education and employment opportunities.
4. Establish mechanisms to monitor land allocation to women in the Ministry of Agriculture and the Ministry of Land.
5. Raise awareness and educate our community about the problems of violence against women, especially the state, Government, NGOs and church.
6. Develop strategies to combat crime.
7. Improve our community's response to this violence when it happens.

Recommendations:

- Women and children should be protected by the state against family violence;
- Sexual harassment must be made a criminal offence with high punishment;
- Equal pay for equal work, coupled with law prohibiting discrimination against women;
- Affirmative action programmes, including training programmes;
- The improvement of working conditions including parental leave;
- Education should be completely overhauled. The Government has a duty to intervene and correct imbalances created by the apartheid regime. Education should be one of the priorities of the Government, and that the state should provide free and compulsory primary school education, or education up to the age of sixteen years, with a bias in favour of girls who are often late beginners at school;
- Women should have the right to be protected against rape, sexual harassment and violence. A community based National Aids Campaign with the state-funded participation of the youth, women, progressive community and health organisations.

CHAPTER 10

Deputy Commissioner J Smit; The Namibian Police (NAMPOL)

Mr Chairman, I'm Deputy Commissioner Jumbo Smit. As you all know the Namibian Police view and deal with violence against women and children in an extremely serious light. Unfortunately however always after the fact, when the crime has already been committed, or when the crime has occurred. This truly is a case where prevention is better than cure.

We formed a specialised unit called the Women and Child Protection Centre in Windhoek in 1993 after lots of discussion with different agencies. This led to the extension of specialised services to other centres in 1994. Specifically I'm referring to Oshakati and Keetmanshoop. There are also other centres elsewhere but on a much smaller scale. Officially we only refer to Oshakati and Keetmanshoop. The existence of this unit is the result of a multi agency approach, as it is commonly known, together with amongst others the Ministry of Health and Social Services, the Ministry of Education, the Ministry of Justice, the University of Namibia and UNICEF of course.

The main aim of this unit is to provide a victim friendly policing and social service approach. There will be later during this week a member of the Namibian Police operating in this unit coming here to give testimony. She's sitting next to me at the moment. She will make a presentation to you regarding this unit and give you much more detail. Members who are operating in these units are, where possible, trained detectives who have undergone further specialization courses under, or with the assistance of the British Police and also the South African Police. But of that you'll get more later.

My own function in the police lies with the investigation of crime, and I will therefore limit myself to discussions of this subject, highlighting some, of the problem areas we're encountering at the moment. First of all abuse of women. An unknown factor must be the number of women who do not report to the police either for a lack of courage or a fear of consequences for their partners. The neighbours, families, friends, and relatives may report the matter. If not it will remain a secret to the victim concerned. If the victim does not wish to co-operate, our hands are tied and we can't do anything. It is a daily occurrence that women visit police stations complaining that they have been abused by their partners. Cases are then registered, statements are obtained, medical tests are undertaken, and all the steps of the investigation begin, only for the woman to return the next day or even the same day to withdraw the case, refusing to testify against the partner. We have no other recourse than to stop our investigation in this case. That is why I raised this to you, Mr Chairman, that there is to me, and I'm certain that of all my colleagues, a clear need for legislation allowing the police to act without necessarily involving the victim.

As regards the abuse of children, two areas of concern exist. First the sometimes problematic situation created by our maintenance laws. The process of arranging for maintenance is time-consuming and does not always ensure the guilty party pays on time and this results in the neglect of children who are denied a normal existence because of poverty. And secondly, the actual physical abuse of children. This is perhaps one of the most under reported crimes and much can be done to educate children on their rights. At a later stage I think the person from our Child Protection Unit will tell you more of what we are trying to do on a very small scale to give presentations in schools, etc.

Then the problem of street children. With the exception of one very limited private project in Windhoek, these children receive no attention. And there is a crying need to arrange for places of safety, education, and alternative employment for them. I know that this has been discussed in many forums, but I just felt that I had to mention it.

Thirdly, I want to touch on the subject of a witness protection programme. As I previously noted there often tends to be a problem in arranging for the necessary witnesses because they fear the perpetrator. We need to consider a witness protection programme incorporating shelters for victims. I am of the opinion that the present shelters are insufficient and inadequate. And I'm not referring to the two in Windhoek; I'm referring to national shelters.

Illegal abortions, I have to touch also. On numerous occasions stillborn and buried alive babies are found in rubbish bins, drains and other dumping places. In most of these cases we were unable to establish who the mother is. This is clear indication that there is a need for assistance to pregnant mothers. I don't want to say much about this. This is a national issue and perhaps political. I don't know. But from the police side I think we should just mention it in this forum.

Lastly, Mr Chairman, alcohol abuse. Many of the cases of this nature that we are investigating and which are reported to the police are alcohol related. Serious community programmes are necessary to arrest this problem which, I must admit, has much wider ramifications than simply abuse of women and children.

CHAPTER 11

Ms D Hubbard; Legal Assistance Centre (LAC)

THE FIRST PRESENTATION

I've been asked to summarise a paper that I've already presented to the Law Reform and Development Commission on the relationship between rape and indecent assault. And particular how the offence in some other jurisdictions has been combined into a single graduated ladder of offences, and what the effect that legal reform has been. There's a lot of technical detail in the paper, but I'll try to just summarise some of the highlights that may be of more general interest.

Before I get started into the substance of the paper I wanted to share on thing I found as a footnote along the way. I call it a stereotype test that I think is very useful for public education purposes. Imagine a situation where a woman lay a charge of rape with the police, and the man is arrested and then released on bail. And then you find out afterwards that there is absolute irrefutable evidence that the two of them engaged in voluntary sexual intercourse after he was released on bail. Many will think why would a woman voluntarily have sexual intercourse if she really had been raped. She must have laid a false charge. I have to admit that ran through my mind when I read the example. But why aren't more of us thinking why would a man have voluntary sexual intercourse with a woman who has just laid a false charge against him and had him arrested. I think it's a useful stereotype test. Because I found very few people I've used this test on think of the second question.

In the paper I start out by talking about some of the problems with the existing law on rape. I think the issue of indecent assault is probably less well known. I wanted to give a little bit of background on what is the crime of indecent assault. It's a very close cousin to the crime of ordinary assault. The definition is wrongful application of force to a person of another in circumstances of an indecent nature. The important thing about this definition is just that it is exactly the same as the definition of an ordinary assault, but it just adds the concept of an indecent nature. There's been some confusion in the reported cases on indecent assault as to what touching of an indecent nature is. The confusion has been must there be touching of a part of the body, that is thought of as a sexual part of the body, for instance the breast or the genitals. Or is it an indecent assault if a man grabs a woman's arm and says I'm going to throw you down on the ground and rape you, is that part of an indecent assault. The courts have not agreed. So there is a need for clarification as to what should be defined as an indecent assault. But even though indecent assault is different from rape, in that it is closely allied to assault which is a very common crime, it still has some of the same problems that the crime of rape has.

Consent, as with ordinary assault is something that can be raised as a defence. The State does not have to prove absence of consent in an assault. But in an indecent assault, the commentators all say it should be the same. Consent can be raised as a defence, but it shouldn't be part of a crime, the crime itself. When you look at the cases it's the same as with rape. You find creeping in that some judges have decided out of their own accord that the absence of consent would have to be proven by the State. And I think it is because there is this automatic suspicion where there is a crime of a sexual nature. These stereotypes come into play. Some people immediately start thinking, well this is sex we're talking about, and there's a bigger danger of false charges.

Another thing, in other ways indecent assault also has the problems I've talked about with rape. The procedural issues. For example previously the special cautionary rule that applied to rape cases also applied to indecent assault. That the presiding officer was supposed to take with a special degree of caution an allegation of indecent assault. And also the Recent Complaint rule that has been discussed in the context of rape cases. If the victim doesn't make a complaint right away then the court can take that as a reason to suspect that she is not telling the truth. I say he and she although indecent assault is a gender neutral crime already. But because women are the primary victims, I'm using he and she in that respect.

I was not able to get information on sentences for indecent assault, and I'm not sure that it would have

been very useful if I had. Because indecent assault is such a broad offence. You know you could have a situation that just fell short of rape. Say for example a man assaulting a child who is so young that he physically cannot accomplish sexual intercourse, that could be indecent assault. It could also be a woman walking down the street and a man makes a rude comment and grabs her breast through her clothes in front of a lot of people. That could also be indecent assault.

So the range of factual circumstances is so wide that it would be difficult without a lot of details to compare the severity's of sentences. There are two main points that I want to highlight about the relationship at the moment, in our law between rape and indecent assault. One of them is that in many respects at the moment rape and assault are very far apart. And by this I mean, I've read a lot of cases in Namibia where rape took place with a lot of physical injury, with very severe assaults. And somehow the assault aspect often seems to be minimised. The injury that the woman suffered will tend to be discussed only as to the point of whether or not she gave consent. The court loses sight of injuries such as a broken arm. That in and of itself is a horrible thing. And it's almost as though that is only important because that's the evidence that she really didn't consent.

I've wondered why with many factual situations there isn't in some instances a charge of assault and rape. You know you can't have two charges for the same set of facts. Suppose a woman is beaten until she's completely unconscious and then raped. Well surely that could be two crimes. Beating a woman with intent to do grievous bodily harm and rape. You know you could draw a line, and say here is the assault and the rape again. But it almost never happens that way. The episode tends to be subsumed under rape, if I can put it that way. So that's that one point.

I think that at the moment assault and forced coercion needs to be highlighted again in rape. We've lost sight of that. But then on the other hand take indecent assault, which is already a species of assault. And even there you can see because it's got a sexual nature to it in the reported cases, it's starting to look more like rape. So when there is an attempt to look at assault and to take indecent assault as just a variety of assault, some times the assault still gets lost. So that for me those points are important to have as background information, when thinking about how one might want to redefine rape and indecent assault, and what advantages and disadvantages there might be from relating the two of them.

I looked at three jurisdictions because they provided models of different ways that you could try to redefine rape and indecent assaults. And because in the three jurisdictions I chose there was a lot of information about trying to measure the impact of the reforms. One was Michigan in the United States. Michigan was one of the world leaders in rape law reform. In the early 1970's a very broad and comprehensive set of reforms was put into place. And the Michigan reforms have become a model that's been used in many other places in the world. Michigan replaced the crimes of rape and indecent assault as they were then called.

They replaced those crimes with four degrees of what they called criminal sexual assault. They still maintained a distinction even though the name had changed. Sexual penetration was still distinguished from sexual contact. Penetration was defined to include what we now know as rape plus other forms of penetration, oral intercourse, contact between the mouth and the anus. Other particularly intimate forms of sexual contact are perhaps the best way to summarise. But the interesting thing about the redefinition was that there was an explicit acknowledgement in these four degrees, that some kind of sexual contact could be in certain circumstances more severe in terms of what punishment they deserved than some forms of sexual penetration.

So the four degrees were very serious sexual penetration, very serious sexual contact, less serious sexual penetration, and less serious sexual contact. In other words there was an intermingling. They didn't automatically say rape or sexual penetration must also be worse than sexual contact. The degrees of severity were determined primarily by the age of the victim and the degree of injury that took place. And then again you can think of clear examples. Perhaps you have a young child who is a young girl who is so small that physical penetration cannot take place. She could be very severely injured. She could be physically and psychologically damaged for life. Perhaps that warrants a more severe punishment than rape in the different circumstances of an adult. You know it's difficult to talk about better or worse in absolute terms. But this is just examples to try and give an idea of what was behind the thinking of the new legislation.

There was also a lot of overlapping. In other words if you were charged with first degree criminal sexual assault, there was a chance that you would be convicted of second degree or third degree. You might try

to plea bargain. Lot's of crimes could slot into several different categories, with the idea being that if you had kind of flexibility it might be easier to get conviction. You might have people more likely to plead guilty. This is something that was true in all the jurisdictions I looked at. There was the idea that punishment is extremely important, but even more important is to be sure that you get a conviction. That you don't have people getting off because some element of proof could not be satisfied.

The other thing I wanted to mention about the Michigan reforms is they were part of a very comprehensive package. Strict restrictions were placed on the sexual history evidence. That's asking the woman the kind of questions, how many other people have you slept with, because we wanted to see if you had the reputation for being a loose woman. The kinds of questions that make the woman feel that she's being put on trail. These have collectively been known in many jurisdictions as rape shield laws. It's not a very good name, but that's how the literature refers to it.

And also in the Michigan reforms at the same time that the definitions were changed there was a switch of focus from the absence of consent to a focus on forced coercion. Michigan tried to define what do we mean by force and coercion. There were a lot of technical problems with their definitions that have been improved in its subsequent years. In Michigan that's what the changes were. What happened? Well some judges just refused to apply the new law. For example there was a procedure about sexual history evidence, and some judges completely ignored it. Some judges twisted it. It was so new that they had difficulty accepting that consent could not be present in certain situations.

We have a case for example of a judge saying he thinks that the defendant must particularly be allowed to raise consent as a defence in the course of a kidnapping, because he had not persuaded that a woman who had been kidnapped by a gang of people might be able to freely consent to sexual intercourse with one of them. The intended legislation clearly said that the commission of a felony such as kidnapping simply removes any possibility of free consent.

How can anybody make a decision that is not influenced by the fact that you are surrounded by people who are pointing weapons at you? But the judge said no even though they were pointing a gun at her; she might have still freely consented. There were also distinctions that judges drew to try and get around the law with things like, well we can't say that there was no consent here because it wasn't the accused who was pointing the weapon, it was his accomplice who was pointing the weapon, so therefore you might have consented to intercourse with the man who wasn't actually himself holding the gun. So the point is there was resistance to the law.

It wasn't all a bad story though. There were also a number of cases where judges really applied the law in the spirit in which it was intended. That one judge commented that he found the changes so thorough going that he felt that he was forced to rethink the crime of rape. Because the new law had moved so far away from the old law it was impossible for him to function without doing some serious rethinking. There were several studies in Michigan that looked in great detail at trying to see what effect the law had had on members of the public. The sad story is that in terms of measurable, definable impact, there wasn't a lot, there was some. Rape reports increased. They increased dramatically and the high level of reporting has been maintained, even up to now.

People weren't sure if that could actually be attributable to the law reforms themselves or probably more likely to the publicity around the law reforms. Because there was a lot of publicity. There was also an increase in reports of rape to the police. Reports of sexual assaults actually resulted in charges. In other words the police were taking more seriously the reports that came to them, because a higher percentage resulted in charges actually being laid. The conviction rate did not change. However there was a slight change in the profile of cases that were reported and charged, in the sense that police started to take women more seriously when they said they'd been raped by someone they knew. Before the law reforms you tended to be taken seriously only if it was the kind of rape where the stranger jumps out of the bushes with a knife.

In actual fact you'll find all over the world the more common factual circumstance is that people are raped or sexually assaulted by some one that they know. So it seems that particularly because of the rape shield laws prosecutors became more willing to try to get a conviction on acquaintance rapes.

The group of researchers who did the most comprehensive assessment of the Michigan laws compared it to six other jurisdictions. And they concluded that they thought one, Michigan came out the best. Their reforms had shown the most impact. And the conclusion was that one reason for that is because the

reforms were part of a package. Because it was part of a very thorough going effort to change people's thinking, it wasn't just a law reform. And so the conclusion was that it is really worthwhile to try to push reforms on a lot of fronts at once, and to make the reforms as comprehensive as possible, instead of doing it piecemeal.

The second jurisdiction that I look at, it was another state in United States, the state of Washington. Washington had a much less radical reform profile. They changed their law a few years after Michigan did to have three degrees of rape which they defined more broadly to include the kinds of penetration I was speaking about earlier. They introduced an offence of indecent liberties, which is similar to our indecent assault. They had a slightly greater emphasis on force and coercion than on consent, but not such a radical change. Without going into the technicalities, they made a small step forward. So the main difference before and after the reforms in Washington was that instead of one crime of rape, there were three degrees of rape, and what constitutes rape had been brought in to include all kinds of sexual intimacy. One professor who studied the effects of this reform said it wasn't a bigger mousetrap, but it was a better mousetrap. The assessment of these reforms discovered that there were not more convictions on one of the three degrees of rape. Where as in the past it was a common situation for someone to be charged with rape and perhaps convicted of common assault. So now because there were more degrees of rape, someone who was charged with first degree rape was likely to be convicted of second degree rape.

But things didn't slide out of the realm of rape altogether. They found through interviews of prosecutors that their attitudes had not changed much, that they were still going to be more likely to take your case taken seriously if there had been a lot of force used and if you'd been raped by a stranger. That was true both before and after the reforms.

The third jurisdiction I look at which has made the most drastic reform in many ways is Canada. Canada has done something that very few jurisdictions have. And that is they have completely eliminated the distinction between rape or any kind of penetration and other kinds of sexual contact. They have three degrees of sexual assault. It is not relevant what part of the body was or was not inserted to what other parts of the body. The point is it was assault and there was something about it that makes it of a sexual nature. So they are the only jurisdiction of the ones that I looked at that completely collapsed the distinction between rape or something similar to what we have all always through of as rape and other things. They said, no it's going to be all one kind of sexual assault. This was combined with very strong rape shield conditions.

There's a whole long story about these rape shield conditions in and of itself. There was one set that was adopted, the Supreme Court struck it down as being unconstitutional on several points, and a new and also very strong provision was added. Again we don't have time to go into those details. But the rape shield component was very strong. Canada also introduced something that I think was a very important part of the package. In 1992 they added on to these previous reforms something that has become known as the 'No Means No' law. 'No Means No' defines what consent means, and also gives a long set of circumstances which will be deemed by the courts to be absolutely inconsistent with consent. In other words if someone assaults you so that you're severely physically injured, you'd be deemed as not being in a state to give free consent to sexual intercourse or any kind of sexual activity. In other words it tries to weed out some of these stereotypes. And it goes even further.

If you don't fall into one of those categories then it is still up to the accused to show that he took reasonable steps to be sure that the victim was giving consent. So it's not enough for him to say well I thought that she said yes. He has to show that what he believed was reasonable or he took reasonable steps. In other words if she is lying there quietly, may be in actual fact she is so terrified that this big man is assaulting her that she's too petrified to speak. Lying there silently is not consent. It's up to him to say I don't want to get charged with a crime, I'm going to have to ask are you comfortable with this, you know are you sure you are happy to go forward. Now a lot of people criticised this law. They said My God if I want to have sexual intercourse with someone I'd better carry a consent form and get two witnesses and have it notarised. But it's received a lot of praised. Because what it's done in practice is to turn the focus away from consent and the victim, and now the focus is on consent and the accused.

Okay, you're claiming consent Mr Accused, tell us what did you do. What steps did you take to be sure that there was consent? It's suddenly put him in the dock where he should have been all along. So I think this reform must be considered alongside the definition of charges. The other thing I need to mention about Canada is because its reform process has been ongoing for so many years, there's been a

lot of publicity about it. The court cases struck down some portion of the law, and there's been debate about that and new laws have been enacted, it consistently received a lot of attention. Okay, so what were the effects in Canada? There has been a very clear increase in reporting crimes of a sexual nature, especially acquaintance rape. That's the good news. The bad news is that there's been a cascading effect. By cascading effect I mean what used to happen is someone will go to the police and say I have experienced a sexual assault. The police will decide is that first degree, second degree or third degree sexual assault under Canadian law. They tend to pick a low one. In other words police seldom, say that that looks to us like it's probably the most serious sexual assault, may be we'll put it in the middle. Then the prosecutor either further lowers the charge or else the accused will be convicted on a lower charge. So what happens is you virtually have no conviction on the most serious degree of rape or sexual assault. They tend to slide downhill, so that the accused is convicted of one of the lesser degrees.

In Washington this was viewed as a positive result. Because at least he was still being convicted of a serious crime of a sexual nature. In Canada it's been so much more severe, that it has been viewed as a negative result. Because they're saying we got this offence of first degree rape, whereas their higher offence is third degree. But we've got a very serious offence of sexual assault with a very heavy penalty attached, but it's not being used. Because everyone is sliding from under that one down the hill. This is a danger that I think is inherent in any kind of graduated ladder of offences. You may have created in people's minds the idea that the serious one is so serious that no one is ever really going to be that bad.

There has not been much change in the conviction rate in Canada, and higher sentences still seem to be imposed where the rape was by a stranger as opposed to an acquaintance. But people who work with victims of rape and sexual assault feel very strongly that the changes have resulted in less stress for the victim in going through the court process. Remember I said that there was, there had been huge publicity in Canada and more than any where else for a longer period. Well recently a nation-wide poll was conducted of all Canadian adults and despite all this publicity 80% of the adults more than ten years after these definitional changes, had no idea that they had taken place. That was a bit sad.

The other point that you could put alongside that is that a very interesting bit of research was done to see, if the label make any difference. In other words if I call this set of events rape or if I call it sexual assault, is it going to affect how people view it. So the researchers randomly went up to women at a museum in one location in Canada and they would present them with a set of facts and call it rape and they would ask them a number of questions. For instance, would you be willing to report that to the police? How would you feel if someone you know experienced that? They had a whole spectrum of questions to try to determine attitude. They found that there was no difference in how people reacted to the set of facts whether you called it rape or sexual assault. It was still the specifics that mattered. Whether force was used, whether it was a stranger, or whatever the social circumstances were. Those were the issues which influenced how people viewed what had happened. It did not matter if the researcher said I'm going to tell you about a rape, or I'm going to tell you about a sexual assault. They tried it with women and they tried it with men. And they could find absolute no difference whatsoever in the use of the terminology. So the conclusion that was drawn from that was that the terminology doesn't matter, but that it has symbolic effect and probably not very much practical effect. And certainly nothing like as much practical effect as very specific legal reforms such as evidentiary changes, the rape shield laws, the changes in the laws on consent.

In all the three jurisdictions I looked at that was the conclusion, that the terminology of how you slice up the offence and what you call it, is not the most fundamental point, that focuses your attention, particularly on the surrounding context of what you were doing with your definitional changes. I've been through a lot of information quickly but I hope that it has been clear enough to give some ideas. To me it's been very interesting that there have been so many studies to try to quantify the effects. And I know one question I should anticipate based on this research, is what recommendation would I make for Namibia. I believe just on the basis of delivering this paper, that rape and sexual assault should be part of a single ladder of offences while retaining the term rape. I say that simply because I believe rape is a concept that is viewed with a particular amount of horror by many segments of Namibian society. And it has a very particular meaning to people. To throw that term out the window might not be such a positive thing. I think that aside from that the term rape should be broadened to include some of the other concepts of penetration as it has in other countries. To try to put rape and other kinds of sexual contact in a single ladder would have a positive impact in two directions. One that it brings concern about assault back into rape. That it helps people to realise that rape is also a physical assault on a person. Assault doesn't even have to be a violent touching, for if I touch you on your arm gently without your permission, in technical legal terms I have assaulted you. But if I bump up against you in the street

accidentally then you don't have any hope of a case against me. I hope that by putting rape and assault as close next door neighbours, perhaps that will help bring the focus on assault back into rape.

I think more predictably by bring what we now call indecent assault into a reform package together with rape, and by bringing some of the same reforms that will probably take place in rape with respect to procedural points and evidentiary rules, that we will change the focus from consent to the degree of force or coercion. Those changes need to be incorporated into our existing law on indecent assault as well. That's another reason to bring the two into a unified ladder of offences. I believe that crimes such as sodomy and incest also have to be fitted in so that, whether or not we change the terminology, offences of a sexual nature can be viewed as a continuum. So that education efforts and reform efforts can go into an entire package at once.

The other point that I wanted to make is that I think for this entire package of offences, the research that I've done clearly points to the fact that a lot of attention needs to be given to rape shield provisions and the treatment of consent. Because it seems to me that there's where the details really do count. That there are a lot of jurisdictions that have over the years fine tuned their rape shield provisions and their treatment of consent and have found that these fine tunings really have helped.

I would urge that Namibia give particular attention to that aspect of the law and how it applies to the whole package of potential sexual offences. It has been stated and restated but let me just also add my voice to the fact that anything that's done around a definitional change must be accompanied by huge amounts of publicity and training. Not just for education for the public, but particularly for the people who will be using the law. Give them all the stereotyped test.

THE SECOND PRESENTATION

What I will be speaking about today is a specific research paper that was prepared by the Legal Assistance Centre on the Prevention of Family Violence Act in South Africa. And how well it has worked and what lessons can be learnt from that Act for Namibia.

In December of 1993 the Prevention of Family Violence Act came into force in South Africa. The two main changes that that Act made were it gave a woman a simple procedure to get an interdict against someone who was abusing her in a magistrate's court. Before it had been a more complicated procedure. It was possible as it is now in Namibia, but it was something that one has to go to the High Court to do, and it was a more complex procedure.

The second change that the law introduced was looking at the remedy. In the past in South Africa as it is now in Namibia if one approached the High Court, to get an interdict if you were in fear of abuse from someone or someone in your family from anyone of a number of people and if the court grants an interdict, then the person who violates that interdict will be found in contempt of court, for not adhering to the court order. The change in South Africa was to say from now on a woman who is afraid of abuse (again I use the word woman not because the statute is gender neutral, but to talk about the common situation) swears out an affidavit and can go to a magistrate's court, in theory 24 hours a day. It doesn't have to be done in the court. It's can be done in chambers it's done in private. And get an order that says that the person in question may not abuse her. It can even say that he may not come near her. It can say that he may not enter the home where lives, even if it also happens to be his home as well.

At the time the interdict is issued a warrant of arrest is also issued. It's called a suspended warrant of arrest because it's sitting ready and waiting for such time if the person in question violates the interdict. When the warrant of arrest is already prepared, the police can come and arrest the offender. It is proposed that the man be brought before the judge or magistrate within 24 hours in order to give his side of the story. So he has that protection. And if it's found that he has really violated the order he can be sentenced to a fine. There's not maximum fine. He can be sentenced to a fine in the court's discretion or for imprisonment up to 12 months.

There's lot of details that I could go into. But in the interest of time I just want to keep the focus on what the legislation did. When I talk about the details there's been a lot of debate, how wide should this interdict go, should it apply only to people in the family, should it apply to people living together, should it apply to children and parents, extended family? The definition of who is eligible to use this mechanism is something that needs attention. Another area of detail is the definition of abuse. Should abuse be defined in the Act, should this procedure be limited to physical abuse or should it be extended

to other forms of abuse such as previous people have talked about.

The thing I wanted to focus on because of the place where we are in our law reform is the more basic question. Has it worked in South Africa? Should Namibia consider putting in place some version of this sort of a law? Is it a good idea? There's been a fair amount of research that has been conducted into the effects of this portion of the Prevention of Family Violence Act. And most people agree that it is a very strong improvement over the past. In the first twenty months after the Act was passed more than 22 000 interdicts were granted nation-wide in South Africa. And studies that looked at the number of interdicts that were granted as opposed to the number that were denied, found that most women who went to court and asked for an interdict were receiving the interdict.

There was a lot of reluctance on the part of magistrates to go so far as to evict a man from a home shared by the couple. Even though the law clearly allows for that, it seems that there's a lot of resistance to the idea. What the statute was meant to accomplish was that if someone is making a situation intolerable, why should it be the victim who has to bear the burden of finding a new place to live, possibly leaving with her children and relocating. The idea was, if someone is abusing his power and his strength to make the situation intolerable, he should be the one who has to leave.

It's been found that that is not working very well in practice, not because of a problem with the law, but just because of people's attitudes. Lots of presiding officers just can't quite go that far. Also it's been discovered that even though there has been a lot of education of the police and the magistrates and the court clerks who apply the law, there is still even now some misunderstanding. Some magistrates will insist on steps that don't come from anywhere in the law, such as saying you must move out of the house before you have a right to bring the interdict. Nothing in the law says any such thing. Or court clerks who will say well I don't see any visible bruises, so no one is going to believe that you've been abused. You can't fill out the affidavit.

It seems as we've seen in the other set of reforms I talked about, there's a lot of need to make the police and judicial personnel that a woman comes in contact with, to be supportive and sympathetic. Because very often I think not just in this situation, in lots of kinds of laws, that can really make or break a case. If a woman gets up the courage to go to the courts and say I want that, I fill out an interdict, and one needs to think of what it may have taken her to get that far, especially if the court clerk says, I see you should just go for counselling. You know that's the sort of thing that may cause her resolve to crumble. So I think that is a crucial step in this process. Everyone who's looked at the Act in South African seems to be fairly unanimous on that point. And particularly with the police.

Several years down the line after this law and despite a particular education campaign on this new South African law, a number of police stations said they had never heard of it, that no such law existed. They couldn't tell a woman what to do to get this interdict even if a woman said tell me about the new law. There's now a concerted effort to address that at the moment.

Since I prepared the research paper that I'm talking about now, the South African Law Commission has put forward a number of very detailed recommendations on how to improve the Prevention of Family Violence Act. And one thing that they are giving particular attention to is to push the police to look at what their role, their positive role, in this Act could be. One thing that a number of commentators have talked about is that whatever role the police are going to play it should be very clearly spelt out. Talking about small practical things, but some times they need to be spelt out. For example on thing that might make the difference for a woman is whether or not if she goes to the police and says look I've got this problem, I'm in fear for my life, I want to get an interdict.

I think there are women who would be a lot more prepared to do that if they know that the police would give them transport to go back to their home, to protect them while they collect their children and their belongings, and to drive them to a shelter. Leaving aside for the moment the question of whether or not shelters will be available. But you know it's often those practical things that make the difference. One thing that has been suggested along those lines and which the South African Law Commission has already supported, is that if a woman goes to court to get an interdict of this nature, that the court should also be able to make an emergency interim order for maintenance for the children and also be able to make temporary orders for custody and access for the children. The court should be able, if necessary, to order the respondents to continue making rent and mortgage payments. In other words all focusing on the practical problems. Who is going to use the law if they think it means their children are going to be in danger? Who is going to use this law if they think it means their children won't have anything to eat?

Or if they might actually lose their house to the bank because the husband is the breadwinner.

Another point that all of the research on the South African law has agreed upon is that this is the kind of a law that will work if there is a supportive environment. If a woman has options. If she knows that she is going to be protected and her children are going to be protected. I can emphasize the maintenance strongly enough. That's come up over and over and over again. That if you can somehow combine a way to help alleviate some of women's concerns about obtaining maintenance for their children, that is one of the big stumbling blocks to women using this kind of interdict.

The other thing that I want to emphasize is that this sort of law no matter how well it's drafted and no matter how many support services there are, this is the kind of a law that simply will not work for every domestic violence situation. The reason is there's no law that will work for every domestic violence situation. So much of it depends on the dynamics of the case. Just to give you an example there's so many extremes with this experience of Prevention of Family Violence Act. One case was where a woman went and got the forms to fill out and she brought them home and her husband was horrified by seeing her resolve that she was actually going to use the legal system against him that he stopped abusing her. Another woman went so far as to actually get the interdict, came home with it hoping to have that kind of reaction and her husband forced her to eat it.

There were two cases in which women tried to get interdicts against their husbands who worked for the police force, and in those two cases the women committed suicide. Because they felt so helpless that they could not get any assistance from the police because of their husbands' position. So it's a mixed reaction. But I think the point that the comments being made about the Act were to be expected. Because abusers react differently. Some abusers will be frightened by the law. They will be frightened by police coming to the house. They will be frightened by a woman standing up to them. Other abusers will be angered. They will want revenge. They will want to do even more damage.

One thing that can be done is try to incorporate into training of police and of counsellors, and of people who will be part of the support structures how to help women judge the situation for themselves. And also to remind people that it's very important that it is often if a woman has been living with abuse for a great many years, she will be in the best position to judge what the reaction is going to be. In other words if a woman says to you look I cannot come to the court because if I do my husband will kill me. Don't think that the right thing to do is necessarily that she must be urged to use this procedure because she may be right. She may well be right that in her particular situation this is not the best solution.

No matter how good a law is there is still going to be a lot of unknowns and uncertainties, and it is important to prepare people for that. It's one concern that, I wanted particularly to emphasize, is if we force the woman to go through with something that she feels is going to endanger her, can we really protect her from the consequences because some times it may help and some times it won't. I think that is a main point. I don't think there's any need to go into recommendations. I feel very strongly that we should enact a law in Namibia like the one in South Africa. And I think we're very fortunate to be able to benefit that in South Africa this law is already been assessed and proposals are already on the table with a lot of discussion around them. So I think we're in a lovely position to be able to make our starting point much better than South Africa's ever was.

I think that people are very excited that this law has been of benefit to some woman. One other point that I must in all fairness mention is that there is a lot of debate in South Africa at the moment about concerns about unfairness to the respondent. It actually makes me feel a bit sad that this recent paper that I mentioned that the South African Law Commission has just published, was actually published in response to a submission from a law firm that said we believe that this new law is unfair to the respondent. Don't get me wrong I'm not saying I'm not concerned about fairness to all parties. Certainly there always can be false accusations. What I'm sad about is what inspired the re-examination of the law. You know I wish someone had come and said let's ask the Law Commission how can we make this law better serve the woman that it was meant to serve, and if that would have inspired the re-examination. The technical legal points that I don't think it's useful to go into at the moment about concerns to the respondent, the basic point is that at the moment the order can be given *ex parte*, meaning in the absence of the respondent. The woman doesn't have to wait until the police find the respondent and haul him into court. The court can make it if it is satisfied that she has made a good case, that she genuinely is in fear of abuse. And then the respondent can, with only 24 hours notice to woman and the court, come in and ask for the order to be removed. He can show cause, he can show that she was lying, that it's all a made up story. So for me the appeal provision to my mind is sufficient to protect

the rights of the respondent.

There are other procedures which could be put into place if people feel that that is not adequate for the respondent. But I think the important thing is that there are various different ways an act like this could be written to satisfy any concerns that are put forth about the respondent. But let's not lose sight that the real innovation is to try to make it easy and accessible and quick and effective for the woman involved. I would like to emphasize particularly, the quickness. You know if a woman has to come to court and go back home and wait for summonses to be served and goodness knows what, that may be the time she's in the greatest danger. So I think that for me if we get involved in a debate about the rights of the respondent, let's not lose the victim along the way.

CHAPTER 12

**Prof. A van Dyk; Dean, The Faculty of Medical and Health Sciences,
University of Namibia**

INTRODUCTION

There has been a lot of debate over the concept of violence since its recognition as a major health problem. Subsequently no single definition has been accepted. However, one definition that is used quite often is that "violence is an act of verbal or physical force or life threatening deprivation directed at an individual, woman or child, that cause physical or psychological harm, humiliation or arbitrary deprivation of liberty and that perpetuates female subordination". (Roosevelt 1985: 10)

Violence against women and children is a deep-seated social problem, which undoubtedly has a severe effect on the physical and mental health development of children, individuals and families.

Physical, emotional or verbal abuse can appear in any human relationship. Society does not always understand a great deal about violence, because violence in general and violence against women and children is a very complex issue.

It is also stated that the problem is more profound in developing countries than in developed countries, because in the latter, women have a more inferior status. Violence can occur at almost every stage in a woman's life cycle.

Some countries have enacted laws such as banning the practice of Feim, but these laws remain the rule rather than the exception.

It is obvious that the problem is ingrained far deeper than policies or laws could ever dream of digging in the minds of men, and unfortunately even women.

Despite the magnitude of the problem and its effect on individuals and children, cases are rarely documented. Statistics on violence are available, but the actual incidents of women and child abuse are many times estimated because of the problems in documenting and reporting.

Abuse in the home may be under reported because those engaged in violent incidents are conditioned as the "normal" part that violence plays in the family system. The ongoing cycle of violence from generation to generation may make abuse an expected part of life. The victim's or the abuser's shame or guilt may also contribute to the failure to report the abuse, and many times the incidents are too painful to report.

However, this information is needed to change the abusing situation.

The nursing profession can play an important part through education, creating the necessary structures to assist victims and abusers and to prevent violence, and by starting to communicate aspects on universal female (human) rights as early as possible through health education.

Because of the effect of violence upon the health of women and children and gender issues, the following aspects are covered in the curriculum of nurses:

1. Training and education of student nurses
 - a) Lessons and modules on violence and abuse are compulsory
 - b) The topic is started during the second year of training in the subject of sociology. A module on social pathology covers all aspects of violence and abuse and gender issues.
 - c) It is followed in the third year with the subject Mental Health (5 lessons) (hours).

The content that is covered is:

- introduction - terminology

- violence as a reaction on the psychosocial pressure of modern living
- causes (theories) of the occurrence of violence (and also in the subject)

Community Health Nursing III (5 lessons)

The content that is covered here is:

- identification of violence in families and communities
- referrals of abused women and children
- prevention through education

During practical sessions in the community, students apply this knowledge. Because of this working experience, students have a good knowledge of the resources available in the community that deals with the problem.

Fourth Year

In the fourth year, 20 hours is spent on a module "violence in the family" (Mental Health)

The content that is covered is:

- different types of abuse
- intervention by the nurse
- prevention of violence - the promotion of a healthy family life, through education, problem solving skills, conflict management, assertiveness and effective communication
- a representative of the Women and Child Abuse Centre is also invited to address the students on the issue.

In the subject: 'Ethos of Nursing and Professional Practice' (10 lessons).

The different laws dealing with violence against women and children are explained to students.

Practicals:

However, students are not allocated to the Woman and Child Centres for Abuse, they only visit the Centres.

Students, however, get contact with the victims during their practical sessions in casualty units, and when the child or woman is admitted to hospital wards. Students also get to do with the victims in the communities.

Many of the skills that are needed to deal with the situation are practised in simulation with role play, group-work, games and discussion groups.

2. Gender aspects

Introduction

While "sex" is used to refer to the biological attributes of men and women, "gender" is understood as a social construct, referring to the distinguishing characteristics of men and women. Gender can be seen as the full range of personality traits, attitudes, feelings, values, behaviours and activities that society ascribes to the two sexes on a differential basis.

The implications of these gender differences and the nature of the discrimination and disadvantages that women face, permeate women's social productive and reproductive roles in the society.

Because of the important issues, gender aspects are dealt with in the third year of study - with the subject Reproductive Health (Midwifery) (10 lessons).

The following content is covered:

- Introduction - Terminology
 - beginning of gender roles at birth; societies preferences concerning boys and girls
 - gender and life experiences such as:
 - access to education
 - life expectancy

freedom of movement
sexuality
relationships
ability to make decisions and act autonomously
society and gender
gender roles in society
status in society
cultures and gender

Example: in some cultures there are overlapping gender roles e.g. both men and women are actively involved in child-care. However, in other cultures it is a norm that fathers don't touch their children during the first two years. They then do not render physical care to their children, because this is regarded as the function of the mother. A male student out of above culture may experience problems in caring professions, especially health sciences.

- Factors influencing gender
 - social class
 - ethnic background
 - changes to traditional gender roles
 - political environment and social change
 - Women and children's human rights
- b) Gender composition of nursing students
About 15% of the student population are males
- c) Attitudes of students never formally researched. The assumptions of students attitudes that can be formulated out of class discussions on this topic, is that their attitude is strongly influenced by the views that their specific culture have of the issue. The male students tend to have a more negative view of violence against women ... "they deserve it."

3. Suggestions

- a) Workshops for all lectures, and fourth year students, so that everyone understands the whole spectrum of violence against women and children; and a workshop on gender issues as well. An expert in this regard to be invited as a guest lecturer to address all fourth year students concerning these issues.
- b) It must be ensured that the topic is well addressed and integrated during teaching.
- c) There are no specific impediments to achieve the objectives.
- d) The Faculty of Medical and Health Sciences should do everything to educate the students, and in the long run change the negative attitudes in this regard. There could be assistance from the Law Reform and Development Commission (LRDC) in this regard.

CONCLUSION

Our communities are often breeding grounds for continued rage and violence. The insanity of hunger, poverty, unemployment and over-crowding, cannot be accepted as "givens" in society.

Strengthening family systems, identifying and treating maternal depression, preventing and treating child abuse and neglect are specific areas for primary prevention by all health professionals.

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UNAM FACULTY OF MEDICAL AND HEALTH SCIENCES

1. TRAINING OF NURSES

Please elaborate on the training nursing students receive with regard to violence against women and children. Please indicate particularly: -

- a) whether it is compulsory;
- b) how many courses/modules/lessons are devoted to the problem;
- c) in which year of the course;
- d) whether students do practical work dealing with violence against women and children.

2. GENDER ASPECTS

Please indicate: -

- a) the gender composition of the nursing students;
- b) attitudes of female and male students towards violence against women and children;
- c) whether gender training is part of the nursing training;
- d) if yes, please give details (length, year of study, contents, etc)
- e) if not, do plans exist to introduce gender training in the future.

3. SUGGESTIONS

Please indicate: -

- a) what could be done to improve those parts of the training of nurses, which are considered relevant to dealing with the problems of violence against women and children;
- b) what are the impediments to implementing such improvements (financial, no specialised staff members etc.)
- c) any suggestions to overcome these impediments;
- d) any suggestions as to what needs to be done (i.e. by the Faculty of Medical & Health Sciences, or other institutions) to combat violence against women and children.

CHAPTER 13

Ms E Coetzee; Sister Namibia

1. Introduction

Violence against women has been identified as one of the twelve areas of critical concern in the Global Platform of Action, adopted at the Fourth World Conference in Beijing, China in September 1995. The fact that a national legal body is for the first time putting it on the national agenda is commendable. As long as women are violated, they cannot play a meaningful role in development.

Sister Namibia Collective, is an organisation active in the awareness raising of gender oppression over the past seven years.

Sister Namibia committed itself to engage in activities raising awareness and educating the community on violence against women and children.

2. Activities

2.1. Self-defence workshops - Multi-Media Campaign on violence against women and children:

- Last year *Sister Namibia* joined other agencies like Legal Assistance Centre, Women's Solidarity, Women of Namibia etc. in the Multi-Media Campaign on Violence against Women and Children funded by the US Embassy. Contributing to this campaign *Sister* planned to organise three self-defence workshops of which two already took place.

- The first workshop was held in Khomasdal in August last year and the second workshop in Swakopmund where women from Usakos, Swakopmund and Walvis Bay participated. The third workshop will take place in June this year in Keetmanshoop. The aims of the workshops are to build self-confidence among women about their ability to protect themselves and to move away from the psychological concept of victim to that of survivor. The workshops were divided in two parts: a theoretical part where the trainer concentrated on the different patterns of rape occurring, psychological aspects of an attack were also pointed out and how to reason in panic situations. The practical part consisted of basic self-defence techniques that women can use when attacked. Participants afterwards commented that they gained self-confidence and awareness from the workshop.

2.2. The Magazine

- Violence as one of the strongest manifestations of women's oppression has featured in *Sister magazine* time and again throughout the past eight years. We reported on the activities of the women's movement (marches, demonstrations), organisations such as Women's Solidarity and the Legal Assistance Centre and individual experiences of women. This helped raising awareness about a topic that, so far, had not been addressed through any policy or strategy. But the lack of information and facts made it difficult to go beyond sporadic articles.
- With the debate on violence against women and children opening up, especially during last year, we reported on the issue of violence against women from different angles to make it one of the most frequently reported issues in *Sister magazine*.
- Most of the stories were local and dealt with topics that were also featured in other media such as rape and sexual harassment. We gave violence a historical perspective by revealing not well known information about Cocky Hahn and the 'black venus'. Other less acknowledged angles of violence against women, we published, of women in destructive relationships and how dire economic conditions lead to sexual vulnerability of women. In support of the Multi-Media Campaign, we published information on the activities on the different partners involved, including the NANAWO workshops (with places and dates), and the hearings of the Law Reform and Development Commission.
- As an outcome of our reporting, we received readers' letters on the topic, as well as phone calls of women seeking help and advice. Since we cannot offer a counselling service, we referred them to other organisations such as Women's Solidarity, the Women and Child

Abuse Centre or the Legal Assistance Centre, depending on their needs.

2.3. Outreach Programme to Schools:

Sister Namibia has furthermore embarked on an educational programme in schools and other institutions such as TUCSIN, Multi-Purpose Resource Centre and Young Women's Christian Association, aiming at educating the youth on reproductive health, assertiveness, and gender awareness, and also concentrating on violent behaviour among the youth.

We also plan to offer counselling services to the youth who may be in need. However, a long term objective will be to train participants in the educational project to render counselling services, since it has been proved that young people relate to one another easier than to people not of their peer group.

3. Future Plans:

3.1. *Sister Namibia* will continue to raise awareness and educate women on violence against women and children;

- by focussing on this issue in the magazine,
- the dissemination of information on this topic to other women's groups and NGOs,
- continue to organise events and discussions to stimulate debates on this issue.

4. Recommendations

- Definite restructuring of the courts.
- Stricter sentences for offenders.
- Police training on how to deal with violent offences against women and children.
- The language used in courts should change. Victims are often asked whether the rape was violent. If a woman is tied up and raped at knife-point, but not stabbed or beaten up, in male legal semantics it means that it was not violent. Women know that rape is violent, always violent.
- Forensic tests: Examination with a speculum, the taking of fingernail scrapings and pubic hair. These tests should be performed by female doctors or nurses who should inform the victim that it's not obligatory. The other issue is that these test results are rarely used during trial.
- Legal jargon. Lawyers should translate their legal jargon into understandable language, especially so when the victim is not an English-first language speaker.
- By making court cases difficult and inaccessible, convictions are minimised, sentences are minimised, women's integrity and legitimacy are minimised, and jobs for men in the system are drawn out and maximised.
- Convictions should not be based on the amount of suffering a survivor display.
- The notion that women and other victims of sexual assault have a voice in the legal system is false.
- Women are raped because they are women. Men rape because they are allowed to.
- At the same time we want to discourage women rape, the system must be restructured to bring criminals to justice. The police and legal systems must consist of 50% women.

CHAPTER 14

Ms D M Weissner; Training Co-ordinator, Namibia Institute for Democracy (NID)

DOMESTIC VIOLENCE

As a young democracy, Namibia poses interesting challenges. Although the Constitution of the Republic of Namibia is universally regarded as democratic and liberal, a tradition of democracy was not cultivated prior to Namibia obtaining its independence (on 21 March 1990). The result is that knowledge of, and respect for, the Constitution - as well as awareness of the implications and practices of pluralism - are unfamiliar to a large part of Namibia's population.

Bearing this in mind, the Namibia Institute for Democracy, NID, was founded on 6 December 1991 by a group of Namibian citizens dedicated to fostering pluralist democracy as the most appropriate form of government for the Republic of Namibia, and commenced operations in January of 1992.

The NID is registered as an Association not for gain. It is a non-partisan organisation founded to promote general and widespread acceptance of democratic values, practices and principles in Namibia.

To secure the future of pluralist democracy, the NID develops and designs civic education programmes to educate Namibians about the content of the Namibian Constitution and the principles and practices of multi-party democracy. Educational programmes are presented to the Namibian public in print and electronic media and are conducted face-to-face in seminars, discussion groups and community information programmes. In this process the NID consults with government, political parties, NGOs, interest groups, the media, educational authorities, the business sector and individuals.

The NID is funded mainly by the Konrad Adenauer Foundation; however - supplementary funding in varying amounts is also received from other donors. The NID is an independent, non-partisan and autonomous institution governed by a board of trustees. Permanent employees are responsible for co-ordinating and executing programmes. Through the NID's five representatives, the immediate surrounding areas of Windhoek, Karasburg, Oshakati and Rundu are covered intensively with personal contact. The eastern parts of the country, coastal areas and the Caprivi are covered from Windhoek and Rundu respectively on an ad hoc basis.

Whilst the activities of the NID are widespread and relate to all aspects of the Namibian multi-party democratic milieu, various and current programmes and projects have recognised the need for information and education in gender issues and gender equality. I am here today to provide testimony regarding the NID's activities relating to domestic violence. Initially I would like to state that the NID couldn't be viewed as an NGO with the popular definition of direct involvement in the social issue of domestic violence. It does not assume an activist, but rather an informative, stance relating to the educational needs of community members with respect to democratic trends and provisions.

Gender sensitisation as a global development trend has highlighted that women play a key role in areas of economic and social importance. Very often, their situation is characterised by a plethora of duties and functions, as mothers, housewives, breadwinners and producers, women are confronted with multifarious claims on their allegiance and endurance. Simultaneously, women are frequently less privileged than men in economic, social, legal and political matters. It is thus one of the missions of development to assist, train and organise women so as to enable them to manage their economic affairs more efficiently in their capacity as producers; to procure incomes for themselves and their families, and to stand up for their social and political rights in their capacity as citizens. Frequently this process is rather difficult because women are restricted in their actions and in their development by traditional, religious and cultural factors. It has been found time and time again that projects involving and addressing women are extraordinarily successful, because women have the will to improve the difficult situation they are in to benefit themselves and their families.

The NID's involvement in the issue of domestic violence resulted from direct interaction between NID

representatives and communities in their regions. Alert to public demand for information regarding domestic violence, the NID commenced the search for information and statistics which could be related at seminars, workshops and through the broadcast media. The following came to light:

The dichotomous nature of domestic violence is exacerbated by the lack of concise, comprehensive statistics regarding violence within the family unit in Namibia. Domestic violence is seldom reported to the police, partially because there are inadequate legal measures available and because of reluctance to invite police intervention into what is considered to be a family affair. The varieties of assault and its extreme materialisation as femicide further deem it difficult to extract information on domestic violence per se from police records. Whereas statistics regarding - for example, rape; can be obtained with relative ease from the Central Statistics Office, there is no single statistic available for domestic violence. The CSO has published statistics, which for the July 1993 - June 1994 period read as follows:

- 22 reports of domestic problems
- 4 reports of adult assault/battering
- 21 reports of indecent assault
- 20 reports of common assault

I would like to add here that an NID representative was approached by 4 victims of domestic violence over a five-week period this year alone.

Domestic violence should not be restricted in definition to physical abuse, whilst the scars of psychological torment and abuse leave no visual evidence, the manifestation of these scars will remain with the victim for life, exercising far-reaching consequences and implications on the victim's future interaction with society. It erodes the concept of self and creates emotional dependence in addition to financial dependence.

Although it is a common myth that domestic violence is idiosyncratic of lower class, illiterate, rural communities, it has - however - been recognised that domestic violence is rampant in nature, transcending the delineation of class, culture and religion. The tendency in the past has been for grassroots women to organise themselves around the issue of violence and abuse. It has been postulated that this mobilisation of women is the direct result of not only national liberation but also personal liberation and access to information and education regarding fundamental human rights. Domestic violence and spouse abuse do occur in affluent communities, yet these, due to the nature of the society are adept at concealing evidence of the fact.

A further element of debate is the relationship between domestic violence and alcohol abuse. Although there is no conclusive evidence pertaining to this relationship, the frequency of alcohol abuse in Namibia is cause for concern. According to the June 1995 issue of the UN Bulletin, an estimated 9.5% of Namibian adults abuse alcohol daily, a further 30% abuse alcohol over the weekend, and the estimated alcoholic population is at 7.5%. Further statistics show that 40% of all traumatic surgery cases are alcohol or drug related and that up to 90% of the violent crimes in Namibia is alcohol or drug related, of which approximately 50% are rape cases. Factors playing a role in alcohol abuse include income, availability and high stress levels. It must be conveyed to the collective society that alcohol is not an excuse for violence and that the punishment should fit the crime, rather than intoxication being used as an extenuating circumstance.

Substantial constitutional provision is applicable to domestic violence, yet these articles, including

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| Article 8 | Respect for human dignity |
| Article 14 (3) | Family. The family is the natural and fundamental group unit of society and is entitled to protection by society and the state. |

and by inference also

- | | |
|----------------|--|
| Article 9 | Slavery and forced labour. No person shall be held in slavery or servitude |
| Article 10 | Equality and freedom from discrimination |
| Article 23 (3) | have regard for the fact that women in Namibia have traditionally suffered special discrimination and that they need to be encouraged and enabled to play a full, equal and effective role in the political, social, economic and cultural life of the nation, |

must be formulated as appropriate legal responses to the crime of domestic violence.

To promote awareness of gender issues and equality, I would like to highlight previous NID projects: -

1. Seminars addressing domestic violence have been held, particular success being attained in the Southern and Central parts of Namibia, which may be ascribed to cultural reasons. These seminars provide a definition of domestic violence, dispel the myth surrounding it and often include talks on child maintenance. Participants are also provided with information regarding support or legal assistance organisations. Existing legal provision regarding domestic violence is inadequate, the batterer is often home on bail within 48 hours and, if convicted, penalties are not severe. Interdicts and civil claims for damages can be made, although the lengthy and expensive nature of these processes render them impractical where time is of the essence, and the family's finances are intertwined. Most women seek legal assistance only where the violence has become serious enough to cause serious injury or where the marriage cannot be salvaged and the only recourse appears to be divorce.
2. Seminars and workshops regarding the then Married Person's Equality Bill was held since the Bill was tabled in Parliament. These continue to date, defining the terms contained within the Act, dispelling untruths regarding the Act and discussing the practical implications of its implementation. Similarly, the Married Person's Equality Act national competition entitled "Woman and Man - Equal in Marriage - Equal in Life" was held in 1996. The success of the competition may be measured by the response to it with over 2000 entries received and is attributed to the incentive for learning.
3. The NID has also organised and been involved in conferences on gender issues, these include the conference on "Women's Rights and Democracy" held in 1993 and the conference on "Engendered Leadership and Democracy" in 1995.
4. The NID is currently involved in the "Multi-media Campaign on Violence Against Women and Children" which is supported by the Government of the United States of America. The Campaign assimilates the expertise of organisations such as the Legal Assistance Centre, Women Solidarity, the Ministry of Information and Broadcasting, NAMPOL, Women of Namibia, the Department of Women Affairs, Women Support Women Shelter, Sister Collective, Women and Child Abuse Centre - to name but a few. The NID's involvement here includes the production of television spots to be flighted on NBC. Each spot will address a central issue such as spouse abuse, child rape, child abuse, rape and alcohol related violence. The spots can also be distributed for screening to schools, hospitals, waiting rooms etc. The series of television spots are aimed primarily at creating a general awareness of these specific crimes and human rights abuses by shocking the viewer. The desired response would be that the public realises that these are not sporadic incidences or restricted to any particular class, race or religion, and that they can take an active step towards eradicating these from our society. As we feel that the spots need to end on a hopeful note, telephone numbers where help or support can be sought, will be provided. The numbers would relate to the specific type of abuse, and to an association or organisation best equipped to handle that particular problem.

Essentially - the stereotypes regarding women and domestic abuse must be challenged and refuted.

Women do not need to be abused into submission.

Women do not need to be abused as an indication that their men care for them.

Women do not need to be abused to make them respect their men.

Women do not need to be abused to make them accept authority.

It is not a woman's duty alone to make a relationship work.

Similarly, a woman is not to blame if the relationship does not work.

It is important to make women understand that a man will not necessarily mend his ways.

RECOMMENDATIONS

1. Education: The greatest impediment to the eradication of domestic violence appears to be the ignorance and lack of education in this regard. Citizens are often not aware that domestic violence is indeed a crime and not merely the lot of a woman to accept periodic physical, psychological and verbal abuse meted out by her spouse. Education of all citizens, men and women, is the most vital component in the eradication of domestic violence. Education may take the form of seminars or workshops held on a weekly basis in various towns and suburbs. Written reports can be compiled for each seminar or workshop to act as permanent documentation regarding the issue of domestic violence. The ability of women and men to discuss domestic violence openly in a neutral environment would be most beneficial to communities and would serve for research processes. We

feel that education should not only target adults, but are incorporated into a civic education curricula for use in schools where the formative nature of children is most conducive to paradigm shifts. Radio programmes in the vernacular and printed material could be used to compliment educational activities.

2. **Support:** Unfortunately, our young democracy has not developed an adequate support structure for victims of abuse and human rights violations. Organisations engaged in these activities are often situated in larger centres. However, it is our opinion that a network of NGOs, CBOs and like-minded organisations can play a decisive role in assisting in this process. Such a network could additionally have greater credibility in aspects relating to policy formulation and law reform.

In conclusion, the challenges ahead are three-fold:

- Firstly, to liberate women from cultural and patriarchal oppression. This change can be promoted by dialogue, by creating an awareness of the subordinate role of women and thus decreasing passive acceptance as entrenched by tradition and custom.
- Secondly, to promote the ability for women to organise themselves politically and pressure policy makers to consider women's needs.

Such change can be promoted by recognition that group activity is the central agent in overcoming oppressive and unequal relations, thereby increasing women's mobility to organise and act on issues.

- Thirdly, to promote change by encouraging a liberal approach to women's rights and roles.

The NID hopes for changes to alleviate the hardships of everyday life of Namibian women. The primary goal should not be the acquisition of power, but to bring about the realisation of the role of the woman by improving her conditions in order to establish self-esteem amongst women and to promote solidarity of action through development with feminist equity (the recognition and protection of the importance of women in social, political and economic development of the country). To this we are committed. The time has come to take a stand, to ensure that crimes endangering the fabric of our nation, the family, are curtailed by education and appropriate legal response.

CHAPTER 15

Ms R Namises; Legal Assistance Centre (LAC)

SHELTERS AND SUPPORT STRUCTURES FOR VICTIMS OF VIOLENCE

This submission is based on information gained from working with grassroots women through the Legal Assistance Centre and women's groups in the community. It further shares their experience as they have established support groups and shelters through initiatives made by them to stop the violence against women and children.

A LETTER FROM A FRIEND

I could not have written this letter 7 years ago. I was in the middle of an abusive situation and I didn't even know what I thought or felt anymore. Let alone be able to write something down. But after 4 years of expensive and intense treatment I finally came to accept the fact that I had been sexually abused by my father since I was 8 years old. This long hidden abuse came back alive in my conscious mind. My body reacted with every blood vessel, every cell and every organ ached. During those years I was hospitalised many times as I tried to commit suicide twice. I was sick practically all the time, migraine headaches, ulcers and nervousness. Yes, I was constantly suffering because after being sexually abused, humiliated, bitten (by my husband), put down, shamed in an absolute terror, you are not a person. You are a Zombie! It's like I died, but in that suffering I finally understood what caused me to hate myself so much that I had to try to kill myself many times in that suffering. I found reasons for my depression - my phobia. My need to leave my body when things got "intimate" and my inability to remember parts of my life, especially childhood. I also understood why I had sex with just anybody who wanted, why I had so many nightmares and why I went from avoiding sex for long periods of time. I also understood why I needed to remain in the marriage with a man who continued to abuse, and humiliated me. But more important than my experience, abuse was my fury.

The pain in my body gave me the gift of my anger. This anger made me decide to change my last name that I would no longer be a Kambodi and that I would take on my mothers' last name. Instead of Getruda Kambodi I would be Getruda Basia. I was so happy! I was finally liberated from the man who hurt me for over 20 years. Those years of torture I erased from my conscious mind but whose effects I still suffer. Years of believing in myself as bad, crazy and incapable of achieving what I set out to do, denying myself the right to love and happiness. When I really came to terms, I really finally came to terms with being sexually and emotionally abused over and over by my man and father whom I so loved and respected. I understood why I was so alone and alienated. I was then determined to free myself of all self-guilt I had stored in myself in almost 40 years of self-rejection.

Suddenly my happiness was gone when my mother's face came to my memory. Poor Engelbertina Kambodi, always so quite, busy, passive, never doing anything for herself or children I could not help but thought that she probably has been abused as a child by my old powerful grand father. I then, realised that my mother's surname was really my grandfather's and his surname was really his father's last name. There was no solution, no matter how far back I traced in my family's last name. There was always a patriarch. So my realisation that all the last names came from someone's father and if I wanted to get rid of all my male ancestors who I now believe had abused their children in one or other way, physically or sexually or both, I would have to eliminate all my last names but it will not matter, I will give myself two good sounding names. I will call myself Getruda Strong-and-Brave. Nice name!

This new happiness was also short-lived. I am aware that in our country this was not possible. Here you cannot change your last names in any way you want to. It depends on your parents' marital status and your tradition which in my case I had to carry my father's name as a so-called legitimate child. Of course this law was man-made by the first fathers who wanted to keep their families and own their wives and children.

I then decided to study Law so that I could change the law. Then I realised that the process needed to change. The laws were also designed by the fathers and those who have the power to change the laws or

changing the process for changing laws are the fathers who are in majority in parliament. So I decided to change the people in parliament. I soon realised that it will not work because the electoral process was also created by the fathers or those few women who at times think like fathers, get elected. So, I decided to go internationally to the world body to denounce that democracy is not working in our country. Soon I realised that the lack of women in elected public office is not considered to be a sign of political repression, it is not even seen as anything wrong with the electoral process, or political party, or legislature, etc. I then decided to make it known to the media but again it happened that the owners are the fathers and only they have the final decision as to what is news worthy and what isn't according to their interests.

Not having much left, the only solution would be to educate those who are directly affected and the new generation into the politics of non-violence, respect for every human being so that the men would not inherit power and dominate, batter, kill and rape women and children at their will.

But here again those who decide what gets taught, to whom, what is history, who is leading and which tradition to be followed, etc. are men and women who believe in the male values. So, I finally came to the reality that everything had to change and that we all had to start anew. In this change we will have to create more life-respecting values, set-up new structures, but the tools I needed and knew how to use were invented by the fathers.

No, I didn't lose hope or give up I decided that the fathers' tools had to be used to dismantle the house. However, if I would want to be successful it is important to know my own worth and my own strength as a woman living under the rain of fathers, to know this, I needed to listen and believe what women in Namibia or in the world were saying. The women globally have been saying it for more than 60 years. I was not listening, but when I started to listen I heard that I was not the only one who survived child sexual abuse, rape, battering, medical mistreatment and many other forms of societal and institutionalised male violence. I have learned to know and found many women who are very strong and brave all around the world, who in spite of having been battered, raped, endured military and marital rape, sexual harassment, exploitation in workplace, inhuman living conditions, lack of interest of institutions which should be doing something to prevent or redress the above mentioned have joined forces to try and create a stop to the violence, although there is still much to be done many are the successes.

Now you know, I have decided to call myself Getruda Kambodi even though Kambodi is my grandfather's last name. After all, in the Kambodi, my mother is also present. But this will only be my name until the day every other girl/women and I can live free from male dominance. That day I will be called Getruda Strong- and-Brave.

INTRODUCTION

I decided to begin my submission with this letter of my friend because her letter summarises many of what has been said and would be said during the course of these hearings. This in short, I would call the pillars of male violence towards women which came through health, legal, economic, educational, developmental and human rights programmes. Also Getruda's letter serves as an example for many women who live through many forms of this violence without realising that they are victims and not participants or without realising that millions are suffering similar violence. Her life further shows us that all men stand to gain from gender violence because the fear for it keeps women in constant subordination or too sick to make use of our real power to eliminate male dominance and privileges.

COST OF MALE VIOLENCE TO THE NATION

I would further like to highlight one issue before I speak on the shelters and what women have accomplished so far. The issue is a brief look at what male violence caused to our society as a whole.

As we all know violence is a social problem and therefore needs intense public concern. If only for the hundreds of millions N\$ it costs our country annually, I can ask you to think of the following:

- The hospital cost regarding injuries inflicted upon women and children by men. This money could have been spent on other useful medical aspects e.g. medicine, research, etc.
- Look at the costs of imprisonment of offenders, even though few get convicted, those that do, cost society money. As they need to be treated as human beings with rights as well.

- Think of rural schools that could be built with the money not spent on prisons. The cost of WCAP units, legal costs, shelters and other services that are being established to support the women.
- The cost of the lost productivity of those very women who are trapped in the cycle of violence and "cannot contribute" their part in the development of our society. Their energy is wasted, their lives are full of fear and loss of identity.

Think of the loss of lives of many women that could have led a full and passionate life were it not for the violence. The great works that they could bring out in act, writing, invention, were it not for the inhibition caused by man because women were or still are too scared.

For me, I always think that probably in our country every third person, or the one sitting next to us today, if not yourself, was abused as a child, battered/raped as a teenager or is now living in a violent relationship with a man/women.

I further think of girls in our country who maybe growing up feeling afraid to be involved in relationships because it may end up in violence that they have experienced in their family. Boys can develop aggression, hatred of females and reject qualities such as softness and affection. Let me stop here on the costs of male violence because it is infuriating and provokes anger. But, our anger needs to be used positively. We need all our anger to be translated into strength, intelligence and creativity to find ways to stop the violence and stop blaming women that they are responsible for male violence, but rather accept that male violence arises from **beliefs** (traditional), **behaviours**, **attitudes** and **power**, when it is abused.

I would further like to provoke either questions or discussions by bringing into this input some feelings, feelings of anger which women are not supposed to feel. I am convinced that the issue at hand should not be discussed in a purely rational way, because we are not dealing with an abstract problem here, we are dealing with life and its quality.

Therefore, I would ask you to try and imagine Getruda's life, feel her pain and strength and multiply that by all the thousands of women of all ages, races, abilities, status, religion, of our country, feel the sadness in you for such pain, feel our pain and our strength, feel it completely. It is very sad that so many lives are lost and happiness is not possible. Now feel your anger at this inhumanity and injustice. Let your anger replace the sadness. Feel the anger rise in you, feel the sadness going away. Let the anger stay for it's a justified, provoked and needed anger. For this anger will show us our strength.

I want you to keep in touch with your anger for this is the anger that has helped the women in Namibia to say "NO", and continue to say NO TO VIOLENCE and have joined their strengths in one powerful action. Action to support each other by forming alternatives.

ORGANISATIONS THAT FIGHT VIOLENCE

BACKGROUND

In Namibia, we have a few organisations that fight domestic and sexual violence, however, there are differences between the organisations regarding these specific kinds of violence, e.g. domestic violence, rape, battering, sexual harassment, etc. There are also those organisations that involve child victims of violence in their programmes but, each of these organisations have different origins, with a common aim to empower women victims of violence, e.g. some are started by people or groups involved in a profession (social workers, unionists, psychologists, etc) and some started as a collaboration among organisations that all come across the problem of violence through their work. Some of the organisations emerged from a feminist setting. Some are the results of initiatives of activists and others were initiated by concerned people, whilst we have those which emerged from the affected themselves, the grassroots community.

EMERGENCE OF SUPPORT STRUCTURES IN NAMIBIA

For a long time, violence was only a discussion point in most of the organisations. The courts and police continued with their daily duties "to arrest the criminal". The social workers continued to mediate and advise the clients, families, and especially the women whilst the church leaders blessed the violence and sent the women back into the "lion's den". But, during 1988, we experienced the formation of Women Solidarity and new hope was built for women when they provided services for battered women and rape victims, counselling and supporting them with training and awareness programmes, but the formation of

Women Solidarity also did not stop the violence, it only increased which resulted in the formation of the Women and Child Protection Unit supported by different NGOs and Government institutions to help support the women and children in a multifaceted environment. This was indeed a big step in the support structure of victims of violence with other groups' organisations standing up against violence. As this organised spirit against violence strengthened there was still a question as to what happens to the women. Is she safe to go back? Can she leave the home . . . ?

NEED FOR SHELTERS

Women from different community based organisations, CBOs came together and planned programmes to combat violence. It was during this, that the Namibian Women's Network was formed. Members of this network in different towns started anti-violence campaigns. They formed small support systems that give women shelter in a friend's house. This need grew bigger when the Women Support Women Project opened a shelter in Windhoek, and another followed through the initiative of the church, to back up the work of the Women and Child Protection Unit.

With the existence of the shelters, we have realised their need because if a women decides to leave the violent situation, but does not want to make a case against her husband, she often needs a place to rest and feel safe, in order to reflect on her situation, as such women are often in shock, stressed, threatened and trapped.

It further showed the fact that women are making use of them and that it is real that violence exists in our society. It also provides the women with another option.

The shelters also provide human support and a refuge for the battered/raped women. It is also a place where legal and psychological help is provided for women. The shelter provides both short-term emergency and long term accommodation (3 - 12 months) to women and their children.

FUNDING

The shelters receive funds from donor agencies, private contributions and small contributions made by the working women who live in the shelters.

PROGRAMMES

The shelters have programmes whereby they would like to involve women in skills training since this is a new initiative. The staff only gives support to victims in trying to solve their immediate problems. They encourage them to participate in training and introduce them to awareness raising workshops organised by different organisations, e.g. Legal Assistance Centre, Women Solidarity, WCPU, Namibia Women's Network, etc., who provide training, legal advice and general information on violence and other skills in development.

NETWORKING

The shelters (those in Windhoek) are mostly receiving referrals from the WCPU and they also work in close co-operation with the unit for medical services, laying charges if the women want to and providing counselling and house visits by the social workers. This seems to be the best way to interact between police and social workers. However, there are still problem areas. Other networks are with NGOs dealing with violence, e.g. Women Solidarity, Multi-Media Campaign, Legal Assistance Centre, etc. The Sister magazine/newspaper is used as an information source on reports of violence.

PROBLEMS

It appears that direct assistance to victims in the shelters often takes most of the staff's time therefore, it is not always possible for the shelters staff to care for the victims and give attention to the instruments for structural solutions to stop the violence against women.

The staff also lack skills and resources and are working in relative isolation therefore, the challenge is to those institutions, NGOs involved in anti-violence work to network closely with these community based shelters and their committees in order to include them in the process to address the structural changes as well.

Registration of these shelters also becomes difficult and needs to be helped by the MHSS.

RECOMMENDATION

Therefore, the following would be recommendations in order to improve the criminal justice system

- A network of accessible centres for survivors of male violence each run by a multi-disciplinary team of trained people, where women can receive immediate and specialised counselling, medical treatment and legal advice whether they have decided to officially report the incident or not.
- Establish inter-agency protocols to promote co-ordinated actions which can pool resources and reinforce efforts.
- Demystify and simplify the criminal justice process to make it more accessible to women groups who try to work with women in the shelters and other volunteers in the communities.
- Improve victim support by prosecutors
- Government to provide state funding to existing shelters and help to establish others throughout the country. Co-ordination between Government and organisations running shelters is important.
- Continuation of training for the community, NGOs, volunteer workers, police, local/regional government nurses, social workers, to create in the long run a pool of trainers specialised in the problems of violence against women. These trainers should be available on the national level and be accessible for all organisations that are "interested". Research should be done to get more knowledge about the problem and appropriate ways of addressing it.

I would finally thank the LRDC for the special recognition they granted the women who work in the shelter and which enabled me, to present this today.

I thank you.

CHAPTER 16

Ms D LeBeau; Sociology Department, Faculty of Humanities and Social Sciences, University of Namibia

HELEN'S STORY

Helen [not her real name] is a 35-year old Coloured/Afrikaans speaking woman. Helen has been married for 9 years to her 38-year old husband, although they lived together for 8 years prior to their marriage. Helen has 4 children by her husband. They are a 16 year old girl, a 14 year old boy, a 12 year old boy and a 4 year old boy. Helen has a standard 6 education and is not currently working, while her husband has a Standard 9 education and is working as a clerk. Helen considers their family to be middle to low-middle income. Helen and her husband had been living together for some time before he started to beat her. Helen feels that his drinking 'hard liquor' and the friends he hangs out with are the reason why he beats her. Below is Helen's story as she told it to me. You may notice that several times during the interview the tape was stopped whenever Helen became upset or cried.

- D: Ok, so what I would like to ask you is. How this started? And what happened what causes it or has caused the problems?
- H: Die probleem. was ... is nie... Dit het nie... Dis nie lank gelede nie. Nadat my man baie gedrink het begin baklei hy met my. Hy skop vir my of hy slaan my met die vuig, 'n blou-oog. Maar die keer is nie 'n blou-oog nie, my oog is sommer uitgehaal. *(The problem was ... is not ... It did not start a long time ago. After the man had taken lots of alcohol he begins to beat me. He kicks me and hits me with his fists and I am left with a dark eye. But this time it was not only a dark eye that he gave me, my eye has been beaten out.)*
- D: So how long ago did he start drinking?
- H: He started a long time ago.
- D: Do you feel the drinking has anything to do with this?
- H: Yes the drinking and his friends told him the wrong stories. I stay at home with my last born. His friends tell my husband that his wife is not good, she sleeps with other men. Dan sê ek vir hom, hoe kan ek met ander mense slaap in my omgewing ... my kind is vier jaar oud ... en ek loop ook nie rond nie, ook nie by my familie se huise nie, ek bly net by die huis sit. *(Then I tell him how can I sleep with other men ... with people around me... my child is only four years old ... and I don't go around to other people, not even to my families homes, I just sit at home.)*
- N: Drink jy? *(Do you drink?)*
- H: Ek drink bier, ja. *(Yes, I do take beer.)*
- D: And do you think that there are other things that are going on that could also be a cause of these problems?
- H: Sê vir hom die man se familie meng in met my lewe. Ek het nie familie nie, my familie is jong meisie-kindere wat jonger as ek is, dit is net een wat ouer as ek is. Een tante is deurmekaar. Sy familie is net in onse dinge. Kyk soos nou as ek so iets aan hom gedoen het dan was sy familie lankal op my gewees. My familie traak nie, want hulle. My broer het sy bes probeer maar hulle kan dan nie. Die dokter sê dit sal heeltemal die ander oog aansteek. *(Tell him the husband's family interfere in my life. I don't have a family. My family consists of young women/girls who are younger than me, it is only one who is older than me. There is also an aunt of mine who is also insane. His family is just very interfering. Just consider this, if it was me who did this to him then his family would have been on my case a long time ago. My family does not care, because they... My brother tried his best.. but they can't.... The doctor says it shall infect the other eye.)*

D: What did the doctor say?

H: The doctors says if they don't remove the one eye, the one will infect the other. Laat hulle hom nie kan uithaal nie.

N: The doctors say if they don't take this one out, this eye will later affect the other one, so they have to take this eye out. And her family are just younger... from her.

H: Kyk daar is party dae wat die man nie drink nie. Maar sodra hy onder die invloed van drank is dan begin die dinge. En sy vriende, dit is hulle wat nou in ons ding is, hulle praat vir hom so en so. En as ek so iets praat dan begin baklei ons dan. So kom die ding af - *(Look there are some days when he does not drink. But when he does drink then the things start. And his friends, it is them who are in our things, they tell him this and that. And if I say anything then we start to fight. This is how things start.)*

D: And this has happened to you before?

H: Yes.

D: Could you tell, maybe describe the circumstances, you know ... He has come home drunk.. or... Tell us... Give us an example of what happens.

H: Hy kom nie dronk dronk by die huis in nie. hy drink by die huis. Hy drink by die huis. Dis die probleem wat ons het. Hy is nie eintlik 'n gereelde drinker nie, hy is 'n geleentheidsdrinker. Maar die probleem is as hy 'n nippy drink of 'n bietjie Riechlieu drink, dan word hy gou dronk. Dis eintlik die alkohol wat hom so maak, sodra dit iets sterk is dan word hy gouer dronk. *(He does not come home drunk, he drinks at home. He drinks at home. This is the problem. We have... He is not a frequent drinker but only drinks on an occasional basis. But the problem is that if he takes a tot or a little Riechlieu then he gets drunk easily. It is actually the alcohol that does this to him, as soon as he takes something strong then he gets drunk quickly.)* Ja baklei... *(Yes fights ...)*

N: Is daar nie 'n dag as hy gedrink is wat hy gelukkig is ..of moet hy net baklei? *(Isn't there a day (when he is drunk) that he is happy or does he always have to fight?)*

H: Party dae is dit so still en party dae is dit so woelig soos niks. Dan baklei hy nie dan gesels hy mooi. *(Some are so quiet and others so turbulent like nothing. Then he does not fight, he chats nicely.)*

D: Please tell me how this happened that you lost your eye [not on tape].

H: Die Sondagmiddag het hy geslaap en opgestaan. Ek het ook geslaap, opgestaan en ek het die TV aangesit. SA se sokkerspan het gespeel. Hy het hier geslaap op die sofa. Ek en die kinders het op die stoep gesit. Die spesifieke Sondag het my man en ons geslaap en opgestaan. Ons sit TV aan en ek kyk TV, ek en die kinders, toe kom hy ook en kom sit hy ook op die sofa. En later toe vra hy "gooi vir my drank" toe sê ek "ek het nie drank nie". Ek het 'n glas in my hand gehad maar ek weet nie of dit water of so iets is nie. Toe het hy nou gekom met geweld en die glas uit my hand uit gegryp en my so gegooi. En toe sê die kind "los my ma, los my ma" toe will hy nie hoor nie. Toe slaan hy my met die vuus, met die regter vuus, toe sien ek net bloed. En toe ek so kyk is dit net bloed. In die kamer toe staan ek voor die speelkas my oog hang al so. Toe klim ek op die bed en ek huil. Soos ek so huil, bloed loop en bloed loop. Sê ek vir my kind vat die warm water, 'n bottel warm water en ek sit dit op my oog neer. Later vra ek waar is die man? Die man het weggehardloop. Later toe kom my vriendin toe stuur ek vir my dogter laat sy kom en sy moet die ambulans bel. Toe kom my vriendin, toe sê sy sy kom nou. Toe sy nie uitkom nie toe huil ek en my dogter ... toe huil ek en my kind saam. Toe later gaan sê sy "Kom, kom my ma huil ons is ernstig. " Dis toe wat sy gekom het toe sien sy mos. Toe kom die ambulans en die ambulans het my opgelaai, hospitaal toe. En daar het die dokter gesê nee ek moet slaap en daai week Windhoek toe kom maar. Tot nou toe. Ek het eers laas week Maandagoggend hier aangekom hier in Windhoek. Dis toe wat ek hoor dat my oog moet uitgehaal word. *(The Sunday afternoon he slept and woke up. I also slept and woke up, put on the TV and watched the South African soccer team. He slept on the sofa. Me and the kids sat on the patio. That specific Sunday, my husband was*

sleeping and he stood up. We sat and watched TV and, me and the kids. He came in and sat on the sofa. Later he asked me to pour some liquor for him to which I told him I don't have any liquor. I was carrying a glass in my hand I don't know what was in it, water or something. That is when he came with great force and he grabbed the glass from my hand and threw it at me. Then the child said "Leave my mother alone, leave her alone" but he did not listen. He hit me with his fist, the right fist and all I saw was just blood. When I looked I only saw blood. In the bedroom I saw in the mirror that my eye was hanging out. I got into bed and started to cry. As I was crying I was bleeding and bleeding. I then told my daughter to fetch warm water in a bottle, which I put on my eye. Later I asked where the man was. He had ran away. Later my friend came after I sent my daughter to fetch her. My friend did not come at once and my daughter and I started to cry together, my daughter then went to call her again saying "This is serious my mother is crying, you must come" and only then did she come. The ambulance came and took me to hospital. There the doctor said I must stay in bed and also that I must go to Windhoek that same week. Up to now I am in Windhoek. I arrived in Windhoek on Monday morning. And this is when I came to here that my eye has been removed.)

N: So, how long have you been in the hospital?

H: Ek het 'n week gelê anderkant en hierso ook 'n week, 'n volle week. Dis twee weke. (I have been in hospital over there for one week and here also a week.)

D: You have four children...

H: Yes.

D: Now, where are your children?

H: At home.

D: And your husband?

H: At home.

D: And ... What will you do now? [It is at this point that Helen starts to cry and the tape is stopped for her. She just keeps crying and shaking her head ... no ... no ... no-Between the tears she is only barely able to say 'I don't know'... 'I'll go home'. We sat for several minutes and allowed her to compose herself.]

D: So, I'm going to bring this tape to the hearings that are in the Parliament building and these people will hear exactly what you're saying. And so if you were to go to them... if you could go to them... what are the things that you would ask them to do? What are the things that you think they could do to help you?

H: No [Again Helen has trouble controlling herself] Eintlik moet hy Hulle moet hom maar eintlik straf. Laat hulle ophou die vroue so gaan slaan. Want die kinders ly daar onder. Die kinders se werk gaan ook dan agteruit. (Actually he should... They should actually punish him. So that they can stop beating up the women. Because the children suffer under this... The children's work suffers or deteriorates)

H: They can close the bottle stores and the shebeens, that things... en eintlik die smokkelaars vang wat smokkel (... and they should arrest the people who deal in liquor).

D: So the smokkelaars (dealers) are causing trouble....

H: Yes.

D: So, have you called the police any of these times?

H: No, no, I don't call the police.

D: Why haven't you called the police?

H: Because he is the only man who is working ... for me and for the kids and for his parents. [She gets upset again, and again we turn off the tape]

D: What do you think will happen if you call the police?

H: Hulle sal hom ... (They shall...) [Again she begins to cry and so I decided that at this point she would not be able to continue with the interview.]

CHAPTER 17

Dr H Becker and Ms P Claassen

VIOLENCE AGAINST WOMEN AND CHILDREN: COMMUNITY ATTITUDES AND PRACTICES

INTRODUCTION

Violence against women and children is a reality of daily life for many people around the world. However, there are also vast differences in the types of violence that occur, how frequently they occur, why they occur, and what means are used to try to prevent or control violence against women and children.

Cross-cultural studies on family violence and rape have shown that hierarchical gender relations, perpetuated through gender socialisation and socio-economic inequalities, play a major role in violence against women. A comparative study of 90 societies from all continents identified four strong predictors of the prevalence of violence against women in a society:-

- economic inequality between men and women;
- a pattern of using physical violence to resolve conflict;
- male authority and control of decision making in the house; and
- divorce restrictions for women.

These societal characteristics translate into attitudes towards violence against women and children, i.e. what is non-acceptable and what is tolerated or even encouraged by social norms. The societal features and attitudes furthermore influence the practices of communities, i.e. how they try to prevent or restrict violence against women and children.

METHODOLOGY

Altogether 29 focus-group discussions were held in different suburbs of Mariental and Windhoek, seventeen with women, and twelve with men. Each group discussion dealt with one of the following topics :-

- a) violence in the community, looking at sexual harassment and rape;
- b) violence in the family, which dealt with wife battery, and to a lesser extent - violence between unmarried lovers, and adult brothers and sisters,
- c) sexual abuse in relationships and homes, which mainly discussed marital rape, and -
- d) child abuse, comprising both physical abuse i.e. corporal punishment inflicted in the family, and sexual abuse of children.

Overall, the respondents answered willingly and honestly. In several instances respondents emphasised that they appreciated the research, and the Violence against Women and Children Project as a whole, as they regard this as one of the most burning social problems in present-day Namibian society.

In addition to the focus-group discussions, semi-structured in-depth interviews were conducted with key-informants who were nurses, pastors, social workers and other community leaders in Windhoek and Mariental.

The field research done in central and southern Namibia was complemented by a re-evaluation of related information which had been collected by the Centre for Applied Social Sciences (CASS) in the northern regions of Owambo.

SUMMARY OF RESULTS

1) **The nature and incidence of violence against women and children.**

All respondents interviewed in Windhoek and Mariental saw violence against women and children as a major problem in Namibian society. As all of them agreed, violent incidents occur daily in their communities, but were hardly ever reported to institutions, because of the shame

attached.

- Most interviewees regarded either **battery** of partners (wives or girlfriends) or **rape** as the **incidents occurring most frequently**.

Other issues mentioned:

- **incest** (girls being molested and raped by their uncles, fathers, brothers and grandfathers);
- **children being neglected by their parents and families**, which results in malnutrition and injuries;
- **excessive corporal punishment of children**;
- **psychological and emotional forms of abuse** (particularly non-physical means men employ to humiliate women, in order to make them feel inferior, inadequate or useless).

The respondents in Owambo mentioned **wife and girlfriend battery** as the most common, everyday problem, whereas the majority also thought **rape** was a serious threat to the security of women. Several of the interviewees also spoke about beatings which were inflicted on women by men in the community, like the frequent **violent incidents arising from quarrels at cuca-shops and in other public places**.

Very little information is available on the incidence and nature of **violence against children** in the northern regions, but it should alarm that court observations of customary courts in Ondonga and Uukwambi between July and November 1995 revealed that several cases of sexual child abuse were brought to the customary courts within this short period.

2) **Social acceptance**

While the participants in all focus-groups agreed that violence against women and children, with the clear exception of physical abuse (corporal punishment) of children, was not generally acceptable behaviour, it emerged that many such occurrences were not regarded as acts of gross misconduct on the part of the perpetrator. This rather lenient perception was exemplified by the regular remarks, which appeared in all discussion groups, to the avail that a woman victim could not be faultless in cases of unwanted sexual attention (harassment), or even in the case of rape. It was similarly said by many respondents that a husband had the "right", and moreover the duty, to discipline a negligent wife who did not fulfil her domestic responsibilities. Regarding the corporal punishment of children, the general feeling among respondents was that it was a necessity of family life, and the only way to discipline children. It appears that this form of physical abuse of children is fully accepted in all sectors of Namibian society.

3) **Cultural aspects and gender relations**

One cultural aspect emerges which interviewees from all the different communities apparently shared. This is the **predatory nature of heterosexual relations**. Many people regard sexual harassment as an inevitable fact of life because of men's allegedly naturally strong sexual urges. Contrary to this, women's role in sexual relations appears to be perceived as one of passive, yet "provocative" enticement. Socially acceptable behaviour, however, also requires women to put up some "resistance" to male sexual attention, regardless of whether it is wanted or unwanted. As a woman's .."no.." is not perceived as necessarily expressing her real feelings, men feel they should insist with their advances none the less.

4) **Informal and institutional help**

The majority of respondents in Windhoek and Mariental knew several, informal as well as institutional avenues of assistance and support for survivors of violence against women and children, particularly:-

- social workers;
- Women and Children Abuse Centres;
- pastors and church leaders;
- the Namibian Police;
- health institutions and personnel;
- women's organisations.

However, most respondents felt that while these avenues were well-known, many victims of gender-based violence would not make use of them. Reasons given for keeping quiet included: feeling ashamed for being a victim of rape or domestic violence; protecting the perpetrator (husband

or father); or, the general feeling that personal matters can and should not be disclosed to outsiders, in some cases not even to family members.

CONCLUSIONS

- Cultural differences regarding attitudes towards violence against women and children seem to be surprisingly small. It appears that certain characteristics are pretty much shared among the different Namibian communities, for example; the predatory nature of heterosexual relations, or the jealously guarded privacy of marital affairs.
- A clear distinction between the Owambo study sites and those in southern and central Namibia concerns the significant role of customary law and customary courts in the North. Whereas they do not seem to play any significant role in the South.
- People generally had some knowledge of informal and institutional ways to render assistance to victims of violence against women and children. Windhoek residents had more such knowledge than small town or rural residents.
- The main concern emerging from the research is the extreme privacy surrounding any personal matters, which in many cases prevents possible intervention. The aura of secrecy seems to be strongest in the northern regions. In the southern and central regions, women seem to be less prepared than men to accept the secrecy and silences surrounding happenings within marriage and the family where these are detrimental to women and children.

Violence against women and children in Namibia is surrounded by many walls of silence, which are to be broken, in order to alleviate the situation of the many women and children who suffer under gender violence.

CHAPTER 18

Ms L Aupindi; National Youth Council of Namibia

Recommendations to the National Plan of Action for the Elimination of Violence Against and Abuse of Women and Children

1. Introduction

The National Youth Council of Namibia (NYC) is an autonomous umbrella body to which Namibian youth organisations may affiliate on a voluntary basis.

Representing various youth and student bodies, the NYC serves as a focal point and pursues advocacy roles with the ultimate aim of sensitising the agencies of the Government of the Republic of Namibia, private sector institutions as well as the broader Namibia public on the needs, dreams, aspirations and anxieties of the youth in Namibia.

In order to address the needs of youth effectively, the NYC has apportioned its service delivery mode into three Desks viz.:

1. The Employment Promotion Desk.
2. Youth Health and Welfare Desk, and
3. Networking, International and Exchange programmes Desk.

Among these services delivery modes, the Youth Health and Welfare Desk is responsible for initiating programmes geared at the amelioration of social and health predicaments to which the youth of Namibia are increasingly exposed, as well as to initiate programmes and activities in collaboration with affiliate youth and student organisation and Regional Youth forums on awareness raising among the youth. Awareness raising activities include teenage pregnancy, STD's, HIV/AIDS, violence against young women and men, alcohol and drugs abuse, child welfare.

The Desk has further ventured into the publication of a booklet entitled "A stake in the Future" which outlines various health related topics for discussion towards HIV/AIDS, adolescent reproductive health, sexual abuse, wife/girlfriend battering, child abuse, rape, domestic violence etc.

The implementation of this booklet has contributed to several findings which revealed that young people are tremendously aware of increasing brutality and violence against girls and boys, and thus seek more information on eliminating this criminality which impaired young women from optimal enjoyment of their freedom and rights. Several recommendations have been presented during workshops such as stiffer sentences without bail provisions, speeding up of investigation process, intensive school programmes to teach young men to respect both women and themselves.

2. Nature of Violence against Women and Children

Many young women seldom recognise when they are being abused. This is because abuse is seen as severe physical and sexual violence, often so bad that it results in the death of a woman. Such incidents of violence against women have remained common in Namibia and even escalated over the past few years; resulting in the deaths of young women at the hands of boyfriends.

There are many ways that male or female partners can be abused, the most common being:-

Physical and sexual violence

- slapping, punching, kicking, hitting, stabbing and shooting
- forced to having sex against ones will.

Psychological and emotional abuse

- being told repeatedly how stupid or worthless one is, and who can do nothing right etc.
- eventual fear of a partner and organising ones life to please him

- the partner will not let you out of sight and makes accusation that you are seeing others (rivals)
- child neglect by parents, with deprivation of dignity, love and care

Material abuse

- withholding financial contributions to family upkeep
- dominating handling of expenses
- sexual harassment in the workplace, largely male supervisors abusing female subordinates

Many young people are unaware of abusive relationships, with different degrees of abuse and the need to communicate in problem solving.

3. **Factors contributing to violence against women and children**

3.1 **Alcohol and drug abuse**

Alcohol and drugs abuse worsen the situation because of negative effects on judgmental abilities thus leading to a risk of abusing women. But there are also many women/men who abuse even when they are sober. Children also suffer in this relationships as they become nervous and anxious, thus suffering psychologically. The records at courts do substantiate this phenomenon, with the accused admitting the crime committed and attributing his/her unbecoming behaviour to alcohol or drugs.

3.2 **Poverty**

This is a social problem that is one of the leading causes of violence against both men and women and children. With the lack of - or, inadequate access to basic services (such as shelter, food and other social problems i.e. unemployment or under employment) ... the result can be dissatisfaction, depression, or inferiority complex. This also can cause men to commit rape, wife battering and child abuse etc.

3.3 **Poor Administration of Justice**

There are no adequate and effective measures being taken by the Ministry of Prisons and Correctional Services to train against - or even prevent - bribery of warders by prisoners. Prisoners thus escape and commit a repetition of crimes of violence against women and children.

The same applies to the Ministry of Justice, which results in delay of criminal cases and sexual offenders being released on easy bail terms within hours of being arrested. Such offenders, on their release, then interfere with state witnesses and harass victims and witnesses alike. This undermines the administration of justice, humiliates the victims who then lose faith in the judicial system.

3.4. **Lack of information on legal matters**

The community lacks knowledge on legal matters, especially in the rural areas. The violence against women and children increases steadily because of lack of information. Women are unable to recognise or identify abusive behaviour as such, and are prey to the community belief in myths surrounding such behaviour.

3.5 **Common myths surrounding violence against women and children**

One myth is that only poor people, usually without education, commit abusive behaviour. The reality, however, is that anyone, rich or poor, educated or uneducated, can indulge in such behaviour. Another myth is that such behaviour is the result of alcohol and drugs, whereas people of sober habits can also in fact be involved. Women may sometimes abuse their partners, but this is generally on a small scale.

Often women do not tell their friends or family that they are being abused. There are many different reasons for this; they may feel humiliated, or they believe they deserve to be abused, or they fear being killed if they reveal the truth of their violent relationship. Or, they may still love their partners.

Family and friends, if they are supportive, can be of great help to abused women. This support is not always forthcoming however, and the women can be pressurised into simply accepting and coping within the situation. They are told that marriage is sacred and they must be obedient to their husband or boyfriend. Children also suffer in these relationships as

they too live in fear and anxiety. Some believe it is better to leave a bad relationship than to suffer for life.

4. Recommendations

Actions that can be taken by Government in co-operation with non-governmental organisations, especially women's organisations and youth organisations, to eliminate violence against women/men and children:

4.1 Administration of justice

- With the increase of rape in particular, easy bail and lenient sentences should be avoided, and stiffer penalties enforced.
- Bail, specifically in rape, should be refused while investigations are still in progress. This would protect the victim from the accused, avoid humiliation and restore her dignity as well as restoring community confidence in the administration of justice.
- Life imprisonment should be applied for sexual offenders who rape intentionally while infected with HIV. Such penalty should also apply to cases where violence leads to the death of the victim. Equally lengthy sentences should be applied to those offenders who rape infants or toddlers, causing permanent internal damage to the uterus or external reproductive organs.
- Mandatory HIV testing, together with counselling, should be applied to those found guilty of rape.
- Another measure to restore faith in the justice system, should be the safeguarding of dockets to avoid loss of valuable evidence at the trials.
- To avoid unnecessary delay, criminal investigations should be speeded up, especially in serious cases of violence, including rape.

4.2 Community sensitisation and mobilisation

- Marital and date rape should be eliminated; it is a violation of the fundamental freedom rights of women and minors. This could be achieved through an awareness campaign.
- Those who aware of such sexual harassment should be encouraged to report through such organisations or centres that exist to eliminate such violence.
- Communities can be educated by relevant Ministries, NGOs and youth organisations empowered to better inform vulnerable groups in the legal system.
- Women and Children Abuse Centres to be established and well-trained police officers to deal with these problems.
- The government to support initiatives of women's organisations and NGOs in awareness raising campaigns. It should also organise, support and fund - community-based education and training campaigns to raise awareness about violence. Such information to be disseminated to women and families who are victims of violence.
- Awareness-raising being a media responsibility to promote non-stereotype images of men and women. Also, to eliminate patterns of media presentation that could generate violence. Emphasis on the role played by the media in informing and educating people about the causes and effects of violence against women, stimulating public debate on the topic.

4.3 Prisons and Correctional Services

- Young people in conflict with the law, should not - on any condition, come in contact with hard core criminals, to be exposed to such prisoner's sophisticated criminal mentalities and practices and to prevent acts of sodomy etc.
- Rehabilitation programmes for such young people in conflict with the law, should effectively be carried out by the relevant Ministry; with emphasis on inculcation of positive behaviour and such encouragement that would help avoid a re-occurrence of such violent behaviour on completion of sentence.
- Prison warders need to be better trained to prevent escape of time-serving or awaiting-trial prisoners. This includes a change of attitude to prisoners by warders, who need to be vigilant for harmful objects being used by prisoners against their fellow inmates. All law enforcement agents should be subject to promotion of discipline and professional ethics, and the adoption of a code of conduct.
- Condoms to be available to prevent spread of the virus HIV from infected prisoners.

4.4 Traditional authorities

- Many traditional patterns of belief and behaviour, have contributed to undermining the status of women and children, who are then at the mercy of men. Traditional leaders need be involved in the reform process in their communities, and, as such, can also include traditional measures to curb such violence against women and children.
- Traditional courts to be empowered to better deal with sexual abuse matters, with their limited knowledge and skills being expanded into the new constitutional dispensation.

4.5 The Office of the Ombudsman

- Since independence, this Office has reacted to complaints and cases brought to its attention. It appears that now is the time for a radical transformation to a pro-active role, with studies of such models as that of Norway and the role of the Ombudsperson in dealing with women and children.
 - a) The Law Reform and Development Commission to implement the envisaged National Plan to Eliminate Abuse and Violence Against Women and Children, as well as all constitutional provisions. This will ensure ratification of international instruments such as the United Nations Conventions on the Rights of the Child, and the Elimination of Discrimination Against Women; avoiding show cases for the sake of international donors, but rather a genuine commitment for the development and protection for the survival of threatened and endangered groups.
 - b) The Office of the Ombudsman suitably modifying and adapting its role to help in elimination of violence against women and children in Namibia.

5. Future youth activities planned to eliminate violence against Women and Children

- Future activities planned by the National Youth Council, in collaboration with youth organisations and NGOs, to engage in the campaign of elimination of violence against women and children:
- The National Youth Council to continue in awareness raising in collaboration with youth organisations, student bodies, and regional youth forums on the violence against women and children.
- Seek to network and co-ordinate activities in a strategy for combating and eliminating such violence; reducing wasteful use of available resources, duplication and contradiction.
- Included in awareness raising programmes - new concepts in crime prevention campaign against such as date rape; young people to acquire communication skills and the ability to effectively recognise abusive relationships; such improved communication skills enabling boys and girls to deal with unwelcome sexual activities.
- Effective training so that youth organisations can participate in issues of counselling and crime prevention. Thus the Juvenile Justice program will be included and not ignored, in dealing with youth in conflict with the law.

ANNEXURE

WORKSHOP IN PREPARATION FOR THE LAW REFORM AND DEVELOPMENT COMMISSION'S NATIONAL HEARING ON VIOLENCE AGAINST AND ABUSE OF WOMEN AND CHILDREN

Date: 6 March 1997, 9:00 am

Venue: Windhoek Multipurpose Youth Resource Centre

List of Participants

| | Name | Youth/Student/Organisation |
|-----|-----------------------|---|
| 1. | Ms Taimi Shipanga | National Youth Council |
| 2. | Ms Lahja Aupindi | National Youth Council |
| 3. | Ms E Kavaka | Mbanderu Youth League |
| 4. | Mr E Hambira | DTA Youth League |
| 5. | Ms Immaculate Mogotsi | Windhoek Multipurpose Youth Resource Centre |
| 6. | Ms K Hejes | Windhoek Multipurpose Youth Resource Centre |
| 7. | Ms McHenry Venaani | Namibia National Council of Students |
| 8. | Ms Salome Farmer | Namibia National Council of Students |
| 9. | Ms Oletu Nakaambo | Young Women Christian Association |
| 10. | Mr Johan Cloete | Interdenominational Youth Society |
| 11. | Mrs Sharon van Wyk | Interdenominational Youth Society |
| 12. | Mr Harold Bandt | Ikopeling Lesedi |
| 13. | Mr Beautus Monchure | Ikopeling Lesedi |
| 14. | Mr Manuel Ndjavera | Mbanderu Youth League |

CHAPTER 19

Ms L Tjihero and Mr N Tjombe; Legal Assistance Centre (LAC)

GENDER RESEARCH PROJECT

INTRODUCTION

The Legal Assistance Centre (LAC) is a public interest law firm with Advice Offices in Gobabis, Katutura, Keetmanshoop, Ongwediva, Rundu and Walvis Bay. The LAC's main objective is to protect human rights, which includes the protection of women and children against violence.

This submission is based on input from LAC para-legals at our various Advice Offices, from legal practitioners based in Windhoek and from the staff members of the Gender Research Project, Dianne Hubbard and Laura Tjihero.

THE LEGAL ASSISTANCE CENTRE EXPERIENCE

We believe that the violence directed against women and children in Namibia is one of the most pressing human rights problems faced by our nation. The violence suffered by the women and children who approach our offices for help takes many forms: rape and sexual assault, women assaulted by spouses or other men close to them, children assaulted by their fathers, children beaten by their schoolteachers, sexual harassment at the workplace and domestic workers assaulted by their employers. Clients have also reported various forms of emotional violence. For example, disputes about inheritance frequently result in threats and intimidation directed against the widow by members of the extended family.

A number of women and children have also reported that violence forced them to flee their homes and seek refuge elsewhere. However, this often means that they lose all of the household possessions in their absence.

Alcohol abuse is clearly connected to domestic violence, and women who leave to assure their safety sometimes return home to find that their hard-won belongings have been sold or exchanged for liquor.

Often it is not the violence itself that causes people to approach the Legal Assistance Centre, but a related legal problem. The most common issues raised by those who have suffered violence are:

- advice about the law on divorce
- requests for information on how to obtain legal aid for a divorce
- help with securing maintenance for children, assisting women who have lost their houses in a divorce, or when the payments have fallen into arrears.

Women also frequently request general advice about how to deal with the problem of violence and sometimes ask LAC staff to speak to the man in question about the problem.

A few questions about the Married Persons Equality Act have arisen, not in connection with physical harm to another person, but in connection with damage to jointly-owned property or removal of jointly-owned property from the home by the husband - threatening situations which were clearly intended to make the women in question afraid.

In addition to advising women and children who have suffered violence on their legal rights, the Legal Assistance Centre sometimes refers them to other agencies for additional assistance. For example, we have referred such clients to:

- the Maintenance Court
- the police or a local Woman and Child Abuse Centre
- social workers
- the Legal Aid Board
- Women's Solidarity

Referrals to the Legal Aid Board are commonly made in divorce cases, as the Legal Assistance Centre

does not have the capacity to represent clients in divorce cases.

Clients who are referred to another agency are normally given a letter explaining their situation and the involvement of the Legal Assistance Centre. Para-legals will sometimes accompany the client to provide assistance and support. For example, it has been our experience that maintenance cases often run more smoothly if someone from the LAC attends together with the client who wants to make a complaint. Where the issue is an application for legal aid, we help the client to fill in the form.

Women and children who have experienced violence approach all of our advice offices fairly regularly, with the exception of the Rundu office. In this area, women are more likely to go directly to social workers or to the police. It is not possible to give accurate statistics on the numbers of victims of violence who have approached the LAC however. Sometimes, no file is opened when a person approaches the LAC for information only. Also, because the legal problem may be only indirectly related to the violence (such as someone seeking assistance with maintenance or divorce), clients who have suffered violence may be classified under other headings.

The following are some examples of recent cases that have been brought to the LAC:

One case involves a married woman who was essentially held prisoner by her husband. He goes to work in the morning and locks his wife inside the house until he returns after 17h00. He even rakes the yard so that he can see any new footprints. Once he saw some footprints and insisted that she tell him who came to visit, accusing her of entertaining boyfriends while he is away. When he comes home he beats her and threatens to kill her. One day he forgot to lock the kitchen door, and she left the house to seek help. When she arrived at the LAC Advice Office, she was crying so much that she could hardly tell her story. She decided that she would like to get help from the police and was escorted to the local Woman and Child Abuse Centre. This case is not unique; in another part of the country, it has been reported that a man with three wives living in a single homestead also makes sure that the yard is clean when he leaves home so that he can see if there are any strange footprints.

Another case involves a woman of around age 50 who has been married for nine years. She has one son who is about 10 years of age. Her husband, who is over 60, is an alcoholic and attacks her whenever he is drinking. She is often forced to flee the house with her son, who has become frightened of all men. She sometimes returns home to discover that household property has been sold or exchanged for more drink. This compounds her problems, as she is not able to provide enough income on her own to meet the family's basic needs. With the assistance of the Legal Assistance Centre, she laid a charge with the police and the man was arrested.

A client in the north is married to a man who works in an urban area far from the couple's home and usually returns home only twice each year. He has affairs with other women during his absences. His wife is a teacher and sometimes attends workshops while he is away. This gives rise to suspicions that she is having affairs with other men, and her husband beats her with open hands and with fists when he is at home. The woman fell pregnant with their second child during one of his visits home, but he denies that he is the father, and has forbidden her to attend any more workshops, to travel anywhere by car, or even to visit her parents' home nearby. The couple now have a third child, but despite the restrictions he has imposed - the husband again denies that he is the father. He has a pistol and has repeatedly threatened to kill the wife. He is also demanding that the second child leave the home. The woman in question is now seeking a divorce.

A 20-year-old woman was raped in 1989 by her father while they were on their way to vote in the elections held under Resolution 435. The rape resulted in a pregnancy, and a blood test taken after the child was born confirmed that the woman's father was the father of her child. She reported the matter to the local tribal authority, who referred the matter to the local police. Several court dates were scheduled but the father repeatedly failed to appear. The LAC is now assisting with follow-up action.

WHAT THE LEGAL ASSISTANCE CENTRE IS DOING

In addition to advising individual clients, the Legal Assistance Centre has attempted to make broader interventions. We have conducted research designed to guide law reform on rape and sexual assault, children, domestic violence, maintenance and domestic workers and farm workers (vulnerable groups of workers who sometimes experience violence in the course of their work). We have worked in close co-operation with the Law Reform & Development Commission on the topics of maintenance and violence against women and children, and with the government's Commission of Inquiry into Labour-Related

Matters Affecting Agricultural Employees and Domestic Employees. We have also made submissions to the Commission of Inquiry into Legislation for the more effective Combating of Crime chaired by Judge O'Linn on some of these topics.

We have also worked closely with the Ministry of Health and Social Services and the University's Human Rights & Documentation Centre to prepare draft legislation on child-care and protection. Our Juvenile Justice Project attempts to divert young offenders out of the criminal justice system and into programmes that can help them turn away from crime.

This initiative has indirect links to the problem of violence against children, as abuse and neglect can be factors which play a significant role in pushing children towards trouble with the law.

The LAC is represented on the Management Committee of the Woman and Child Abuse Centres, and we have worked together with UNICEF to provide support to these Centres. In conjunction with Women's Solidarity, we have participated in police training programmes on the topics of sexual assault and domestic violence. We have also helped to prepare a police questionnaire for use by the Law Reform & Development Commission to obtain information that can be used to develop better frameworks for police intervention. Along with other organisations, we participated in the Multi-Media Campaign on Violence Against Women and Children, which took place in 1996.

Our Legal Education Project trains community volunteers on a range of law-related topics, including rape and sexual assault, domestic violence and marriage and divorce. We have given extensive support to community groups which are organising against violence or attempting to establish shelters. In co-operation with Women's Solidarity, we have organised support groups for women who are survivors of domestic violence and facilitated discussions with men who are concerned about the issue.

We have prepared educational material available on the topics of maintenance, the rights of single mothers, domestic violence and rape. Additional materials on marriage and divorce, including the Married Persons Equality Act, will soon be available.

We are also involved in other projects which look more broadly at women's position in society, in the belief that the best antidote to violence against women is the promotion of meaningful gender equality in every sphere of life.

During 1997, we will be conducting research on the topic of divorce. This will involve the collection of information about:

- (a) the current operation of the divorce court;
- (b) community attitudes and needs in different regions with respect to divorce under both civil law and customary law
- (c) the potential use of mediation to help the parties to a divorce reach agreement about maintenance, the division of property and custody and access to children;
- (d) the role of legal aid in divorce cases; and
- (e) approaches to divorce which have been successful in other countries with similar circumstances to Namibia.

RECOMMENDATIONS

We have a number of specific recommendations to offer on the basis of our experience with the problem of violence against women and children.

(1) Interdicts

There is clearly a need for a quick and simple procedure at the magistrate's court level whereby women and children suffering from violence or threats of violence can obtain an interdict ordering the person in question to stay away from them or from the family home. South Africa's Prevention of Family Violence Act is an example of such a procedure, and the LAC has prepared a paper for the Law Reform & Development Commission which examines this law in detail.

(2) Training for Police and Court Personnel

The effectiveness of such an interdict system depends primarily on the willingness of the police to give it teeth through prompt and wholehearted enforcement. It also requires insight and understanding on the part of magistrates, court clerks and other administrative personnel. This

points to a need for specific training on the new law, and on the dynamics of domestic violence. We congratulate the police for introducing this topic into police training at the detective level, but we believe that it should be fully incorporated into police training at all levels.

(3) Shelters

Legal approaches, however appropriate, will fail if women and children fear that they cannot seek help without endangering their safety or even their lives. This means that there is a pressing need for more shelters that can provide a safe refuge from violence. We believe that the ideal is community-run shelters, but the government should provide financial support and facilitate appropriate training.

(4) Woman and Child Abuse Centres

We support this initiative and the plans to gradually make such Centres available in additional regions. However we feel that consolidation of the Project is as important as expansion. We support the recommendations of Inspector Cath Adams who was commissioned by UNICEF to evaluate the operation of the Centres. We have worked together with UNICEF to summarise these recommendations in a separate document, which we have already provided, to the Law Reform & Development Commission to facilitate public discussion.

(5) Rape

We understand that the Law Reform and Development Commission has already prepared a draft rape statute which would make urgently needed reforms in the law on rape and other sexual assaults. We would urge the Commission to make this document available for public input immediately, both to solicit ideas and to highlight the topic. We find it strange that the document has not already been made available to the public, given the keen level of public interest in the topic and the regular and repeated calls for action on this topic from so many quarters ever since Independence. In general, we believe that involving the public in **every step** of the law reform process will elicit more public support for the changes and thus make them more effective.

We would also urge the Law Reform & Development Commission and Parliament to place law reform in this area among its highest priorities.

(6) Maintenance

Several years ago, the Legal Assistance Centre carried out extensive research into the operation of Namibia's maintenance courts in co-operation with the Law Reform and Development Commission (LRDC), which identified maintenance as a priority concern. The LAC's research findings, which included draft legislation, were published in September 1995. During 1996, the Legal Assistance Centre met to discuss the recommendations that grew out of the research with members of a subcommittee appointed by the LRDC specifically for this purpose. The discussions were very fruitful, and resulted in several additional recommendations. The LRDC subcommittee submitted a report on maintenance to the full Commission on 9 August 1996. However we learned at the end of January 1997, almost six months later, that the Commission has not yet forwarded any recommendations for law reform on maintenance to the Minister of Justice.

We would like to take this opportunity to appeal that law reform on maintenance be given the very highest priority. Our advice offices are flooded with clients seeking help with maintenance, and it ranks second only to labour matters as the most common problem brought to our attention. As we have already noted, maintenance is closely connected to the problem of domestic violence. A woman who fears that she will not be able to support her children on her own may not feel free to leave an abusive relationship or even to seek help to stop the violence. We have also encountered situations where a woman's attempt to assert a right to maintenance from the father of her children has led to retributive violence. An ineffective maintenance system will mean that insecurity about maintenance may force women to remain in violent situations, and that children may be forced to suffer deprivation as well as more direct forms of abuse.

In addition to implementing prompt law reform, we urge the government to make maintenance a priority by providing administrative training to maintenance court personnel to improve the court's efficiency and to signal the importance of the issue by giving it prominent public attention.

(7) Divorce

We have already outlined the research which we are planning to conduct on divorce, in

consultation with the Law Reform & Development Commission, and we are pleased to note that the Commission has earmarked this issue as a priority. We would simply like to urge the Commission to keep law reform on this topic on the fast track, and to be open to public input at every stage of the process.

CONCLUSIONS

We would like to commend the Law Reform & Development Commission for initiating nation-wide workshops and hearings on violence against women and children, and also for involving various non-governmental organisations and government agencies in the process from the very beginning. We believe that it is important for all interested bodies to join hands and work together to combat the problem of violence. We appreciate this opportunity to make submissions, and we pledge to continue our efforts to work together with government in any way possible to protect women and children from violence and ultimately to bring an end to the occurrence of such violence in Namibia.

We would like to conclude our submissions with an apt quote from a recent newsletter of the International Women's Rights Action Watch:

It is easy to discount the power to the law and to become discouraged at the slow pace of change. Countless cases of violence against women are documented despite comprehensive laws in many countries...But the laws against domestic violence provide a vehicle for at least some women to confront their partners and change or escape the situation, and the issues are being stated with a clarity that was unknown twenty years ago, before domestic violence laws existed anywhere in the world ... Law sometimes is ahead of culture and can be extremely difficult to enforce when that is so. But culture can be dragged into the present when people use the law. (Dec 1996)

We have no illusions that legal change alone can ever solve the problem of violence against women and children, but we believe that it can be a crucial starting point.

CHAPTER 20

Mrs C Kanguuehi; Deputy President, Namibia National Women's Organisation (NANAWO)

INTRODUCTION

NANAWO is a national women's organisation based on individual membership and its objective is to reach out to all women with a view of creating unity, common purpose, mutual respect and collaboration amongst all women. To work towards upliftment of women by eliminating discriminating laws and removing all other legal impediments to women's full participation in society. In short, to advocate women's issues by being the vehicle through which women's voices can be heard.

Past Activities of NANAWO

Since its inception NANAWO was striving towards rallying Namibian women around issues of common concern and to put women's issues in the national agenda. NANAWO worked hand in hand with other NGOs in preparing women for the Beijing Conference, and have successfully organised a seminar for parliamentarians to raise awareness about the problems women are facing, including the low status of women in our society and the consequences thereof.

NANAWO has further identified women's health as a priority area amongst the issues of concern and launched the Women and Health Network project, to raise awareness about the importance of the improvement of the general health of women and reproductive health in particular, because we live in a society which does not value our women as much as they should.

A well-known British health theorist (Lesley Doyal) had this to say about women's health ... "a new idea is beginning to emerge which we call a social, rather than medical, model of women's health. This approach does not concentrate on the inside of woman's bodies, as doctors often do. Instead it looks at their living and working conditions: what labours they perform, and how; what their responsibilities and duties are, and how they are rewarded (or punished) for carrying out these tasks." In the end, it is not doctors that make women sick or healthy. It is the reality of their daily lives... it is how society (and men) treat them - that is the central issue. I am therefore of the opinion that *gender inequalities* is a fact that has to be taken as seriously as the existence of germs when it comes to women's health.

Therefore, at our workshops on health issues - we also deal with issues such as domestic violence, substance abuse, unequal division of labour, and the low status of women in society as contributing to poor health.

It is because of our sincere concern of women's problems and our experience in this area, that NANAWO deemed it necessary to be involved in the multimedia campaign on Violence against Women and Children to curb the incidence of violence in our country. In the past NANAWO was on the forefront when Namibian women were protesting against the incidence of violence, particularly against those who are the most vulnerable in our society.

How does NANAWO involve itself with the campaign against Violence against Women and Children?

With the recent campaign against domestic violence, and violence in general, NANAWO was instrumental in organising workshops in all the thirteen regions in collaboration with the Woman and Law Committee of the Law Reform and Development Commission and NGOs. The workshops were organised as a prelude to the public hearings - and the target groups were church groups, community-based groups, opinion leaders and traditional leaders, the police, social workers, individuals and victims of violence.

The group discussion sessions of the workshops were participatory, and a great deal of information - based on personal experiences or the experiences of violence generally within the community, were generated. The general impression about the workshops were that the participants showed a keen

interest in the subject matter, exchanged very valuable ideas and expressed the need for a change in the current state of affairs. They have also made several recommendations.

SUMMARY RECOMMENDATIONS

Education

- (a) Schools must introduce overall life skills and NANAWO must lobby educators to put issues of violence into the curriculum.
- (b) Parents are also urged to take care of their children's needs in schools.
- (c) A teacher who impregnates a schoolgirl must be punished and parents and guardians must not interfere in such procedures.
- (d) Teachers and parents must work together to enforce discipline.

Police

- (a) Police must patrol the dangerous streets at all times, and drunken people (especially women) found on the streets - must be taken into safe custody.
- (b) Police must work together with headmen to combat violent crimes in the rural areas.

Law

- (a) Rapists and murderers must be given heavy sentences, and no bail.
- (b) Rapes and murder cases must be attended to very seriously.
- (c) There is a need for a new rape law.
- (d) Need for regulations on cuca-shops.
- (e) Need for co-operation between NGOs, government and traditional leaders to publicise traditional laws and to raise community awareness.
- (f) Public servants should set an example with lawful actions.
- (g) Polygamy to be made unlawful and those practising it to be punished, as it also can promote violence.
- (h) Compensation to be awarded to victims through civil and traditional courts.

General

- (a) Demonstrations to be held in all regions once a month in solidarity with victims of violence.
- (b) Women should not tolerate violence and abuse, and men should be discouraged from forcible sexual relations with their family.
- (c) Workshops to be organised for disseminating information to the community.
- (d) NID should conduct workshops to educate people on their rights.
- (e) Introduction of counselling services within the community to address problems of suicide, poverty, alcohol abuse, AIDS and general lack of self-esteem/confidence.
- (f) Campaigns on violence and abuse to be increased through use of media, school-meetings and public meetings.
- (g) Women and men should establish community based support groups for victims of violence.
- (h) To adopt a multi-sectoral approach to combat violence and abuse.
- (i) Public meetings to provide encouragement for victims to report such cases to police, social workers, traditional and church leaders.
- (j) Provision of counselling for victims of violence.
- (k) Women and Children Protection Units to be established, together with Department of Women's Affairs (DWA) structures in all regions.
- (l) Particulars of convicted rapists to be made known to the general public.
- (m) Introduction of gender-awareness campaign to community leaders to encourage sensitisation and respect for women and children's dignity.
- (n) Provision / establishment of shelters for victims of violence.
- (o) Dissemination of information to enable empowerment and growth skills in rural and urban women.
- (p) To scrap the present requirement of lobola refunds which often hinder women from breaking out of abusive situations.
- (q) Introduction of legislation specifically for the protection of women's rights in polygamy, inheritance and divorce.
- (r) A structured follow-up process to the above in all regions.

OUR VIEW OF THE WORKSHOPS

The participants at the workshops were mostly females. Men should also be encouraged to attend such

workshops, as their absence results in difficulties in dealing with the aspect where they are perpetrators. There was also an absence of children at the workshops.

At one of the workshops, the youngest participant - a twelve year old, made mention that children should also be present because they are uniquely involved in many of the problems. He referred to the example where children born out of wedlock were raised by their grandparents, who, on their death resulted in the children being banned from seeing their mother by a stepfather who made them unwelcome.

Thus the mother could not allow them in her house, causing the children to become homeless. There should be a special forum for children as they can be the source of valuable information in this campaign.

NANAWO suggests that its recommendations be treated seriously and implemented by concerned authorities.

A multi-sectoral conference should be called where all concerned organisations can monitor progress and ensure such recommendations are implemented.

CHAPTER 21

Dr S M H Rose-Junius; Senior Lecturer, Social Work, Faculty of the Humanities and Social Sciences, University of Namibia

- 1) I refer to your invitation to this Department to prepare documentation and to partake in the National Hearing Programme on the above matter.
- 2) As the representative of this Department, I have arranged with your office as follows:
Liaison person : SMH Rose-Junius (Dr.)
Fax No. : 206-8306
Tel. No. : 206-3713 (w)
081-124 5693 (cell)
Date of hearing : Thursday, 15/5/97. The time will be 08h30 and the venue is Room C. 1. Government Buildings.

3) **Departmental Involvement:**

3.1 Training of Social Workers

The duration of the course is four years and the qualification acquired is BA (SW). Besides related Social Science courses offered in other Departments, this department offers the subjects Social Work I to IV, Social Welfare Law (a one year course which is open to BA students) and Community Development. Social Work students are also placed in a field-training programme over the 4 years of study.

The syllabus makes provision for the study of family violence in the following ways:

(a) **Compulsory inclusion of the subject**

The total course consists of a package that does offer the student certain options, mainly in his first year of study, but not with regard to social work. All students registered for the BA (SW) degree, offer the same syllabus and have to pass all the modules before acquiring the qualification. Social Work, Sociology, Psychology and Social Welfare Law are compulsory courses for the BA (SW) degree.

(b) **Time allocation and level:**

Subject: Social Welfare Law:

This subject is offered at first year level. Besides basic legal concepts and norms, this course includes the structure and procedures of the legal system, aspects of the Law of Persons, Law of Marriage and Juvenile and Child Law.

This course offers the student an understanding of human rights and responsibilities, the possible violation of such rights and responsibilities, the legal provisions for the protection of legal subjects and the structures in place to implement these legal provisions.

This is a 3 - module course, with 120 lecture periods, and compulsory for all social work students.

Subject: Social Work I:

Socialisation:

The socialisation process, with emphasis on human development - inclusive of gender perspectives and roles, as well as normal and dysfunctional human behaviour. (8 Lectures, compulsory for all social science first year students as part of the Faculty core-curriculum)

Subject: Social Work II:

At the second year level, a lot of emphasis is placed on the family - the healthy and the dysfunctional family, as well as on interventions to sustain and support, to empower and prevent, but also to assist with rehabilitation when necessary.

The following modules form part of Social Work II:

i) **Child and Family Care**, with introduction of the healthy family and special reference to the "sick" family, including family violence as a dimension of a dysfunctional family. (40 lecture hours for this module)

ii) Social Work and Law:

The Role of the Social Worker in a Court of Law:

Specific attention is given here to spouse- and child abuse, the social worker's legal grounds for intervention, his "locus standi" in a Court of Law and his function as a probation officer.

Subject: Social Work III:

In this year attention is given to the treatment of psychologically disturbed clients, which include the perpetrator in an abusive situation.

Gender roles in society, based on socialisation, culture, law and religion are also identified in terms of its contribution to power structures and the so-called victim syndrome. (40 lectures; compulsory)

(c) Gender Aspects:

i) Gender Composition of Students

Historically it has always been a 90% / 10% female/male composition and with students changing course or failing, the male component may even become smaller over the four years. (Currently the 4th years are 14 and only two are male students)

ii) Student attitudes

Human attitudes are to a large extent shaped by ones frame of reference and students are no exception. They are however influenced by theories and objectivity gained through academic inputs and field training experience.

During recent discussions with both second and fourth year students on spouse and child abuse specifically, most of the students could contribute with objectivity. The main thrust of their perspectives are that the emphasis should be on prevention of abuse, empowerment of the victim, rehabilitation of the perpetrator and more stringent punitive measures for the adult child abuser - specifically the sex offender.

Being the lecturer responsible for the Social Welfare Law course, the undersigned has often faced dissatisfaction among students from Herero and Oshiwambo-speaking students specifically, when the legal rights of women are discussed. (E.g. The married women's capacity to buy household necessities, joint guardianship with regard to legitimate children or the unmarried mother being guardian of the child born out of wedlock.)

Gender training takes place in the third year under the section "Inter cultural Social Work and Gender Issues."

The students also offer sociology and psychology in those respective Departments and gender issues are more vigorously dealt with specifically in the sociology courses.

(d) Field Training:

During their second and third year of study, students are placed for 2/3 weeks consecutively block placements at Welfare Agencies in offices of the State Department throughout the country. Although some may have the specific experience of being placed at a Woman and Child Protection Unit or prison, the others have a more general exposure to family and child-care.

During their final year of study, students do an internship for 8 months during which

they all are exposed to the many faces of family violence - spouse and child abuse, violent gay and lesbian relationships, abuse of the elderly, the disabled, parental abuse by children, sibling abuse, rape, violation of the rights of employees etc.

Throughout their training they are also expected to practice the methods of group and casework with members of dysfunctional families or communities, as well as preventative work in a relatively healthy situation.

The final years also do research of limited scope in areas of their choice. These topics cover a wide range of human conduct and often centres around aspects of violence, with suggestions for prevention and programme planning.

(e) **Suggestions**

At this stage the training component of social workers that addresses this issue, is considered sufficient. More research is needed though to better understand the dynamics of an abusive family and to augment the strategies for prevention and treatment models in conjunction with other disciplines.

Personal Contributions

4.1 Research and Training

The undersigned is currently involved in a research project in the Karas Region, on the subject of spouse abuse. She also runs training courses for social workers, police, ministers of religion and community workers to identify the dynamics of family violence, and looking into strategies for prevention and rehabilitation.

4.2 Prevention

She is developing an awareness package for schools to educate school children with regard to abusive situations and to assist teachers with their response to abusive situations. This package is done with the assistance of UNICEF and will be launched during the course of this year.

Case Studies towards the Identification of the Phenomenon of Wife Abuse

5.1 A working Definition of Violence against Women

Violence against women has been defined in the UN Draft Declaration on the Elimination of Violence against Women of 1992 as "Any act of gender based violence that results in, or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether it occurs in public or private life." (Pronk: 1993:11)

A broader definition would cover also the lack of access to socio-economic resources, such as employment, land and housing; cultural impediments such as genital mutilation, subordination to extended family members such as in-laws and uncles who control the life of the widow, her inheritance and her children; social violations such as being isolated from relatives and friends because of excessive household demands.

5.2 Case Studies

5.2.1 Maria's Story:

Maria is a 32-year old teacher and mother of 3 children. She has been married for 14 years when she faced trial for murder of her husband.

She recalls a lot of beatings, humiliation, sexual assault and cruelty, even while she was pregnant. She suffered an abortion due to being kicked on the tummy when pregnant.

Twice, unable to endure any more suffering herself, and witnessing her children being beaten by their father too, she left home, going to a shelter.

He begged her every time to return, promising a better life, threatening to kill himself should she refuse. She returned and soon faced an even worse situation.

There was lack of food, she was expected to sleep with his friends to earn money and

she feared for the moral violation of her daughters.

She had nowhere to go, not even the refuge wanted to take her in again. She was also emotionally blackmailed because of the threatened suicide.

He became angry for anything - tea not ready on time; shirt not ironed to his liking; child crying for food. No friends were allowed to visit her. She relates: "He wanted to control me and he succeeded because I couldn't see any way out. It sounds stupid, but if you are in this situation, you can't see a way out. You just survive".

Then the day came that he started beating her again because she had no change in her purse. She saw a knife on the table - picked it up and thought that would stop him. It didn't. In the struggle they fell with her landing on top of him, the knife went into his jugular vein and he died on the way to hospital.

The charge of murder was reduced to manslaughter.

5.2.2 **Christine's Story:**

Christine is a 38-year old university lecturer, her husband Mike, a 41-year old engineer. He started hitting her nine months ago.

"He first hit me two weeks after we married. I thought it must be my fault.

We'd been together for three years and it hadn't ever happened before. After he punched me, he was remorseful and promised it wouldn't happen again. It didn't for two months, then it became more frequent. Now it's every few weeks.

He starts by telling me I'm just stupid and useless; he smashes things in the house and then the hitting starts. He hits me when I'm asleep now. I don't believe the 'Mr Hyde' Mike becomes is really him - I married a kind, gentle, person. He says he wants to stop doing this and I believe him - he's started going to a counsellor. Maybe a braver woman would walk away but I don't want our marriage to end, it's only just begun. We love each other and share the same ideals and interests. I've too much to lose to leave now".

What are her chances of being believed should she tell somebody, or of being assisted by the police should she lay a charge?

5.2.3 **Anna's Story:**

Anna is a 26-year old nurse. She left her husband, also 26, nine weeks ago. "Hans and I were together for four years before we got married and although he hit me occasionally then, he was going through a kind of breakdown and I put it down to that. When we married, he started to hit me every few months, then every few weeks, then it would go on for days. For a long time I tried to work out how I could behave differently to stop the violence.

'After 18 months, I thought about killing myself. Now I'm away from it, I can't understand why I stayed for so long. But I had no money and two children. When I talked about leaving, he used to threaten to kill me. He said he'd have me declared an unfit mother and get custody of the children. I believed he'd do that - I felt I was going mad.

'It was his aunt who got me out. I bumped into her one day and she guessed what was going on. She went back with me to the house - my house, because he moved in when we got married - and helped me move out. She had no room for me so she took me to a refuge. It's crowded and noisy but to us it's perfect because it's away from him".

5.2.4 **Nepedi's Story:**

A 25-year old housewife, married to 29-year old Bernard. He was possessive, jealous, intent on isolating her from friends and family so that his control was

absolute, she reported his insistence on sex when she returned from hospital after the baby's birth, ruptured her stitches and that unleashed his fury.

"In my situation, inaction was a defence. The less I did, the less he would lose his temper. I taught myself to be helpless, since that was my only hope of survival", Nepedi said. And we may ask the inevitable question: Why did she stay?

From the literature and from experience in the field of spouse battering, we learned that battered women like Nepedi, cannot think in such a way, since physical and emotional abuse have crushed their personalities.

5.2.5 "Marital Rape" claimed by so many Women

There was the middle-aged woman whose husband had left her for someone else. On the day he came to collect his belongings, he pushed her up against a wall and buggered her and drove off. It was obviously just a desire to humiliate her even further.

In their book: Licence to Rape, (1985: 10) Kersti Yilo and David Frinkelhor wrote: "Marital rape occurs in different kinds of relationships and takes different forms. To characterise it as the province of battered women alone, isn't to see its full scope. It occurs in relationships of relative sexual equality and even in relationships where there is little verbal or physical abuse".

Marital rape can be part of a continuing relationship, but it is common when a marriage is breaking up.

When talking to women about their submission to intercourse they don't desire, they cite physical violence or the threat of it, or non-physical forms of coercion, or the "force-only-rape", where the man uses just enough force to penetrate. Despite the horror and terror these actions hold for the victim, marital rape is not a crime, but more and more agencies and victims are calling for the law to change. It should be a crime to allow women to prosecute. This is seen as an empowerment of women, a deterrent, and a message to society and men specifically, that this is a brutal and serious violation of a woman's dignity, emotional well being and mental health.

6. Case studies towards the Identification of Child Abuse

6.1 A Working Definition of Child Abuse

Child abuse is generally identified as a deliberate act of violence against children by a person in a stronger position, (physically or mentally), with the intention to inflict injury or to control the victim. This may include physical, emotional or sexual hurt and it always results in short and/or long-term scars experienced by the victim. It often has the function of gratifying the needs of the abuser - be it the need to control, to humiliate, wield power, to solve unresolved emotion problems or sexual satisfaction, or it may be a question of neglect due to lack of interest or other seemingly valid reasons.

The literature identifies three levels of child abuse.

6.2 Case Studies

6.2.1 Little Betty, Battered to Death:

Little Betty's father has beaten her to death when she was only 3 years old. His terrorised wife protected him, lying about the child's injuries, until photographs of Betty's injuries were shown to her. Then she cracked and described the horror of the child's ordeal. The last day of Betty's life was only the end of a long process of battering.

"He just wanted Betty to enjoy Christmas. He gave her presents, but she didn't show any interest and he got mad, He pulled her up by the arm, hung her over a staircase and punched her in the stomach, while shouting at her. I didn't even get out of my chair because he would have dropped her on the floor and killed her if I should intervene. And then he would have started on me", the mother said.

She didn't take the crying, bleeding child to a doctor. "I didn't know she had internal injuries and she was dying. I was in a trance" the grieving mother told the court. The jury in the English court decided that the mother could and should have acted to protect her baby; that the death of her child was effectively her fault; that the degradation and abuse she described and the shock of losing her baby was not enough. She got a 4-year sentence for failing to protect her child and the father 8 years for cruelty and assault.

6.2.2 Canada Law

Tuafeni and Susan

These two, brother and sister, are 13 and 15 years respectively. They go out at night and return in the early hours of the morning. The father is forever under the influence of liquor - the typical absent father - and the mother, a professional woman, but timid and scared of her brutal husband, has no control over the children. When they come in so late at night, the father waits for them and beats them severely. They often have black and blue marks, bruises on their bodies and are also humiliated because of his accusations that they are prostitutes.

Question: What legal recourse do children of that age have - even in the light of their possible exploitation of a parent who claims to care about their safety and morals - against such excessive discipline by a parent?

Case Example

Lazarus, age seven, sits on the porch while the police and the child protection worker are inside the house interviewing his five-year-old sister, Susan. Susan says that their new stepfather frequently undresses her, fondles her genitals and makes her touch his penis. Lazarus is interviewed next and reluctantly says that sex acts, including anal intercourse, were also performed on him. The children say they complied because their stepfather told them he would "give them the belt" if they did not co-operate.

Question: What charges might be laid?

Answer: With respect to Susan, the stepfather might be charged with:

- Sexual interference
- Invitation to sexual touching
- Sexual assaults
- Sexual assault with threat to cause bodily harm to a third party.

With respect to Lazarus, the stepfather could be charged with all of the above and also with having anal intercourse with a minor.

Case Example

Peter, a new boarder in the house, frequently invites young boys in the neighbourhood to visit his room to see his comic-book collection. One of the boys finally tells his teenage brother that Peter has been giving the youngsters money for performing fellatio (putting their mouths on his penis). The police are called but Peter claims that he is innocent, saying he "never laid a hand on the kids".

Question: Can Peter be charged, considering that he did not "assault" the children?

Case Example

Linda, age 13, and her boyfriend, Joe, age 14, are found by Linda's parents engaged in petting (Joe's hands are under Linda's blouse). Linda's parents are angry with her and her father "hits the roof" about her morals. Linda is afraid of her father and claims that Joe forced her into the fondling activity. Linda's parents call the police.

Question: Could Joe be charged with an offence covered under the child sexual abuse law?

Answer: Perhaps. But if he is charged he may defend himself by saying that his activity was not illegal because:

- He is less than two years older than Linda,
- He is under 16, and
- Linda consented

Every case has its unique events and circumstances that will determine whether or not a charge should be laid and what the defences to the charge may be.

7. Suggestions for Prevention, Action and Law Reform:

7.1 Prevention

There are three basic levels of prevention:

- (a) Primary Prevention, which includes actions before the problems start. These are proactive measures with a strong educational base, e.g. to start changing values and models to which people are exposed during their development; educate society to know their rights and responsibilities; to identify risk situations and to know how to protect themselves and other vulnerable groups.
- (b) Secondary Prevention, which come about at the first sign of people at risk. Children with family problems such as alcoholic parents, children who live in dangerous environments; neglected/unloved children; unconfident children are all considered to be at risk of being abused. Protection/prevention is focused on empowerment of the potential victim to prevent them from becoming victims and is on an individual, one to one basis, or through group or community actions.
- (c) Tertiary Prevention
This refers to community wide actions and includes educational programs, advocacy for policy-making and programme planning.

These include also reactive treatment to heal the damage that has already taken place. It is aimed at empowerment of the victims to brake the cycle of abuse and rehabilitation of the perpetrator.

Namibia's predominant response to violence has been a reactive one. We have been accused of breeding violent perpetrators through our cultural and social practices that increase male dominance and female sub-ordination; our lenient liquor laws; our legalisation of gambling; the inability of our legal justice system to protect women against exploitation by their male partners; (the ineffective maintenance courts are mentioned) and suggested abortion laws where men will have a major say, (The Minister may decide and he may be a man).

We are requested to change our response to one that targets prevention and the protection and empowerment of the victims of violence.

- 7.2 (I) In the Global Tribunal on Violations, June 15, 1993, the following suggestions were made:
 - (i) Document, define and make visible violations of women's human rights which the present conceptualisation and practice of human rights have rendered invisible.
 - (ii) Evaluate the effectiveness of various human rights instruments, procedures, bodies and agencies in protecting and advocating for the human rights of women (*and children).
 - (iii) Reassert that women's (*and children's) human rights are indivisible and universal. The human rights of women (*and children) must be unconditionally protected and promoted and cannot be negated in the interest of ethnicity, culture and religion. (1993: 10) *own insertion.
- (II) Gelles and Cornelle (1985) suggest the following actions for primary prevention of abuse:
 - (i) Eliminate the norms that legitimise and glorify violence in the society and the family, such as the use of violence as a form of media entertainment.

- (ii) Reduce violence-provoking stress created by society, such as poverty and inequality.
- (iii) Incorporate families into a network of kin and community and reduce social isolation.
- (iv) Change the sexist character of society and educational development.
- (v) Break the cycle of violence in the family by teaching alternatives to violence as a way of controlling children.

The above proposals call for fundamental changes in family life and society as a whole. If they are not unrealistic, they are at least long-term solutions.

(III) RAPCAN in SA suggests that changes to many of our basic value and socio-economic systems are central to the process of preventive work.

- (i) Gender inequality, acceptance of violence, sexual exploitation of children into prostitution, pornography and involuntary marriages, as well as exploitation of children in advertising and the media, poverty, inadequate housing, poor nutrition, racial discrimination, and other structural inequalities and conditions that lead to a poor quality of life for children must be challenged.

- (ii) Most gender-based violence against women and children is inextricably linked to male power, privilege and control. Educational and legal processes need to challenge this.

(IV) The Schools Role in Prevention:

As well as education on sexual matters within the family, school plays an invaluable complementary role. Specific information can be provided within classes on sex education so that it can reach all children, especially those whose families are not able to discuss these matters at home.

Sex education within the school should be adapted according to the age of the child, and presented in a sensitive way. Better understanding of his/her own body and his/her emotions will lead to the development of a healthy sexuality which can evolve through to adulthood. It will explain what is normal and acceptable, and what is not.

Children are not generally disturbed by what they are taught about sexual abuse if they are reminded that they have the right to reject approaches, and will be supported if they do so. This kind of teaching should be part of a general education about the risks and dangers they may encounter in life, and they should be taught how to protect themselves.

(V) Law Reform

Law Reform to address shortcomings in the current legal provisions may be one of the first suggestions.

- (i) Marital Rape

At a recent training workshop, the legal position with regard to "marital rape" was discussed. The law does not make provision for such concept, while the experience of social workers and police is that it is a reality in marital relationships which needs to be recognised and dealt with.

- (ii) Cautionary Rules

Cautionary rules which place a burden on victims of violence (women and small children) by for instance expecting corroboration of evidence, or treating the single witness with suspicion, are also experienced as derogatory and not in the interest of justice.

- (iii) **Interdict**
The need for a system where an indigent abused woman has access to an interdict without having to approach the High Court and pay steep litigation costs, is also highlighted by victims and practitioners alike.
- (iv) **Special Courts**
The need for special protection courts and court procedure when child victims testify against adult offenders - especially an adult family member with whom the child has a special bond - has been identified and is strongly advocated by practitioners.

These provisions may include:

- that children who have to give evidence in court be automatically assisted by a legal representative (Pro Deo if necessary);
 - that the identification of a suspect by children be done through a one-way glass-
 - that the child be questioned by a court - appointed social scientist (social worker/psychologist) acting in co-operation with the accused, prosecution and presiding officer, and that such a person be empowered to assist the presiding officer to give an opinion on the credibility of the child's evidence,
 - child competency is generally presumed if a child agrees to testify, but especially the younger child's competency to testify remains an issue. It is common practice in some countries to shift the burden of proof to the opposing counsel who must show that the child is incompetent, instead of the child's counsel having to demonstrate that the child witness is competent. Child victims of sexual abuse should be considered competent witnesses without prior child competency qualification in any judicial proceedings. The presiding officer may then determine the weight and credibility to be given to the testimony.
 - that the child may testify from behind a one-way glass, fully visible and audible to the accused.
 - that videotapes be made of interviews with traumatised children and that these tapes be admissible as evidence at a trial, especially if the trial takes place long after the incident of abuse.
- (v) **Novel Approaches to Obtaining Testimony**
When child witnesses - especially the very young - offer evidence, it may be necessary to use novel procedures to obtain their testimony. In some cases, the adversarial process played out in the standard way is either too confusing or too intimidating for the young witness. In such cases, the court may allow a neutral person to question the child, testimony may be obtained in chambers rather than in open court, videotaped testimony may be admitted into evidence, and/or special hearsay exceptions may be invoked. At other times, the language of the child may be immature or incomprehensible to the court, and so an interpreter may be necessary.
- (vi) **Use of a neutral questioner**
In some countries courts allow a neutral questioner to examine a child witness. Although case law is scant in this area, it is certain that if such a procedure is used, the defendant's constitutional rights must be safeguarded. For example, counsel for the defendant should be present during the questioning, or at least should be able (a) to hear the interchange between examiner and child, (b) to object to the examiner's questions, and (c) to transmit questions to the interviewer during the examination of the child.
- (vii) **Recesses and Postponements**
Because young witnesses tend to have short attention spans and seem particularly traumatised by the courtroom experience, it generally is counterproductive to keep them on the stand for extended periods of time. On the other hand, lengthy postponements and continuances may prolong anxiety

and may cause memory deterioration. The court, therefore, must weigh carefully any adverse impact caused by a postponement against the need for delay. Trial courts have broad authority in this regard. One may have a rule expressly providing that the examination may be interrupted briefly to provide the child relief from the pressures of the courtroom. Section 868.8 of the California Penal Code, for example, states:

- "The need to protect the child must be balanced against the right of the defendant to vigorously cross-examine. In the final analysis, the matter should be left to the sound discretion of the judge".

(VI) Preparation of the Child Witness

Children tend to view the courtroom as a threatening place, a place in which "if the witness gives the wrong answer, he'll go to jail". When asked, "Do you know what a courtroom is?" Only 18 percent of the three-year-olds surveyed in one study replied in the affirmative. The percentage increased steadily with age, however, with approximately 40 percent of the six-year-olds, 85 percent of the seven-year-olds, and over 90 percent of the those over age nine indicating that they knew what a courtroom was. At best, then, the courtroom is viewed by children as an unfamiliar place, and at worst as a forbidding environment.

The child witness may be prepared in a number of ways for the experience of testifying. First, the child needs to understand the purpose of litigation and the roles of the various people who interact with the legal system. It is helpful to spend some time educating the witness in these areas.

Second, the child needs to be familiarised with the courtroom itself. A "field trip" can be useful in pointing out the judge's bench, the witness stand, the tables where attorneys and defendant will sit and seats for the audience. The child may be allowed to physically explore the surroundings and to ask questions about the setting.

When the child seems relatively comfortable, the legal process may be explained. It may be particularly helpful to enlist the aid of others who can play the roles of the various professionals in the courtroom, thereby simulating what the actual courtroom experience will be like. These methods of preparing the child witness for giving testimony at trial have not been subjected to legal test, for they do not infringe upon the defendant's rights in any way. Indeed, the defendant has the right to experience the same kind of preparation. Generally, the more preparation the child witness can be given, the better. (Perry & Wrightsman: 91)

Looking at a global perspective, one gains from the experience of other countries.

In Canada the policy to combat wife assault, has three prongs - prevention, enforcement and back-up services. This means cases are almost always prosecuted, even if the woman withdraws the complaint before the trial. In addition, the woman is allowed a voice in the court proceedings, She may write a "Victim Impact Statement" detailing the physical, emotional and financial effects of the violence on her and her children. This may be taken in account by the judge when sentencing.

The back-up services include budgetary provisions by National Government for prevention strategies, specialist training for police, social workers, lawyers and Judges and for research in this field. It further involves a so-called "non-molestation" injunction (a written court order to warn men against any further acts of violence against a family member) and this injunction can only be functional if it is coupled with powers of arrest for all incidents of violence against their wives and children.

There does not seem to be clear legislation on vital issues such as mandatory reporting of violence against children, the period of time required to finalise investigation, the definitions of the various types of abuse, compulsory legal representation, revised procedures such as a certain de-judicialisation of dealing with

the juvenile sexual offender, the development of a database (network) on child abuse practices and offenders.

(VI) The American Child Protection Report, 1994

In this report some suggestions were made:

It suggested mandatory arrests of abusers when there is probable cause that court orders of protection have been violated, or abusers have disregarded custody and visitation orders; that abusers are prohibited from possessing firearms. Legislation was prepared to provide that all sexually violent offenders would be required to register with the state following their release from custody and the increase of criminal penalties for assaults against youths under the age of 16 years.

(VII) Women's Right to child bearing

All women should have the right to decide on the spacing of their children, as well as the right not to bear any child, should she so wish.

(VIII) Guardianship

Both parents shall have equal guardianship over their minor children - both in and out of wedlock - with due custody and access rights, depending on the best interest of the child.

(IX) Sexual Harassment in the Work Place

The Canadian Labour Code defines sexual harassment as any conduct, comment, gesture or contact of a sexual nature that:

- (a) is likely to cause offence or humiliation to any employee; or
- (b) might on reasonable grounds be perceived by that employee as placing a condition of a sexual nature on employment or on any opportunity for training or promotion.

A conciliatory, rather than a judicial process for the resolutions of alleged sexual harassment is supported, but legislation should provide appropriate tribunals for such process.

(X) Marital and Related Laws

There is a long overdue need to redress marriage and divorce laws and laws of succession where regard is given to cultural beliefs and practices, but without due consideration of the constitutional rights of women and children.

The two neglected bills - The Child Status Bill of 1993 and The Child Care and Protection Bill of 1993 - need urgent attention.

Legal provisions and responses to wife batterers need urgent redressing, with special reference to issues like police intervention, court mandated treatment of spouses who abuse their partners, cross-cultural issues influencing this phenomenon, criminalisation of spouse battering, how to deal with case attrition, protection orders combined with arrest powers for police and prosecutorial tracking to see the process through as uninterrupted as possible.

I sincerely thank you for the opportunity to address the Commission and to offer my Department's as well as my personal written contribution to the law reform process.

CHAPTER 22

Ms S Carew; Women's Solidarity

INTRODUCTION

WOMEN'S SOLIDARITY is a voluntary Windhoek-based group of women, which offers counselling, education and research concerning the topic of violence against women. The group was established in 1989 and is open only to women.

We counsel women who have experienced rape or domestic violence, and we sometimes address their friends and families. We provide education programmes for women's organisations, school and nursing groups. We have also conducted limited research into legislation covering rape. Our recommendations for legal reform are contained in the document "A Critical Discussion of the Law on Rape in Namibia".

Although we have two lawyers among our members, we are not a legal group. Therefore, our recommendations will focus on issues arising from our experience rather than on legal details. We believe that many of these issues may be dealt with in the forthcoming law reforms currently being prepared by the Women & Law Committee. However, as we have not yet been given an opportunity to see or make comment on the draft law, we cannot be sure that our concerns will be addressed.

PART 1: BAIL AND MINIMUM SENTENCES

1. Evidence from complainant in opposition to bail applications

We believe that the police should, as a matter of course, ask all victims of sexual offences or domestic violence, if they have any reason to believe that the accused would threaten or interfere with them if he were released on bail. If she does have such fears, she should be asked to make an affidavit which could then be introduced into court by the investigating officer, at the time of the bail application. If the affidavit established *prima facie* evidence for the denial of bail, then the accused should be given an opportunity for rebuttal. We believe that this approach is in line with the general approach to the consideration of bail applications taken by our courts. We recommend affidavit evidence as opposed to personal testimony on this particular issue, as this will prevent the complainant from having to make an extra, traumatic appearance in court and should help to prevent the bail application from anticipating the trial.

2. Notice of release on bail

We suggest that all complaints in cases involving sexual offences or domestic violence, be given notice of the outcome of a bail application, on a standard form, which explains how bail works. Also, the setting forth of any bail conditions that have been imposed, explains the rights of the complainant and states whom she should contact if she is threatened or if she is aware that bail conditions are not being observed.

3. Minimum sentences for rape

We advocate a statutory minimum sentence of 7 years for rape, which could be lessened only where the court finds exceptional circumstances, such as a first offence by an extremely young person. We would emphasise, however, that character and sexual experience of the rape survivor should have no bearing whatsoever on the punishment meted out to the convicted rapist. It is our view that the rape of a prostitute is just as serious a violation of human dignity as the rape of a virgin, and just as dangerous to the safety of women in our society. We suggest that this point should be explicitly enforced by statute.

PART 2: RAPE AND OTHER SEXUAL OFFENCES

A. POLICE PROCEDURE

1. Identification parade

Complainants in rape (and other sexual offence cases) should never be required to select the culprit

in an identification parade by touching him. This directive should be incorporated into the standing rules on police procedure.

2. **Police training**

Women's Solidarity is pleased to be a regular part of police training courses. However, we feel that the topic of sexual offences must be given more time in such courses, and that it should be included in the relevant exams to ensure that it is taken seriously. Any police officer who cannot demonstrate an understanding of this important issue should not be allowed to pass the course in question.

PART 3: PROSECUTORIAL GUIDELINES AND COURT PROCEDURES

1. **Prosecutorial guidelines**

We suggest that prosecutorial guidelines or directives be issued to all prosecutors who may handle sexual offence cases.

2. **Meeting victim in advance**

Prosecutors should be directed to meet with sexual victims two weeks in advance of the trial date to introduce themselves, to discuss the case and the court procedure, to answer her questions and to discuss the availability of counselling; this may be particularly important to help her cope with the traumas of the trial. Prosecutors should be equipped to provide the victim with the names, addresses and telephone numbers of various agencies which offer counselling.

3. **Waiting at court**

These guidelines should direct prosecutors to arrange a private place for the victim and her family to wait at court if she wishes, such as a private office or an unoccupied courtroom. We have seen how uncomfortable rape victims are when they have to spend long stretches of time waiting in corridors and porches in close proximity to the accused. We have also seen how this situation can provide a convenient opportunity for the accused to attempt to pressure the victim into dropping the charges.

4. **Speeding up sexual offence cases**

We urge that sexual offence cases be expedited. This is important for several reasons. Firstly, it enables the victim to get on with her life. For example, we have counselled women who have stopped work and feel that they cannot resume work, or live a normal life, until the case is finalised. Secondly, speeding up the legal process may prevent the victim from withdrawing the complaint out of frustration or emotional inability to endure the trauma of the prolonged process. We suggest that time limits should be set for each stage of the case, so that an exceptionally good reason for a postponement would have to be shown, if the delay would violate the maximum time limits. In order to expedite such cases, the High Court could arrange for special sitting if necessary, while the regional magistrate's courts could block off a portion of the court roll for sexual offence cases, so that they would not be delayed because of a crowded schedule.

C. LAW REFORM

1. **Definition of rape**

We believe that the definition of rape should be broadened to include a wider range of sexual acts that are equally violative of personal integrity. We also believe that the focus of the definition should not be the absence of consent, but the presence of coercion and suggest that consent be a possible defence rather than an element of the crime.

2. **Marital rape exemption**

We urge the elimination of the marital rape exemption as an urgent matter.

3. **Admissibility of evidence of previous sexual experience**

We support very strict limitations on the admissibility of such evidence in trials of sexual offences. We believe that evidence of this sort is often brought in for the wrong reasons and abused, which makes the trial more difficult and upsetting for the victim. We believe that it is necessary to strike a balance between the rights of the accused and the victim but it is important to guard against abuse of concepts such as "relevance".

The law should carefully define what will constitute "relevance" in such cases, and judges and magistrates should receive training in gender sensitivity to ensure that their discretion is fairly exercised.

4. The "Hue and Cry" rule

We believe that the fact of delay between an alleged sexual offence and the report to the police, should not on its own be allowed to undermine the credibility of the complainant, as there are many valid and well-documented reasons for such delays.

5. The special "Cautionary Rule"

We believe that the stance taken in *S. v D. 1991 (1) SA 513 (Nm) at 516H-I* should be codified.

6. Privacy

There should be stronger legal provisions to protect the privacy of victims of sexual offences. The court should be automatically closed to the public during the testimony of the victim, not just at the trial itself but at any court appearance by the victim, including appearances made during the course of bail applications and pleadings. This is necessary to prevent unscrupulous journalists from trying to circumvent privacy protections. It should also be illegal for anyone to publish the name or any identifying information about the victim from the moment that a charge is laid with the police. This prohibition should be actively enforced and violations punished by stiff penalties.

7. Rape trauma syndrome

The existence of the syndrome, which is a well-established set of physical, psychological and behavioural responses to rape, should be explicitly recognised as a potential source of corroboration for the victim's testimony, as a basis for explaining lapses of memory on the part of the victim, and as a measure of harm to the victim which is relevant to sentencing. It should be noted that this condition has already been formally recognised in the Cape Provincial Division in South Africa.

PART 3: DOMESTIC VIOLENCE

Task force

We suggest that the government set up a special multi-agency task force to investigate this problem. It must be remembered that the criminal aspect of domestic violence is only one small portion of the problem, and should be examined together with other relevant issues. One option that should be investigated is the establishment of state-funded shelters for women and children who need a temporary refuge. The reform of the laws on divorce should also be coupled with this issue.

PART 4: GENERAL

1. Woman and child protection units

This is an important service which needs to be expanded and improved. We suggest an in-depth assessment, including feedback from women who have used the service. This data should be collected in the form of a standard questionnaire, for example.

2. District surgeons

District surgeons should be directed to respond immediately in cases of rape and other sexual offences, in order to provide the best chance of collecting sufficient evidence for use in prosecutions, and in order to minimise the discomfort of the victim. Guidelines on how to treat such victims sensitively should also be issued.

CHAPTER 23

Insp. B B Keramen-Nell; Namibian Police, Windhoek Police Station, Khomas Region

I would like to thank the chairperson and members of this committee for inviting me to testify on the topic of great concern "Violence against, and abuse of, women and children".

The views that I express this morning are my own and do not necessarily reflect those of my colleagues.

I would like to start off with "ROLE" of the Namibian Police with regards to an effective response to domestic violence. The traditional approach to situations of domestic violence is changing.

Police are thought not to offer the victim of domestic violence adequate protection from the perpetrator. We are perceived as underestimating the violence and the dismissing of some appeals for help because we do not think there are sufficient grounds for intervention.

We, the police may be reluctant to intervene in domestic disturbances because we place greater value on privacy and family rights, than on the victim's rights to freedom from assault - or fear of such assault. We are sometimes reluctant to act and show little interest in a case because we do not believe it will result in a successful prosecution (withdrawal by victim). Often some police members are unaware of sources of assistance and support to which victims can be referred. Family situations of domestic violence can be volatile and unpredictable, putting police also at risk.

Some frustrations we experience in domestic violence cases, include reluctance of victims to assist the police prosecution, as they continue to remain in the abusive relationship. The women are often reluctant to press charges or subsequently give court testimony and this in turn discourages the police from pursuing matters. We have a training system at our Luiperdsvalley Training College, at basic recruit level up to specialised investigation.

Due to ambiguous perceptions of whether there is present a family matter or a crime, creates difficulty in police follow up. Also, married spouses cannot be forced to testify against one another. Influenced by the "shame and humiliation" experienced by a perpetrator, he could resort to violence when being arrested, and the police in turn must resort to force in defence of themselves. Also, victims frequently change their allegations, and the resultant uncertainty draws the police into situations where they can be subject to criticism in handling of matters.

The Namibian Police contribution to the prevention of violence against women and children is the establishment of "Women and Children Protection Units". Presently there are three such units officially, and more under way, these units being situated in Khomas Region at Katutura Hospital, Oshakati and Keetmanshoop. The cases dealt with by these units include:-

RAPE : The best documented category of violent crime against women. During hearings before the Senate Judiciary Committee, a spokesperson for the American Psychological Association presented evidence that one in five American women may be raped in her lifetime.

ATTEMPTED RAPE : In these categories the Unit is assembling statistics which are as yet incomplete, and an accurate picture of these crimes is not yet provided.

The establishment of these units was a major step taken by the Namibian Police, incorporating different ministries, NGOs, Foreign Donors and other interested parties. The units are operating under this Multi - agency Management, making them unique in Africa for its kind - with the staff members being male and female taking into consideration the gender perspective.

The number of rape cases reported in Namibia have been steadily increasing over the last few years, and this could have two reasons:

- more rapes are committed, or
- a higher percentage of rape cases are reported to the police

This calls for establishment of more 'Women and Children Protection Units' in nearly every region. I do not have any statistics to prove my point, but I do believe this will be eventually forthcoming from

colleagues who are accumulating statistics. These units are manned between 0800 - 1700, after which members perform standby duties. These duties could eventually become a 24 hour standby to accommodate escalating crime, including rape.

The people staffing these units can testify about their work in more detail. There is a Centre based at Walvis Bay Hospital, managed jointly by the Namibian Police and the Ministry of Health and Social Services. It absorbs cases from other police units, with the exception of alcohol abuse and cases involving disabled children which merit different procedures. Community advocacy groups involving particularly women battering, play an important role highlighting the situation and the development of practical solutions. The mutual support and co-operation of community members who combine to confront domestic violence is often an important available resource.

Community Policing is another factor with a new philosophy of policing based on the concept that police and citizens can work together, creatively to combat the problems that include social and physical situations and such crime that create neighbourhood decay. These have a greater voice in establishing police priorities and the goals predicated to improve overall quality in neighbourhood life. The focus is then shifted from random responses to a sustained approach which justifies the police/citizen partnership in the community.

There are already such existing police - community groups in the Wanaheda Police Station area, which are operating quite well and successfully. These groups are called the "Twenty House Leaders". Similar groups are being formed in the Katutura Police Station area. Windhoek area does have neighbourhood watch groups which only need to be revived. I would like to emphasise that these groups in the community would help a lot with the prevention of crimes, such as violence against women and children.

COMMENTS ON GENDER ASPECT:

The Constitution of Namibia strongly endorses the desirability of gender equality, and affirmative action that guarantees women's full participation in the social, economic and political life of the country. The notion of equality before the Law cannot and will not be achieved without the full participation of women, particularly at decision making level, where women need the opportunity and encouragement to participate in high ranks of the police force. Change in itself is dynamic and we need to go with the tide if we want the best of life. The greatest threat to man is not change, but the fear of it. The present misunderstanding of affirmative action can be converted from the aggressive approach to an easier acceptance that fairness requires an acceptance of gender equality.

In our police force, women have made progress in some areas, but there is still much required that will place women on a level footing with men. Women are widely represented in the Namibian Police Force, at national level but mostly in junior roles.

CONCLUDING OBSERVATIONS

To ensure that violence, abuse and exploitation of women and children do not continue, the philosophy of prevention should be developed, everyone learning the part they can play in "prevention of family violence". Women and children need to understand and practice their rights which repudiates anyone claiming a right to abuse them, and to know they are fully entitled to lay charges against such perpetrators. There is help out there - the silence of family violence must be broken. There is recourse to Police 'Women and Children Protection Units', and to existing women's groups and organisations.

The Constitution carries the guarantee that children can speak up and should not be silent - one can access to teachers or a trusted family member. Women can do something to defend themselves and their children and should not allow their rights to be prejudiced. We should create conditions in this country which are conducive to the promoting of the idea that crime prevention is the mutual concern of all citizens, male and female.

CHAPTER 24

Lt. General L P Hangula - Insp. General; The Namibian Police
From : Dep. Comm. Hoebel / C-Insp. Ferreira, Namibian Police Training
College

TRAINING OF POLICE OFFICERS

- (a) the number and duration of relevant training sessions during the normal training course of police officers;
Basic Training - 5 training sessions of 45 minutes per session
Advance Training - 2 training sessions of 45 minutes per session
- (b) the objectives of these training sessions;
Basic Training - To introduce the police officer to crimes against women and children and the investigation thereof
Advance Training - To equip members to do specialised investigation of crimes against women and children
- (c) the content of these training sessions;
Basic Training - Children's Act articles 18, 21, 23, 26, 28 and 29. Also rape and sodomy
Advance Training - Training members how to work with victims of such crime, like showing not to harm the victims' feelings and emotions when taking a statement
- (d) the trainers –they are members of the police force, outsiders, male or female, any experts to provide such training;
Basic and Advance Training - use of police trainers at advanced level
Trainers from NGOs and from abroad used
- (e) since when have these sessions been part of the training programme;
Basic training - since 1990
Advance training - since 1990
- (f) how many officers have undergone this training;
Basic training - 2367
Advance training - 721
- (g) whether participation in this training is compulsory;
Basic training - yes, it is compulsory
Advance training - no, it is voluntary
- (h) whether they have ever been evaluated, and – if an evaluation has taken place – what was the outcome;
Basic training - evaluations are done on members while at the College
Advance training - evaluations are done on members while at the College
- (i) whether any in-service programmes exist; the focus of gender sensitivity, and particularly violence against women and children;
Basic and Advanced training - there is no in-service training

It must however, be mentioned that the first ever Woman and Child Abuse Protection Courses were presented at the Namibian Police Training College from 13 to 24 Jan 1997. The course was totally concerned with the protection of women and children against abuse and was presented by trainers from South African Police Services and local Government and NGO Agencies. 23 members of the Namibian Police attended this course, including our C.I. Unit Instructors.

The only previous training in this regard was done with the establishment of the Woman and Child Abuse Centre in 1993 by a British Advisor.

As regards how best to equip the Police Force to deal with cases of violence against women and children:-

- the current C.I. Unit Instructors at the Namibian Police Training College must present the women and child abuse protection course on a regular basis as the need for trained members exists.
- the Namibian Police will make more use of Local Government and NGO agencies to present gender sensitivity and violence against women and children courses to all members of the Force.

CHAPTER 25

Sgt. A Kahatjipara; Woman and Child Abuse Centre, Namibian Police

Honourable chairperson, ladies and gentlemen,
Good Afternoon

The **Namibian Police** has already done much work, and continues to do a lot with regards to prevention of violence against women and children. It is against this background that I would like to make a few comments to give the panel a view to the real situation in our residential areas especially Katutura.

The **Namibian Police** has already made a contribution towards the prevention of violence against women and children by establishing Woman and Child Protection Units at Katutura hospital, Oshakati and at Keetmanshoop.

Currently we are dealing with the following case:

- Rape/attempted rape
- Incest
- Sodomy (under 18 yrs)
- Abduction
- Indecent Assault
- Assault GBH (Grievous Bodily Harm)
- Common Assault
- Child neglect (Art. 18 of the Child Care Act 33/1960).

GENERAL ENQUIRIES/REFERRALS

- Maintenance
- General problems involving children
- Domestic problems
- Assault/Battering
- Child neglect/Abuse

Allow me to make a brief statement on the role which the Namibian Police is playing. The Namibian Police has realised with the increase of lawlessness or the disrespect of the law and of human life that dealing with those breaching the law becomes more and more difficult. Mainly due to the lack of co-operation from the community. It is clear however that we cannot lower ourselves to the level of criminals to be able to enforce or maintain law and order., in the aim of preventing and stopping violence against women and children.

We also realise that we must do what we have to do, in that we are authorised by the Criminal Procedure Act, to act in manners which are ostensibly in breach of human rights for example the freedom of movement (in cases of rape), the freedom of speech (in cases of reporting of rape cases and testimonials such as these at public hearings).

We are experiencing a tremendous increase in cases of rape especially on children. Complaints by women of violent attacks by their men. It originates from situations such as alcohol and drug abuse, unemployment, overcrowding of houses by families and the biggest "culprits" are traditional believes and behaviours such as sexual abusing of younger girls by older men. Assaulting of married women by their husbands. Prostitution by young schoolgirls due to the lack of money. "Socio-economic" problems can also contribute to sexual abuse such as the presenting of a minor girl to an older man by the parents to gain money. Abuse in the form of denying maintenance to children by fathers. Neglecting of children, abortion and murdering of new born babies, by especially young single ladies and school going teenagers. Deserting of wives by men especially those from the rural areas who come to work in the cities and then find other women.

The Namibian Police being the institution responsible for maintaining law and order has to deal on a daily basis with complaints, victims, suspects, difficult individuals such as rude persons, drunks, etc. Our involvement with violence against women and children therefore is mainly with regard to the

treatment and handling of sexual abuse victims and treatment and handling of information (confidential) obtained in the execution of our duties. We believe in empowering those whom we are dealing with, with the knowledge of their rights, or to further help them from being denied their rights. However we also know that we must always uphold the basics of fundamental human rights to ensure that we are not performing tasks in a socially acceptable manner only, but also to command or instil some form or respect and admiration in the eyes of both the law breakers and the law abiding citizens.

With a thorough consideration of the above, it is our mission and common mode of operation to deal with all reported cases, immediately, decisively and as professionally as we can.

To this end, complainants are interviewed at the earliest opportunity. Severely distressed victims are comforted. Injured victims are given prompt medical attention and both short term and long term counselling are availed to victims by professionals from the Ministry of Health and Social Services. In addition to the above, all possible attempts are made to apprehend the culprits at the earliest opportunity and to ensure a proper investigation which includes the collection of all physical evidence.

The Centres are also engaged in attempts to oppose bail for suspects especially when these suspects are known to the Centres as having previous convictions. In order to spread the word (that it is wrong to be sexually abused and to be denied rights) we aim to conduct Education Programmes through radio talks and community meetings.

In conclusion the Namibian Police fully support the already set out plan of action such as the Multi-Media Campaign on Violence against Women and Children and these public hearings and hereby commits to avail itself, in co-ordination with all other concerned ministries, agencies and non governmental organisations for the purpose of all actions and activities which are relevant to violence against women and children.

CHAPTER 26

Ms D Roos; Legal Assistance Centre (LAC)

1. BACKGROUND AND HISTORY

In modern society it is a general phenomena that an increasing number of children find themselves in trouble with the law. Namibia is no exception. The causes for children's involvement in the criminal justice process differ from country to country. In a developing country like Namibia the socio-economic circumstances play an important role in juvenile delinquency. These circumstances include the political history, poverty, poor and unequal access to education and inadequate social services. The youth is the least able to support themselves and is often the victim of critical poverty. Namibia today must face the challenge of providing viable solutions for the problems of juveniles who come into conflict with the law.

The Juvenile Justice Forum was established in June 1994, after a national workshop on children's rights, where delegates had expressed their frustration at the lack of juvenile justice in Namibia. Members of the forum include representatives from the Ministries of Health and Social Services, Justice, Youth and Sport, Home affairs, Education and Culture, and Regional and Local Government and Housing, as well as representatives from the LAC.

This forum started to address the urgent issue of the lack of juvenile justice in Namibia. In 1994, a research paper: "A study of young offenders in Namibia" was conducted and compiled by the Prisons Service, the LAC, and the Ministry of Youth and Sport. This study specifically focussed on people aged 21 years and below, who were already convicted and were serving prison sentences. This survey revealed some disturbing statistics: Ninety-three percent of the sample had been sentenced to a term of imprisonment without any legal representation whatsoever and almost half had appeared in court without their parents or guardians being present. Sixty percent of all the offenders came from low-income families. Pre-trial detention was the norm. The respondents were in constant contact with adult prisoners, at times sharing the same cell. Many stated that they had been sexually, physically and emotionally abused by adult prisoners. Apart from this, they received virtually no counselling from prison social workers.

2. CURRENT LEGAL STATUS OF CHILDREN IN NAMIBIA

There are three acts pertaining to children and the criminal justice system:

- i. Criminal Procedure Act 51 of 1977
- ii. Children's Act 33 of 1960
- iii. Prisons Act 8 of 1959

These acts stem from pre-independence legislation inherited from the then apartheid South Africa.

There is no properly developed juvenile justice system under Namibian Law. Children who are involved in crime are treated in principal the same as adults. There is no separate Criminal Procedure Act for children. There are however several law articles which are specifically applicable to children.

There are conflictual legal definitions for the term "juvenile" which are currently on the statute books. In terms of the Criminal Procedure Act and the Children's Act the term "juvenile" means a person under the age of 18 years. According to the Prison's Act, however, a "juvenile" is a person under the age of 21 years. This creates practical problems when children are held in prison as it results in youths of vastly different ages being held together in the same cells.

i) The Criminal Capacity of children

Criminal capacity is an important issue with regard to juveniles. Children under the age of seven years are said to be *doli incapax*. This is an irrefutable legal presumption which declares that no child under the age of seven years is capable of forming the intention to commit a crime. These children therefore cannot be charged with a crime. It is important to note that in Namibia the minimum age under which no child may be criminally charged is seven, while in

some American states it is eight, in England it is ten and in West Germany it is 14 years (Wessels, 1994:11).

A child over the age of seven years, but under the age of 14 is presumed to lack criminal capacity until the contrary is proved. That means that a child between seven and fourteen is also presumed to be *doli incapax*, but here the presumption can be rebutted by the State if the prosecution can show that the child could distinguish between right and wrong and also that he/she knew that the act was wrongful at the time and in the circumstances in which it was committed. Although the law requires this proof of criminal capacity in the case of under 14 year olds, in practice this requirement is not always complied with, particularly in cases where the accused is undefended. From the age of fourteen a child's criminal capacity is judged just as an adult's, and the child must take full responsibility for the crime he/she has committed.

Although the prosecution would be able to prove that the child knew the difference between right and wrong by leading evidence based on questions like "Did you teach your child the difference between right and wrong?" a question to which few mothers or fathers will reply in the negative, there are other factors which play a role in a prosecution policy. These factors include: the seriousness of the crime, the child's personal and social circumstances, the community and victim's attitude, the consequences of the child's involvement in the formal legal process and the consequences of a criminal record. There has been criticism against the fact that certain young children have been charged in criminal cases.

ii) **Children and the pre-trial phase**

After a juvenile has been arrested on a criminal charge various legal options can be exercised. The police may hold the suspect for 48 hours after which time the child must be brought before a court or released. In terms of section 50(4) of the Criminal Procedure Act.

Recommendations are that:

At the centre of any reform effort involving juvenile justice, the rights and special needs of the child must be of primary concern. In this regard the fact that the Government of Namibia has signed and ratified the United Nations Convention on the Rights of the Child should be emphasised.

With the courts being overloaded, serious offenders are not given the necessary attention to halt their journey of destruction. It is therefore imperative that the criminal justice system be streamlined to deal effectively with youth in trouble with the law, and that effective strategies to handle young offenders be adopted.

A juvenile justice system should acknowledge and take into account the circumstances of the young offender in a holistic and empathetic way. The criminal justice system as guardian of an orderly society has an obligation to the younger generation to recognise their age and the extremely difficult circumstances in which they are growing up. The shift from retributive to restorative justice is urgent: young offenders need to learn to take responsibility for their actions, repair the damage and move on to take their rightful places in civil society.

Social workers from the Ministry of Health and Social Services should be based at the various Magistrate's courts in Namibia. There they can advocate more and specialise in the concept of juvenile justice. The social workers assigned to the courts must have the authority to request pre-sentence reports.

The law should make specific provision for social worker reports to ensure that courts take them into account.

3. **CHILDREN AWAITING TRIAL**

Police Cells

Laws

Police Cells may be used as places of safety for children who are awaiting trial if there are no other suitable places. Section 29(1) of the Prison's Act No. 8 of 1959 provides that an accused under 18 shall before his conviction not be detained in prison or a police cell or locked up unless his detention is necessary and no suitable place of safety is available. Section 29 (3) Act 8/1959 provides that an accused who is under 18 is detained in a prison, police cell or lock-up may not

associate with a person over the age of 21 who is in custody.

Children are held in police cells with adult prisoners. The Regional Commissioner of Police for Mariental stated that lack of space prevents the placing of juveniles in cells of their own. Inspector Pool stated that Windhoek Police cells are 150% overpopulated; Katutura is 75% overpopulated and Wanaheda is 95% overpopulated. To keep children separated from adults under these circumstances is a huge problem. He also stated that while the police try to keep juveniles separate from adults, this is not always done because of overcrowding and discipline problems. When juveniles started fighting amongst themselves in Oshakati prison they were spread out among the adults. Several child detainees stated in sworn statements that they were sodomised and physically abused by adult detainees in Oshakati police cells.

Problem areas:

Police state that they often cannot find the parents of children who have been arrested. That is why children are awaiting trial and not released into the care of their parents. As there are no Places of Safety in Namibia they await trial in police cells. Sometimes parents refuse to take responsibility for their children who had been arrested because they are both working and can not take control of their children.

4. INSTITUTIONALISED CHILDREN

Prisons:

It is absolutely impossible to have one prison in Namibia for all juveniles. Only one prison for juveniles will restrict family visits and will make reintegration with the family and community after release more difficult. However, it is difficult to separate juveniles from adults as prisons had not been built in such a way that special wings can be allocated to juveniles. Children just cannot cope in prison. They often perpetrate violence against each other, e.g. rape. Some juvenile prisoners who were interviewed while in custody at the WCP, said they were sexually, physically and emotionally abused by adult prisoners who, at times, share cells with them in the overcrowded prisons. There is a lack of social workers who deliver services in prison. The training of wardens also seem to be a problem. Nothing in the law compels Magistrates to request pre-sentence reports and this is done in the minority of cases.

Recommended that:

The new Children's Act could provide that a Child Welfare Advisory Council has the responsibility of monitoring the situation of children in prisons. A legal framework is needed to implement these measures. In this regard the Prisons Act also needs amending.

The process of removing children from prisons and finding alternatives to prison for children should be speeded up.

Juveniles and adults must be separated in prisons.

Diversions must be found and a structure must be put in place for dealing with juveniles currently imprisoned.

5. DIVERSION

Current legal situation

Pre-trial

Legislation will have to be tabled in order to implement diversion programmes from the point of arrest. (Although a prosecutor has the discretion to withdraw a case?)

Sentencing

No laws need to be changed in using diversionary programmes as alternative sentencing options since the Criminal procedure Act (Section 297) states that a Magistrate can make any order in terms of sentence.

Recommendations concerning diversions

The criminal justice system should be the last resort for dealing with young offenders in the long term. Innovative alternatives to the system must be incorporated into the operations of the judiciary and police force. Parents, teachers, community leaders, victims and young people must play crucial roles in the decision-making process. Diversion from the criminal justice system should occur on

three levels:

- (a) Diversion from arrest and awaiting trial detention. This would mean in the first instance settling disputes between victim and offenders so that referral to the police becomes superfluous. Secondly, avoiding detention by immediately linking up with family members or guardians of the youth concerned.
- b) Diversion from court procedures by linking juveniles into specially designed young offender programmes, such as those run by NICRO in South Africa, and other dispute resolution programmes.
- c) Diversion from prison sentences in the form of community-based alternative sentencing options.

Dispute settlement is part of traditional law in Namibia and contact should be made with headmen when looking for alternatives to the formal criminal justice system.

Public education on juvenile justice and diversion is crucial.

In conclusion I would say that children that are in conflict with the law are children that are in need of care. Because of their circumstances they are involved in criminal activities. They are of the most vulnerable members of the society. LAC is working on a case of sodomy abuse outside cells as well as inside cells.

CHAPTER 27

Mr J W Nyoka; Deputy Commissioner of Prisons and Correctional Services

INTRODUCTION

The Namibian Prisons and Correctional Services as an instrument of the criminal justice system is committed to the protection of law abiding citizen from criminal elements. This is effectively managed through the incarceration and rehabilitation of offenders for their eventual re-integration into society while exercising reasonable safe, secure and humane control.

It is generally accepted in prison culture, when a person is sentenced to imprisonment, that person is deprived of some of his or her rights and it is expected that the prison authorities will not permit that person to obtain his or her liberty illegally by escaping. It is also widely expected that prisoners have to obey all instructions during the term of their imprisonment. Frequent incidents like escapes, riots, hunger strikes and maltreatment in the prison system give a bad impression to the public, therefore control must be maintained.

To effectively run any prison system, the balance of security, control and treatment of offenders must be maintained. This balance is achieved by offering proper care and control towards every type of inmates which include children and woman prisoners. Failure will only result in tense situation between prisoners and prison authorities.

The prison population country-wide as at 30.04.97 was 3301 and out of this 88 are women while 27% are children. Therefore women and young offenders are a minority group in the prisons. Prisons as recipient of criminal offenders do receive young offenders and women who have also been involved in cases of violence against and abuse of women and children. For example, in a study conducted by the UNICEF on Namibia's young offenders in 1994, it was revealed that 60% of the offences were classified as economic crimes and followed by rape 17%, assault 19%, while murder was 9%.

But the recent figures taken at Windhoek Central Prison, of the sampling of 26 female prisoners, 11 of them were involved in crimes of a violent nature which included murder, sexual harassment and assault. Similarly at Hardap Prison, 86 juveniles were singled out to have been involved in violence and rape cases.

Our concern in the Ministry of Prisons and Correctional Services, in particular the Prisons Service, is to stop this offensive behaviour by rehabilitation, especially in this aspect of violence against and abuse of women and children.

TREATMENT OF YOUNG OFFENDERS (JUVENILES)

In terms of Prison Act No. 8 of 1959, a juvenile is a person under the age of 21, whereas The Criminal Procedure Act No. 51 of 1977, a juvenile is defined as a person under the age of 18. In the Children's Act, a juvenile is defined as a person under 18 years of age and for certain purposes under 21 years of age. This inconsistency in interpretation of a juvenile poses some administrative problems when it comes to treatment of such prisoners in prison in terms of their training, classification and segregation.

The age limit is a very important factor in differentiating between a young offender and a juvenile. Borderline cases have always been a problem in separating young offenders from juveniles. Think of a juvenile of 16 years to be mixed with that one of 21 years old! In this respect, 18 years and under, may conveniently be classified as juveniles, while 19 years up to 21 could be classified as young offenders.

Due to non-existence of alternative measures to the imprisonment of juveniles, most of them find their way into prison prematurely. Imprisonment of juveniles should be the last resort and an option for the most persistent, serious and dangerous offender on the understanding that the public needs to be protected, even from a 15 year old youth who is capable of committing serious crime.

The problem we are faced with within the country is the non-existence of the relevant infrastructure to

deal with juveniles. For instance, clause 290 of the Criminal Procedure Act directs that:-
Any court in which a person under the age of 18 years is convicted of any offence may instead of imposing punishment upon him or her for that offence

- (a) *order that he be placed under supervision of a probation officer, or*
- (b) *order that he or she be placed in custody of a suitable person designated in the order; or*
- (c) *deal with him or her both in terms of para (a) and (b) or*
- (d) *order that he or she be sent to a reform school as defined in Sect. 1 of the Children Act, 1960 (Act No. 33 of 1960)*

Short of these infrastructures which could minimise the inflow of juveniles in the prisons, the population of juveniles in the prisons is soaring up to the extent of making difficult their proper separation from adult prisoners. Last year, 1996, the total admission of juveniles in custody was 1954.

At Hardap Prison where special programmes for juveniles are being carried out, the total number of juveniles on 28.04.97 was 156 and the breakdown in terms of crime and sentence is as follow:-

| | | |
|----------------|--|------------|
| <u>Crime:</u> | | |
| Rape | | 76 |
| Murder | | 11 |
| C/homicide | | 4 |
| House breaking | | 64 |
| Robbery | | 10 |
| Others | | 11 |
| Total | | 278 |

| | | |
|------------------|---|-------------|
| <u>Sentence:</u> | | |
| Under 6 months | | 6 |
| 6 months. | - | 2 years 41 |
| 2 yrs. | - | 5 years 57 |
| 5 yrs. | - | 10 years 47 |
| Over 10 years | | 6 |
| Total | | 156 |

Our programmes for juveniles are geared to fighting recidivism. Custodial imprisonment of juveniles is quite likely to confirm them as criminals since they are poised to acquire new skills from more sophisticated offenders. Young offenders should be placed in an environment that will facilitate rehabilitation and the making of a positive contribution to the community.

With the assistance of the *Bridge*, an NGO, the Hardap Prison's juveniles are exposed to various programmes that are aimed at reshaping these young offenders into becoming law-abiding citizens. The programmes include life skills, literacy education, art classes, teaching, reading and writing skills offering one-on-one counselling and family support. A well established library service is also available. In addition the *Bridge* runs a half-way house programme where released prisoners can stay while they make plans to return home.

The Elizabeth Nepemba Centre near Rundu has been earmarked for the construction of a modern juvenile centre with the necessary infrastructure.

WOMAN PRISONERS

Women prisoners are another minority group in the Namibian Prison Service. There is only one women's prison, at Windhoek Central Prison, fully managed by women staff while in other prisons there are areas separated for female prisoners under the same administration but looked after by women members.

Concerning women prisoner's treatment, particular attention is paid towards their proper care and control, to ensure that they are adequately prepared for their eventual return to the community as law abiding citizens and socially productive members of the society.

For the purpose of vocational training, convicted women prisoners are taught skills such as tailoring, handcraft, laundry work etc. In a bid to overcome boredom, a wide variety of facilities are provided for woman prisoners to engage themselves in recreational activities including games, watching TV

programmes etc.

Spiritual counselling is also being done as it is part of the transformation of a human being and plays a major role in spiritual rehabilitation of prisoners. Care is also further extended to prisoner's children. In this respect women are allowed to keep their young children who still dependent on them.

FUTURE PLANS

Currently, we are faced with the problem of overcrowding of young offenders in our institutions. The situation of overcrowding exerts negative effects upon prison administration such as straining existing physical facilities such as living space, kitchens, bathrooms as well as undermining the level of security.

In order to deal effectively with young offenders, offering them proper training and separating them from adult prisoners, the Elizabeth Nepemba Centre has been selected to be the home for juveniles. The institution expected to accommodate 500 youths will provide the necessary training for the juveniles, with the co-operation of other line Ministries and NGOs.

This is seen as a solution to the accusation raised by the report of UNICEF that 31% of the juveniles interviewed confirmed that, they had been abused sexually, physically and emotionally by adult prisoners incarcerated with them.

Family ties are very important in catalysing the rehabilitation process of these young ones. However concentrating them in one centre may appear to deny them from such a privilege.

The silver lining in this approach is that, by them being together is a guarantee of their being separated from adult offenders, as well as making it easier for them to get quality training involving professionals who will be posted at such a place.

Female prisoners are a minority. The issue of building a special prison for them at the present time is out. May be there is a psychological problem surrounding those women who come to prisons with their infants. The stigma which builds in the child while in prison grows on to the detriment of the child's future.

However, in order to make these vulnerable groups aware of their rights, and also aware of not infringing other peoples rights by committing such offences that brought them to prison, including these involving violence against and abuse of women and children, concerted efforts will be made to educate and re-educate them on their rights, and of course on social ethics.

CONCLUSION

Care and control form an integral part in the treatment of any prisoners. And it is through care and control that much of the training exposure, and humane treatment of offenders are being prioritised to achieve the desired goals. Only by these means can prisoners in general and minority groups of prisoners, in particular women and children, who are being deprived of their freedom could be brought on par with other free citizens and be educated to respect the rights of women and children to freedom from violence and abuse.

CHAPTER 28

Ms A W Kruger; Director, Life Line/Childline Namibia

THE ROLE OF THE LAY COUNSELLOR IN THE COMBATING OF VIOLENCE AGAINST WOMEN AND CHILDREN

I remember so well when, as a young social worker I wanted to report a case of serious child abuse to the police in the Eastern Cape Town of Queenstown! This followed the mother's plea for help at the same police station, without any support. The police would not take a statement. The father, who was drinking regularly and heavily at the time, used to throw his young child against the wall. This happened by repetition. Both the mother and me were afraid of skull fractures and possible brain damage. The police's reason for not taking a statement - they first needed a medical report before taking a statement. Ironically so, the process of attending to a case of child abuse starts at the police station and not at the medical doctor. It is the function of the court to prove child abuse; a medical certificate is merely supporting evidence.

Still when I think back today, I believe that the ignorance or lack of co-operation that I experienced that day, was merely due to a lack of understanding of the serious effects of child abuse on the child psychically, mentally but not in the least emotionally.

But I do not want to keep you busy with long stories. I wish to highlight the role of the lay counsellor in the combating of violence against women and children.

When I mention the word lay counsellor, I refer to a person well trained to handle crisis counselling. This service is supportive of professional counselling by social workers and psychologists and should never refer to long term intervention. The service in different countries provided by Life Line/Childline is community based. No counsellor receive any remuneration.

Thinking of violence as prevalent in Namibia, I wish to quote some statistics from our last year being 1 April 1996 to 31 March 1997 and then compare it to some statistics of previous years.

| | 1995/96 | 1996/97 |
|-------------------------|---------|---------|
| VIOLENCE | % | % |
| Child Abuse | 1,7 | 1,6 |
| Sexual Abuse (children) | 0,5 | 0,9 |
| Partner Abuse | 0,6 | 0,9 |
| Rape | 0,5 | 0,9 |
| Violence general | 0,8 | 1,0 |
| VIOLENCE TOTAL | 4,0 | 5,1 |

RELATIONSHIP CATEGORY WHICH MAY INCLUDE INCIDENCES OF VIOLENCE

| | | |
|--|------|------|
| Divorce/Separation/Marital | 11,9 | 8,5 |
| Family | 6,1 | 9,7 |
| RELATIONSHIP TOTAL (regarding violence) | 18,0 | 18,2 |

ALCOHOL & DRUG ABUSE CATEGORY WHICH MAY INCLUDE INCIDENCES OF VIOLENCE

| | | |
|-------------------|-----|------|
| Alcohol and Drugs | 9,9 | 12,3 |
|-------------------|-----|------|

I wish to mention that the category for all substance abuse calculated 5.6% and 5.7% respectively in the 1993/94 and 1994/95 years. It confirms a continued increase in alcohol and drug abuse.

A marked increase of calls relating to sexual abuse of children and partner abuse was picked up. It is

important to note that boys are evenly vulnerable to sexual abuse as girls.

These statistics I believe are only the tip of the iceberg! I am sure that once we start with prevention programmes in schools, these figures will tumble.

Coming back to the role of the lay counsellor, I wish to stress what is to be expected from a typical counselling session:

- The caller will be allowed to feel at ease with the fact that he called Life Line/Childline and that he may talk about his problem - his immediate emotions will be attended to.
- He/she will be listened to and encouraged to open up;
- He/she will be guided to gain insight in his/her own reaction; which might be a normal reaction to what happened to him/her. The absence of emotions will also be attended to;
- Different counselling skills will hereafter be used to support/help/guide a caller to reach a point of considering certain options and decide what to do about his/her situation.

IT IS IMPORTANT TO STRESS THAT COUNSELLING IS NOT A PROCESS OF GIVING ADVICE. IT IS RATHER A PROCESS OF EMPOWERING THE CALLER/CLIENT TO TAKE CHARGE OF HIS/HER OWN SITUATION.

People who went through serious traumas can become emotionally ill or even psychotic if the problem is not attended to through counselling, when needed...

I am of the conviction that cases of violence within the family, within relationships or against women and children in general, should start receiving attention in the counselling room and end in court. Through such a process, lay counsellors, legal officials and the community in general, will become partners in combating violence against women and children.

I thank you.

NAME OF ORGANISATION

1. Life Line/Childline Namibia
P O Box 5477
Ausspannplatz
Namibia
Tel/Fax 061-226889
45 Bismarck Street
2. Welfare Organisation
(Services based on voluntary available trained counsellors and members)
3. Provision of lay telephone counselling service – 15 hours per day 8h00 – 23h00.
Training of members of the community in counselling skills and matters of personal growth.
Fundraising to support our aims.
4. Registered as welfare organisation at the Ministry of Health and Social Services.
5. Affiliated with Life Line Southern Africa (Head Office Johannesburg) and Life Line International.
Life Line International exists since 1963.
Life Line Namibia exists since 1980.
Childline exists since 1989. In-active 1994 to 1996. Amalgamated with Life Line – July 199...
6. No outreach centres in rural areas yet. Presently activating and motivating outreach centres in Rundu, Katima Mulilo and Rehoboth. (Drop-in face to face counselling centres)
23 Centres in total in Southern Africa. Mauritius may join soon. All other centres in Southern Africa.
7. Our board manage our organisation.
Elected by members.
Voluntary based.
8. Office bearers
Director: part-time position 60 hours per month
Secretary/Administrator: 20 hours per month, part-time
Bookkeeper: 5 hours per month, part-time
Assistant to the Director: Full-time position. Assistance with PR/Fundraising. General admin and certain aspects of training and counselling.
9. Individuals (membership fee)
Training compulsory to become a member.
10. Office bearers salaried personnel. 100% reliable on donations/sponsorship and fundraising.
Volunteers not paid – personnel also volunteer.
Budget for one year.
Approximately N\$140 000 to N\$180 000.
Our services depend on the funds. Up to now our services had been seriously hampered by the lack of salaried personnel.

CHAPTER 29

Ms P H Coetzee; Deputy Director, Professional Social Services, Directorate of Social Services, Ministry of Health and Social Services

Madam Chairperson

Allow me first of all to congratulate you and all involved in undertaking this very essential task of collecting information on the extent of violence against women and children in such a determined way as well as challenging the nation to come up with proposals on how to address this scourge that is eating at the very roots of our society. Personally, I always find great meaning and encouragement in the saying: "To understand is to 'stand under' which is to 'to look up', which is a good way to understand". My particular congratulations go to the many brave women who were or are victims of abuse and violence who came forward to testify at the hearings.

It is an unchallenged fact that violence, in its many manifestations, is a growing threat to the security of individuals, families and communities everywhere. Our vision should be that the 1990's shall be remembered as the time when the human race returned to basic human rights and the welfare of all human beings in comparison with its previous occupation with industrial growth, technical inventions and political conflicts.

There are certain basic needs of human beings that are well known, e.g. Physical Needs, Safety, Love and Belonging, Self-Respect and Personal Growth. We all need each of the things mentioned but some may, at different stages of our being, be more important than others. By way of example, if you are hungry and thirsty, it may be difficult to concentrate on anything else. Similarly, if you are frightened because your safety is being threatened, it will preoccupy your mind. Once we feel reasonably safe and secure, we begin to consider how we can ensure that we really are loved and have a place in the community where we feel we belong. Our sense of self respect and personal dignity depends on a sense of love and belonging, but also on a sense of independence, of confidence that we are making a worthwhile contribution in the world. And, once all these needs are met, it is normal to want to develop all the talents and possibilities that are hidden within us. It is the same the other way around.

I am offering this rather simplistic but nevertheless true analysis to underline the importance of addressing this threat to women and children's safety and the impact it will have on our national and personal development if we are not tackling it at the root causes.

Madam Chairperson

From the statistics and information submitted by the directorate which I am representing, you will notice that there is remarkable increase in cases reported to social workers countrywide over the period 1994 to 1996. For instance, the number of cases of domestic violence reported to us during 1994 were 173, in 1995 we had 283 and in 1996, 394 cases. It is important that when one looks at these statistics, one should bear in mind the many limitations and constraints under which we are operating, e.g. the fact that at any given time since Independence, we had less than 100 operational level social workers for the whole country with the higher concentration in the central and southern parts of the country. Also, the funds allocated to us all along, only cover statutory obligations such as social pensions, salaries and a little bit of administrative costs.

On the question of what we are doing to prevent and control the spread of violence against women and children, I will briefly mention the following as examples:

- training of social workers, both in terms of sensitising our staff as well as equipping them with the skills to work with the survivor through the trauma and to deal with the offender
- rehabilitative interventions with the offenders
- statutory interventions in terms of the Children's Act whereby we are mandated to remove children whose safety is being threatened, arrange alternative care and render reconstruction services with the family
- civic education e.g. through STOP programme, teacher awareness campaign, talks at gatherings of

- organisations, church groups, etc.
- involvement in Women and Child Protection Units

These are but a few of the initiatives already in place—details can be found in our submission.

Also, and very importantly, our directorate has teamed up with UNICEF and other partners, both governmental and non-governmental, to develop a five year programme (1997-2001) on the Mobilisation of Children's and Women's Rights. The programme consists of two main projects namely:

1. Children and women in especially difficult circumstances
2. Advocacy and social mobilisation for children and women rights

These projects have various sub- projects e.g. the Juvenile Justice project, which are outlined in the programme document available from UNICEF or us.

In addition, we are busy formulating a National Social Welfare Policy which will direct and guide the social welfare sector. The protection of Women and Children's rights and the creation of an enabling environment for the growth and well-being of the vulnerable people in our society will be prominent features of the envisaged policy.

Madam Chairperson

The impact of our efforts will be minimal unless we also address the socio-economic position of women and children in particular and our society in general. As long as women and children are subjected to harsh poverty with little alternatives, they will remain victims and cases against offenders will continue to be withdrawn because basic survival needs will prompt such actions. As long as the status of women and children are that of second class citizens and their contributions, now and in future, are not fully recognised, they will remain objects of our interventions and projects. I can go on like this because the list is endless but I want to mention also that, whilst addressing this evil, we need to take a close look at what is it that makes men, who have been identified as the main culprits, to behave in such a way. Many answers were no doubt offered already, but I want to mention one that is not talked about a lot and that is the *dis-empowerment* of men through a shift in the traditional role of hunter, gatherer, provider, protector to that of an equal partner in a society which is slowly becoming aware of the contribution of women and the role of children. Like Martin Luther King Jnr said in his letter from Birmingham City Jail, "History is the long and tragic story of the fact that privileged groups do not give up their privileges voluntarily".

Nobody is born evil and while we cannot condone the actions, we can neither condemn the person. The perpetrators of violence against women and children have equally become victims and enemies of themselves and the society which has created them. We should therefore not address this problem in complete isolation but also find ways of ensuring a smooth transition for men from their stereotype, traditional and conditioned roles to that of an equal partner in the family, community and society at large. Men's total well-being, their sense of pride and purpose need to be restored which will assist in empowering them to handle the new challenges of our changing world without compromising the rights of women and children.

There is no set formula for *empowerment*. It is a dynamic process that can happen in several ways. However, there are some constants. Empowerment is at once a personal and a group process. It is part of a process of building collective self-confidence. This is needed for people to shed the feelings of powerlessness and resignation which result, at least in part, from the lack of skills and confidence required to change their condition. Frequently this confidence is forged in a common struggle - whether it be against gender or ethnic oppression, economic exploitation, political repression, or foreign intervention. ("Questioning the Solution: The Politics of Primary Health Care and Child Survival", Werner and Sanders, 1997)

While structures and institutions may help a great deal in addressing the symptoms, our challenge is to educate and support all people to be sensible and responsible from the cradle to the grave. The need to foster a culture of care among all our people has been realised by the Namibian government, although I do not know what happened to the implementation of the Culture of Care policy which was initiated by and placed under the auspices of the previous Ministry of Education.

Where do we, as a nation, go from here - some recommendations:

1. Provide in-depth training to a cadre of committed individuals from all walks of life who in turn will provide the **Training of Trainers** along **uniform guidelines** for different sectors of our society. The issue at stake is too crucial to deal with in an uncoordinated and ad-hoc manner.
2. Embark upon an intensified **Awareness Raising Campaign** about the dangers of violence against and abuse of women and children in the family, the nation and in development generally. Such campaign should be conducted in an innovative and consumer-friendly way to reach the targets and make maximum impact.
3. Increase the **availability and scope of therapeutic services** for offenders and their victims as well as **increasing the capacity of professionals** to deal with such cases through training and logistical support.
4. Provide **appropriate and able professional and institutional support** for the victims of violence and abuse in order for them to **rebuild their lives**. The community should be sensitised to make available their homes as "Places of Safety" since it is neither appropriate nor feasible nor cost effective to create institutions (shelters) country wide although it cannot be ruled out as necessary in some instances. In addition to Places of Safety or Refuge, consideration should be given to "Places of Healing" which will allow severely traumatised victims to withdraw temporarily from society for assistance and guidance to "pick up the pieces" of their shattered lives and those of their loved ones.
5. Improve **co-ordination of services and resources** among service providers, both governmental and non-governmental.
6. Review the approach and services of **Women and Child Protection Units** and any other institutions, services and interventions from time to time to ensure effectiveness, appropriateness and equity.
7. Revive the **Culture of Care programme** which should also address the issue of men's physical, mental and emotional health and well-being.
8. **Consolidate gains** already made and continuous **evaluation** of existing programmes e.g. Juvenile Justice Forum, Programme for released convicts, etc.
9. Introduce policies and measures to **control the availability, consumption and abuse of intoxicating substances** through higher prices, taxes and awareness programmes.
10. Active promotion of a **healthy life style** from a young age throughout life and the creation of places for **healthy and affordable entertainment and recreation**. (A "Braai and Beer" should not be the first and only option for entertainment!) Even town/city planners must be sensitised to become "family-friendly" by making available space and facilities for free or affordable recreation.
11. Stem the tide of rural-urban migration and subsequent unemployment, homelessness, etc. through **rural development** which has to be done with the full participation of the people concerned.

These are by no means all that need and can be done but, together with other recommendations already submitted to this forum, may assist us in setting the stage in our endeavour to reach a shared vision of well-being for the people of this country.

In conclusion, Madam Chairperson, I want to reiterate my appreciation for the initiative taken in calling these hearings on violence against women and children and, on behalf of the Directorate of Social Services/MOHSS, pledge our support and willingness to explore with all involved possible solutions and actions.

I also want to use this opportunity to acknowledge with much appreciation the efforts and contributions of social- and welfare workers throughout the country who tirelessly and with minimal support, continue to reach out to those in distress and prevent others from falling prey. As we are working with families, community groups and organisations, it is very often expected of social workers to work after official working hours and over weekends, often using their private vehicles. This they do without any additional remuneration and with much dedication.

I thank you.

CHAPTER 30

Mrs M Oliphant; Woman and Child Abuse Centre

On behalf of the Social Service Staff at the Unit I would like to thank you for the opportunity to give an input in the National Hearing.

I would like to address 2 issues that in our opinion hampers the effective functioning of the Units:

- (i) Judiciary system
- (ii) The operational functioning of Units

I. JUDICIARY SYSTEM

- i. It is felt that there is a dire need to change the appalling situation for sexually abused children in court. Existing legislation should be enforced to the fullest and outdated laws should be updated and replaced e.g. Rape is defined as "the unlawful sexual intercourse with a woman without her consent".

We also feel that the Child Care and Protection Bill should be presented to Parliament as soon as possible.
- ii. In cases where a child victim appears in court she is treated like an adult through questioning by the lawyer of the accused. The atmosphere and environment is far from victim friendly. To say the least it paints a very bleak picture!. Approximately a month ago an 8 year old child was questioned for almost two hours. This ordeal would have continued if the little girl did not ask the prosecution if she could have something to eat as she was hungry and tired.
- iii. One of the roles of the Social Workers is, amongst others, to investigate, compile and submit a professional report to the court regarding the child victim of abuse. However these reports are never requested and in most cases where it is compiled and submitted, it is ignored. Sometimes the Social Worker is requested to leave the courtroom. It should be a standing procedure that a report from the Social Worker who handles the case be requested and recognised, especially where minors are involved.
- iv. Social Workers and others e.g. psychologists, teachers, childcare workers should be trained as intermediators in court when a child witness gives evidence. When evidence is led through the intermediary system the child will feel safe in a friendly environment. Provision should therefore be made for a special court manned by people who are trained in dealing with sexual abuse cases. At least two full-time prosecutors should be assigned to this court.
- v. The ideal situation would be to take the child out of the courtroom into another room next or close to the courtroom. Here a camera system could be introduced with the use of a Television and Video as well as the intermediary. This person will of course speak the language of the child. Through the use of fitted electronic equipment the child witness will be isolated from the criminal courtroom where the accused appears. Evidence is then led through the intermediary system. To adhere to the principle of the rights of the accused, he can hear the evidence of the child clearly but does not see the witness, while the witness also does not see the accused and is not directly questioned by the prosecutor or the counsel for the defence. Another option is the use of the one way mirror.
- vi. The staff also experience that few prosecutors at Magistrates Courts will take time to talk to the child before the court proceedings where as in the regional and High Court it is done regularly. The postponement of court cases unfortunately result in many perpetrators walking away scot-free as young children forget factual issues and thereby afford the lawyers a field day in court. It is also felt that reporting of abuse and violence against women and children should be made mandatory as many people simply refuse to be involved. An issue of great concern to the staff of this Unit is the fact that victims of sexual and other abuses have to share a waiting room with the accused. Sometimes waiting for a whole day - very intimidating for

the victim!

II. OPERATIONAL FUNCTIONING OF UNITS

- i. The appointment of a National Co-ordinator is at this point in time of vital importance. This is to ensure uniformity and co-ordination of services at various Units. It will also ensure that the issues of women and children receive the highest priority in the country.
- ii. NAMPOL should make clear decisions about the terms of Reference of all the Units in the country e.g. regarding domestic violence.
- iii. The aim of the Woman and Child Protection Unit is to provide a multi-disciplinary approach towards women and children who have suffered violence, sexual and physical abuse. It was also envisaged that all the professionals involved would be based at the Unit. This is not happening. At this point in time victims have no access to a school psychologist. At the inception of the Windhoek Unit the school psychologist of the Ministry of Basic Education and Culture was part of the team and made a valuable contribution towards the services rendered. However, since the beginning of 1997 these services were withdrawn. A letter in this regard was written by the management of the Unit to the Honourable Minister and we are awaiting response.
- iv. Lastly we regard the ongoing training and sensitising of all personnel of all the Units in the country as well as the general police, social workers and others of the utmost importance.

CHAPTER 31

Mrs O G Abrahams; The Namibian Women's Association

BACKGROUND

The Namibian Women's Association (NAWA) was established in 1979 with the aim of fighting for equal rights for women. Its initial membership consisted largely of female teachers who were extremely dissatisfied with their conditions of service vis-à-vis paid maternity leave etc. The existing Women's Leagues of political parties, it was felt, were not in a position to fight for the equality of women since the leadership of all political parties were male dominated as they still are today. Although NAWA is a small organisation, its birth represents a significant step in the struggle for the emancipation of women as it was the first body established by women, for women of women.

At its inception, the organisation engendered a barrage of opposition and ridicule, especially from men within some political parties, who no doubt understood the potential threat that an all woman's organisation posed. Even women actively worked against the fledgling organisation.

In order to prevent the destruction of the organisation, the Executive decided to engage in community projects until conditions became favourable for mobilisation of women by women. Due to its composition it was no wonder that the NAWA projects at the time, were all concerned with the education of the colonised people of South West Africa. In the early eighties, NAWA conducted some elementary research into the education of Sub A and B children in Katutura. It was confirmed that about 96% of children (at the end of the first and second years of school) could not even read their own languages, in spite of the fact that the children concerned were quite normal (not dyslexic or unintelligent).

With financial support from Misereor in Germany, NAWA launched the first remedial teaching project in Katutura at Betel Primary School in 1983 for children in Sub A and B. The results were so encouraging that NAWA decided to look into the poor results of Black students in standard Eight and Ten. Aided by the South African Council of Higher Education (Sached), who not only provided material but also seconded their teachers to the project, NAWA introduced vacation schools for such students in Mathematics, Science and English.

The students subsequently reported that the vacation school made a real difference to their results and on the insistence of pupils, especially from Martin Luther High School that NAWA should open a Secondary School, the organisation took up the issue with its sister organisation, the Khomasdal Civic Organisation which established the JAKOB MARENGO TUTORIAL COLLEGE in January, 1985. The school now has about 440 Learners.

The decision to hand over the project to the Civic was promoted by the realisation that NAWA was moving further and further away from its prime task of organising women. Moreover, with talks on Resolution 435, the climate became less hostile to the organisation of women.

NAWA ACTIVITIES TODAY

NAWA has a full time employee who deals with the following issues:

1. Helping unmarried mothers to secure maintenance for their children
2. Assisting destitute women who are engaged in divorce proceedings
3. Providing Mini-loans as well as assistance for women engaged in income generating projects
4. In addition, voluntary workers (as part of the NGO Prepcom) mobilise women for their own empowerment, e.g. the establishment of the Rural Women's Forum.
5. NAWA has also been requested by the NGO Prepcom to implement the Affirmative Action Project for the Girl child (which was workshopped in Beijing.)

PROBLEMS ENCOUNTERED BY WOMEN AND CHILDREN

On the issue of Violence and Abuse against women and children, NAWA is not in a position to provide figures obtained from empirical research. Even though our evidence is largely anecdotal, the organisation is able to provide numerous case-studies on the subject. suffice it to say that women and

children are daily subjected to indescribable acts of physical as well as emotional violence and abuse in this male chauvinistic society which treats unmarried mothers as offenders.

Defenceless women who look for help from the police are often told that the police are unable to intervene unless the women show obvious physical evidence of abuse. Sometimes the offenders (usually the fathers who have to pay maintenance) are arrested, but they are released soon afterwards to taunt the women with their release.

When women approach the courts for maintenance, they are sometimes told that the onus is on them to locate the address of the father before the court can do something about the situation. Once NAWA had a case where the police insisted that they were unable to locate a father even though the person concerned was a municipal employee for a long time. It is quite common for men, even after the court has ordered them to pay maintenance, to refuse to contribute to the upkeep of their children.

Very often, women who locate the fathers of their children are beaten mercilessly by the offending fathers when demanding support. Sometimes such women are regarded as merciless gold-diggers by a society which accepts the concept of 'single mothers' and which does not expect men to be responsible for every aspect of the upbringing of their offspring. Instead, men who have many children are regarded as real macho and desirable. The violence which they inflict on children who will never know the love and care of their fathers is not frowned upon in our society. At times, men even threaten women that they will enlist the help of witch-doctors to kill the child if the mothers insist on demanding regular payments of maintenance.

In many instances collecting maintenance at the Maintenance office is an unnerving and tedious experience. Firstly, the reception at these offices are sometimes very hostile. Secondly, women have to take off from work repeatedly. Many employers are not sympathetic to this state of affairs. Women report that they feel humiliated as it seems that they have to beg for the money to feed the children who happen to be the offspring of fathers who are either reluctant to admit paternity or alternatively, resent supporting their children. Women resent the fact that society does not sympathise with the work that mothers without husbands have to do in bringing up children single handedly.

Another area which is responsible for unimaginable emotional violence is the institution of divorce. Women in such situations are afraid to talk to their neighbours (especially if their husbands are engaging in extra-marital affairs) because the conclusion is inevitably that the woman is not good enough in bed and that the man is thus justified in looking for sex elsewhere. Apart from having to cope with the pain of rejection as well as a deep sense of humiliation and embarrassment, such women have to deal with the problem of feeding and rearing their children as well as with the effort of maintaining a semblance of dignity in a society which has not yet set up mechanisms to assist such women. Moreover, such females often do not have any idea as to what to do in such a situation, let alone the acquisition of funds to initiate or fight divorce proceedings.

The services of the Legal Assistance Centre (especially the sympathetic attitude of Mr Murorua) have been of inestimable value to the work of NAWA in this field.

A certain Mr Beukes at the Deeds Office also merits special mention for his sympathetic and helpful attitude towards destitute women confronted with the problems of impending divorce. Ms Debbie LeBeau of the Sociology Department of UNAM has also done a lot to alleviate the plight of women caught in the throes of divorce.

Married men who have children out of wedlock are responsible for inflicting emotional violence and abuse not only on their spouses but also, on the immediate family as well as the extended family (which may not always be obvious to other people). Not only do the wives have to grapple with the pain of rejection, the loss of self-esteem and the ridicule of society, they are sometimes faced with the situation where the husband does not support the children born in marriage, while the mistress, as well as her child, are well-provided for. Moreover, the husband often brings his children born out of wedlock home to be raised by his wife. While these wives care for the children as if they are their own, the law does not recognise the love and care bestowed by the wives on children born under unacceptable and humiliating conditions. NAWA has even had cases where women have brought up such children until they were old enough to work at which time they were reclaimed by the biological mothers. The women who brought up the children, who loved and cared for the children, who acted in loco-parentis, have no say in the matter -- they have no locus standi. This is an example of emotional abuse inflicted by the laws of the

country on women who lack the means to protect themselves emotionally.

It is not uncommon for mistresses to use children born out of wedlock as battering rams to extort favours from unmarried fathers. Like married women who have to bring up children of the husbands who were born out of wedlock, unmarried fathers have no *locus standi* except the right to pay maintenance. The unmarried mother has the right to act in an arbitrary fashion and even to put up the child for adoption without informing the biological father. The child, as well as the biological father are subjected to extreme emotional violence, abuse and deprivation (compare the Lawry case in South Africa). Such a child is deprived of the love of a caring father who is prepared to brave the courts for the right to love his own child.

Numerous cases have been reported to the NAWA office of women who are exposed to merciless telephone terror by the mistresses of their spouses. One woman reported that she was unable to sleep for several nights as the calls continued right through the night. Her distress was aggravated by the fact that she could not disconnect the phone as her invalid mother lived alone and required her help from time to time (they were connected by telephone only.) This woman had to endure the incessant calls from the mistress accompanied by foul language and insults night after night. Needless to say, the victim had problems coping with her job every day as she was unable to get a proper nights' rest in addition to which she had to cope with the pain of knowing that her husband preferred another woman. To add insult to injury, her husband insisted that she had no proof that it was indeed the mistress who terrorised her. Telecom Namibia would not provide her with any evidence as to who made the calls, unless she was prepared to take the mistress to court. The woman could not afford the added expense of employing a lawyer.

The maintenance paid to children is usually hopelessly inadequate and in numerous cases does not even cover the cost of a decent pre-school. Children who are deprived of the right to attend pre-schools tend to start school at a tremendous disadvantage which they never seem to make up. The system, as it is presently, thus infringes on the rights of children to proper education. To make matters worse, maintenance is not always related to the rate of inflation hence children are subjected to a poor standard of living (often below the bread line).

Another form of domestic violence consists of husbands who knowingly, infect their wives with Aids. We feel that this should be regarded as murder.

Abused wives have very few places to go to, and husbands are known to have dragged women out of the houses of family and friends who try to assist. A woman inspector from England found in 1994, that the Women and Child Abuse Centres in Namibia had great shortcomings. On her return in 1996 she concluded that nothing had been done to improve these conditions.

These and other problems have been discussed in NAWA meetings and over the years the organisation has attempted to mobilise women as a group to fight these issues. The timely invitation from the Law Reform and Development Commission to participate in the National Hearing on violence and Abuse Against Women and Children has provided the organisation with a wonderful opportunity to commence a programme of action against these evils.

We therefore wish to propose the following:

RECOMMENDATIONS

The Children's Act

1. The Children's Act as amended and workshopped in 1995 should be presented to Parliament for legislation to safeguard the rights of Children, whether born in or out of wedlock, as soon as possible.
2. The Children's Act should be amended to entrench the rights of the biological father (c/f the draft law in South Africa). This law should also be amended to take into account the rights of the person who sometimes acts in *loco parentis* (e.g. spouse of husband with child out of wedlock) as well as the rights of the child who has come to love the natural parent. They should be granted *locus standi* in affairs affecting the child.

Maintenance

3. Maintenance should be related to the cost of living without the mother having to return to the Magistrates court to justify an increase in payment.

4. Maintenance should be subtracted by the employers (in the same manner as Pay as You Earn and Social Security Payments).
5. Wherever possible, the money should be sent to the mother by post.
6. Where there is no postal service, Government should establish payment centres that are accessible to mothers.
7. Maintenance payments should be increased to a more realistic level and should be related to the cost of living index.
8. Fathers who default in making maintenance payments should be severely punished in order to discourage the recurrence of such omissions.
9. The courts should impose sentences entailing looking after the child or other household tasks on fathers who have no employment.

Divorce

10. Government should look into the way divorce is achieved in e.g. Sweden and alter the laws accordingly to remove some of the trauma and expense involved in obtaining a divorce.

Places of Safety

11. Government should provide places of safety for abused women and children.
12. Alternatively, the State should subsidise NGOs and CBOs who set up such centres for battered wives and abused children.

Telephone Harassment

13. The law should be amended to give greater powers to Telecom Namibia to provide the necessary information to victims of telephone terror to enable them to put a speedy end to this form of harassment.
14. It is an infringement of the civil liberties of the victim to be subjected to telephone terror. The offenders should be deprived of the right to own telephones. The right to life, liberty and the pursuit of happiness belongs even to the victims of such acts of mental and emotional violence.

Transmission of Aids

15. A person who wilfully infects a partner with Aids should be charged with "Assault with a deadly weapon" and treated accordingly.

The Police

16. The Government should ensure that officials dealing with victims of violence and abuse, should be properly sensitised and trained to serve in a responsible and sympathetic manner.

In conclusion we would like to thank the Law Reform and Development Commission for giving us the opportunity to propose amendments as well as additions to the laws of our country to eradicate the scourge of violence and abuse against women and children.

We, on our part, will undertake to mobilise women to empower themselves to deal with such situations. NAWA is already in the process of forming Support Clubs for victims of abuse and divorce to strengthen solidarity among women and to terminate the isolation felt by women faced with similar problems.

Signed by:

O G Abrahams (Chairperson)
 M Olivier (Secretary)
 H Sasman (Executive Member)

CHAPTER 32

Mrs S Dippenaar; Education Officer, Directorate Special Education Programmes, Ministry of Basic Education and Culture

THE SEXUALLY ABUSED CHILD VS THE JUDICIARY SYSTEM

INTRODUCTION

It is with great empathy that the overworked state of the judiciary system will be addressed. It is however necessary for this system to have understanding of the child-witness' state of mind, anxiety and paralysing fear before any reconciliation is to be achieved. Perhaps the judiciary also have to reconsider their goals - intervention by the prosecution at this stage is sexual abuse promoting child protection.

PREVALENCE

In America and South Africa research has been conducted on the prevalence of sexual abuse, none has been done in Namibia. Although research is usually retrospective and conducted on easy-to-reach populations (e.g. university students, in-patients) conclusions still seem to be valid: 34.9% of all female children will be subjected to contact forms of sexual abuse before they reach the age of 18 years (Collings, 1997). It is noted that only an average of 20% of the subjects in the studies have disclosed their abuse - and of these only 10% of the abusers were indicted and of these only 5% were convicted (Levett & Macleod, 1991). Child sexual abuse (CSA) is not an out-there phenomenon.

Why don't **children** disclose? Because they are well aware of the possible outcomes of such a disclosure as implicated by the abuser.

Why are so few abusers convicted? Summit (1990) summarised the approach of society to CSA: *"Almost anybody accused of molesting a child will seem more trustworthy and more vulnerable than the child. The child will get over it while the suspect could be ruined for life. The suspect has proven himself/herself to be devoted and reliable over time, also trusted and endorsed by other reputable adults. The child has been wrong before and will be wrong again. What does a child know?"*

Suggestions

- i) Mandatory reporting has to be extended to include amongst others, teachers. They also need protection from legal action by the accused.
- ii) Precautionary rules regarding child statements and the absence of witnesses should be reconsidered as it places the CSA case in jeopardy.

There are two reasons why CSA cases are of grave importance. First the recidivism rate of sexual abusers and secondly the psychological impact on the child who has been sexually victimised.

RECIDIVISM

In a study by Hanson, Steffy and Gautier (1993) 42% of the child molesters were reconvicted for a sexual or violent crime. (Bear in mind that reconviction rates probably underestimate the rate of reoffending - not all cases would be reported.) These molesters were especially at risk of recommitting CSA in the first ten years but child molesters appear to be at significant risk for reoffending throughout their life: 23% of the recidivists were reconvicted 10 years after they were released.

Suggestion

- iii) These results have implications for suspended sentences and stricter bail conditions.

It might be important to distinguish who are high and low risk offenders. People who have committed previous sexual and non-sexual offences, have never married (evidence of an enduring sexual preference for children), and who chooses male victims seem to be at higher risk. Ages and treatment had little relation to sexual recidivism.

Suggestions

- iv) The Namibian system in which prior offences may not be used as evidence during a trial might be inappropriate in CSA-cases.
- v) A Central Registry of CSA-offenders seems to be imperative. Not only of those offenders who have been found guilty, but also those implicated in dismissed cases, should be registered.

THE EFFECT OF CSA

There is irrefutable evidence of the traumatic impact that CSA has on the short and long term. The following table represents some of the short term effects (Goldston, Turnquist & Knutson, 1989).

| <i>Percentage of Girls 12-18 Years Old Exhibiting Presenting Problems</i> | | <i>Percentage of Girls 2-11 Years Old Exhibiting Presenting Problems</i> | |
|--|-----------------------|--|-----------------------|
| Problem | Sexual abuse (n = 58) | Problem | Sexual abuse (n = 70) |
| Conduct disturbances | | Conduct disturbances | |
| Physical aggressive | 13.79 | Physically aggressive | 30.00 |
| Verbally aggressive or non-compliant | 37.93 | Verbally aggressive or non-compliant | 32.86 |
| Delinquent behaviours | 25.86 | Delinquent behaviours | 15.71 |
| Alcohol abuse | 31.03 | Alcohol abuse | 0.00 |
| Drug abuse | 22.41 | Drug abuse | 0.00 |
| Running away from home | 41.38 | Running away from home | 1.43 |
| Deterioration in school performance | 31.03 | Deterioration in school performance | 12.86 |
| Sexual behaviours | | Sexual behaviours | |
| Increased surreptitious masturbation | 3.45 | Increased surreptitious masturbation | 24.29 |
| Public masturbation | 0.00 | Public masturbation | 17.14 |
| Sexual precocity | 41.38 | Sexual precocity | 17.14 |
| Sexual promiscuity | 29.31 | Sexual promiscuity | 1.43 |
| Sexual experimentation/sexual initiation with younger peer | 13.79 | Sexual experimentation/sexual initiation with younger peer | 11.43 |
| Seductive behaviours toward men | 24.14 | Seductive behaviours toward men | 20.00 |
| Shy, withdrawn behaviour toward men | 13.79 | Shy, withdrawn behaviour toward men | 21.43 |
| Depressive symptoms | | Depressive symptoms | |
| Depressed mood | 72.41 | Depressed mood | 35.71 |
| Sleep disturbance | 20.69 | Sleep disturbance | 37.14 |
| Suicidal ideation | 46.55 | Suicidal ideation or threats | 5.71 |
| Suicide attempts | 20.69 | Suicide attempts | 0.00 |
| Self damaging acts (e.g., self-tattooing, self-administered cigarette burns) | 27.59 | Self damaging acts (e.g., self-tattooing, self-administered cigarette burns) | 7.14 |
| Physical symptoms | | Physical symptoms | |
| Enuresis | 0.00 | Enuresis | 17.14 |
| Encopresis | 0.00 | Encopresis | 2.86 |
| Somatic complaints | 10.34 | Somatic complaints | 14.29 |
| Dramatic weight changes | 5.17 | Dramatic weight changes | 5.71 |

A summary of long term effects (Ratican, 1992) follows:

Symptoms of Child Sexual Abuse Survivors Depression

Depression

- Feeling down most of the time
- Suicidal thoughts or attempts
- Disturbed sleep (insomnia or sleeping too much)

Disturbed eating (overeating or lack of appetite)

Low self-esteem

Feelings of inadequacy/lack of self confidence
Negative/feelings of hopelessness
Shame/feelings of worthlessness
Self-abusive/impulsive behaviour
Procrastination/fear of making mistakes

Guilt/Self-blame

Excessive and/or inappropriate guilt
Feeling responsible for others
Feeling responsible for things beyond one's control
Perfectionism (overcompensating)
Always explaining oneself and one's actions

Anger

Short-tempered/irritable/explosive
Frequently feels anger/rage for no apparent reason
Poor anger control with children and/or mate
Too passive and/or too aggressive

Anxiety and Somatisation

Generalised anxiety/panic attacks
Phobias (especially fear of dark/being alone)
Insomnia
Physical complaints that defy diagnosis
Pelvic pain/genitourinary problems
Gastrointestinal problems ("nervous" stomach)
Headaches
Difficulty swallowing

Relationships

Passive/always puts others' needs above own
Hostile, controlling, rejecting
Emotionally and/or physically abusive
Sexually abusive
Trusts inappropriately (too much or too little)
Poor sense of interpersonal boundaries
Attracted to abusive partners/revictimised
Afraid of intimacy
Feels isolated, different, weird
Over-protective of children
Feels unable to control/discipline children

Sexuality

Sexualises all relations
Inappropriately seductive
Splits sex from affection/emotional intimacy
Compulsive sexual behaviour (feels addicted to sex)
Promiscuity
Lack of sexual desire/arousal/orgasm
Flashbacks (pain, fear, anger, crying) during sex
Numbness/dissociation during sex
Sadistic/masochistic sexual fantasies and/or behaviour
Fear/dislike of being touched

Body Image

Dislikes/disgusted with body or appearance
Feeling ugly or dirty

Poor grooming or perfectionistic in grooming
Obesity/eating disorder
Self-injurious behaviours in childhood or adulthood

Denial/Repression

Amnesia for parts of childhood
Discounts importance/effects of sexual abuse
Feels survivors should just forget about abuse
Poor memory/learning difficulties

Dissociation

Feelings of confusion and/or disorientation
Difficulty getting in touch with feelings
Nightmares (especially involving sexual or power issues)
Flashbacks/elementary hallucinations
Feeling cut off from part of self (child stuck inside)
Difficulty differentiating between truth and fiction
Multiple personalities

Control Issues

Fear of losing control/difficulty relaxing
Need to control every aspect of life
Feeling powerless
Compulsive behaviours (caring disorders, substance abuse)

Most children who have been sexually abused can be diagnosed with Posttraumatic Stress Disorder. Aspects which will be discussed during the presentation is the traumatic event (criteria A), dissociation (criteria C) and the impairment of areas of functioning (criteria F).

Diagnostic criteria for 309.81 Posttraumatic Stress Disorder

- A. The person has been exposed to a traumatic event in which both of the following were present:
- 1) the person experienced, witnessed, or was confronted with an event or events that involved actual or threatened death or serious injury, or a threat to the physical integrity of self or others
 - 2) the person's response involved intense fear, helplessness, or horror. **Note:** In children, this may be expressed instead by disorganised or agitated behaviour.
- B. The traumatic event is persistently re-experienced in one (or more) of the following ways:
- 1) recurrent and intrusive distressing recollections of the event, including, images, thoughts, or perceptions. **Note:** In young children, repetitive play may occur in which themes or aspects of trauma are expressed.
 - 2) recurrent distressing dreams of the event. **Note:** In children, there may be frightening dreams without recognisable content.
 - 3) acting or feeling as if the traumatic event were recurring (includes a sense of reliving the experience, illusions, hallucinations, and disassociative flashback episodes, including those that occur on awakening or when intoxicated). **Note:** In young children, trauma-specific re-enactment may occur.
 - 4) intense psychological distress at exposure to internal or external cues that symbolise or resemble an aspect of the traumatic event.
 - 5) physiological reactivity on exposure to internal or external cues symbolise or resemble an aspect of the traumatic event.
- C. Persistent avoidance of stimuli associated with the trauma and numbing of general responsiveness (not present before the trauma), as indicated by three (or more) of the following:
- 1) efforts to avoid thoughts, feelings, or conversations associated with trauma
 - 2) efforts to avoid activities, places, or people that arouse recollections of the trauma
 - 3) inability to recall an important aspect of the trauma
 - 4) markedly diminished interest or participation in significant activities
 - 5) feeling of detachment or estrangement from others
 - 6) restricted range of affect (e.g., unable to have loving feelings)
 - 7) sense of a foreshortened future (e.g., does not expect to have a career, marriage, children, or a normal life span)

- D. Persistent symptoms of increased arousal (not present before the trauma as indicated by two (or more) of the following:
- 1) difficulty falling or staying asleep
 - 2) irritability or outbursts of anger
 - 3) difficulty concentrating
 - 4) hyper vigilance
 - 5) exaggerated startle response
- E. Duration of the disturbance (symptoms in Criteria B, C and D) is more than 1 month.
- F. The disturbance causes clinically significant or impairment in social, occupational, or other important areas of functioning.

(DSM IV, APA, 1994)

INCREASED IMPACT

It has been found that intra-familial sexual abuse has greater negative consequences than extra familial abuse.

Suggestion

- vi) The judiciary system administers greater punishment to rape offences than to incest offences. This has to be addressed.

Interventions by the supra-system - in order to gain evidence - re-traumatizes children. A child is repeatedly expected to recount his/her experience (the investigating officer, the state prosecutor, the social worker, in court) in the finest of details and has to use socially taboo words on a socially taboo topic. A child who has been raped has to lie open legged in front of a medical officer for a genital examination. She has to face the offender in the strange environment of a court where people are dressed in black coats and use unordinary language (your honour). The criminal court case may take years to be finalised but the child is expected to remember everything of an event which (s)he so much wants to forget. After her/his testimony the child is cross-examined, frequently in a combative harsh way, because the attorney of the defence would like to discredit her/his evidence ...

Runyan, Hunter, Everson, Whitcomb and De Vos (1994) compiled an intervention stressors inventory which gives an indication of degree of anxiety provoked by interventions.

Geometric Mean Stressfulness Ratings for Investigative, Adjudicative, and Protective Services Events With Modifying Factors

| Event | Weight | Modifying Factor | Weight |
|----------------------------|--------|----------------------------------|--------|
| Investigation | | | |
| Interview-law Enforcement | 50 | Perpetrator present | +108 |
| Interview-Social Worker | 35 | Unsupportive parent present | +53 |
| Interview-Prosecutor | 49 | Supportive parent present | -14 |
| Medical Exam | 71 | Child prepared well | -20 |
| Pre-trial Deposition | 74 | | |
| Adjudication | | | |
| Testimony-Preliminary | | Perpetrator present | +77 |
| Hearing | 86 | Unsupportive parent present | +47 |
| Testimony-Criminal trail | 111 | Cross-exam >1 hour | +88 |
| | | Harsh cross-exam | +88 |
| | | Moderate cross-exam | +21 |
| | | Mild cross-exam | -22 |
| | | Closed court | 0 |
| | | Supportive parent present | -29 |
| | | Child prepared well | -23 |
| Protective Services | | | |
| Placement in Relative Care | 65 | Necessitates a change in schools | +41 |
| Placement in Shelter/Group | | Child has active support person | -27 |

Suggestions

- vii) A real effort has to be made to finalise a court case in which a child is involved as soon as possible. How long does the Attorney General's Office take to consider a CSA-case?
- viii) A child friendly court is absolutely necessary otherwise the judiciary system defies its own aim of justice for all by intimidating a witness. A child may be placed in a separate room connected to the court with a video camera or one way mirror. The cross-examination should take place through an intermediate person (social worker or child psychologist) who receives the questions through headphones. Anatomically correct dolls may be used by the child to explain what happened to him/her.
- ix) The child should not only be represented by a state prosecutor, but also a specialist who could help the presiding officer to consider factors like PTSD symptoms, dissociation, developmental level, familial circumstances and the effect that the CSA has had on a specific child. The specialist (psychologist?) should be based at the WCPU.
- x) Judges and magistrates have to be trained regarding child development and CSA, if they want to make sound judgements not based on "uninformed wisdom".

A child who has undergone traumatising sexual abuse needs to hear:
"We support you". Does (s)he?

CHAPTER 33

Ms P Nakanyala; Office of the Prosecutor-General

1. DEFINITION:

In brief rape is defined as the unlawful and intentional sexual intercourse with a woman without her consent/or with a female under the age of consent, under 12 years old.

1.1 The act consists in sexual intercourse between a man and a woman and can be described as the penetration of a female's sexual organ by that of a male.

1.2 Consent is therefore in most cases a factual question, but consent *per se* will not be a defence where such consent was obtained in an improper manner. In most cases of rape there is actual and/or threats or violence present. In such cases it would not be difficult to prove rape, as violence is regarded as an element of rape.

1.3 The problems are encountered where only threats are uttered with a view to subsequent sexual intercourse. It is also submitted that there are cases where a victim, after threats submits herself to sexual intercourse only to avoid serious bodily injuries. She need not expressly indicate her objection to intercourse, if her will is overborne by fear or intimidation as a result of which she fails to offer any outward resistance, the crime is committed, since mere submission is not equated with consent.

2. STATISTICS:

NUMBER OF RAPE CASES REPORTED:

| 1994 | 1995 | 1996 |
|------|------|------|
| 332 | 448 | 563 |

One can clearly see, that there is a high increase of rape cases from one year to another. The cause of this increase is still unknown, but one can only conclude that the law affords very little protection to women in Namibia.

2.1 NUMBER OF CONVICTIONS IN RAPE CASES:

| 1994 | 1995 | 1996 |
|---------------|------|------|
| not available | 8 | 11 |

It should not be assumed that the rest of cases are acquittals, but at the time, these statistics were compiled, some cases were still pending further investigations. Some are still on the court roll for hearings, and some have been withdrawn either by the complainants, or by the State due to the lack of evidence.

2.2 The Prosecutor-Generals office is not able to give all statistics required by the Law Reform and Development Commission in other cases, such as assault against women and children etc. as they are dealt with at the Lower Courts as well as the Regional Courts in most instances.

3. PROBLEMS RELATING TO PROSECUTION OF RAPE CASES:

The first problem is the timing between the reporting of a case and the prosecution. This depends how fast the rape case is reported to the Police.

If a rape has been committed to a victim living in an urban area that does not cause so much delay.

If rape has been committed on a victim who is living in the rural areas, this is when reporting to the police will take two or three weeks. This is because, firstly the incident has to be reported to the headman, who will convene the traditional court with the families of the victim and the suspect and if no solution is found between the two parties, then the victim is referred to the police station. At this stage, even if the case is reported to the police, all evidence is destroyed and the prosecution's case collapses.

4. PROBLEMS IN THE COURT ROOM:

4.1 No major problems are faced by the prosecution when a victim is an adult female, and her

- evidence is corroborated.
- 4.2 There are at present serious difficulties in cases where children are required as prosecution witnesses. Firstly, the child may be too young to give evidence at all and the prosecution's case may therefore collapse. However, when she is a competent witness, her experience in court appears to observers to be disturbing and harmful, involving - facing the accused again; the imposing atmosphere of a crowded court room; the daunting injunction to "speak up" for the judge; evidence-in-chief and cross-examination which follow upon humorous pre-trial interrogations; the potential future threat from the accused and, often the need to denounce a loved relative.
 - 4.3 Where child victims of sexual abuse have given evidence in court, they have been found to be suffering greater psychological damage than victims who have not.
 - 4.4 The participation in criminal trials of children as prosecution witnesses also presents problems to the defence. Defence lawyers have no pre-trial contact with the child and yet by cross-examination must seek to undermine his evidence without alienating the judge.
 - 4.5 The other problem facing victims is the lack of counselling after and throughout the proceedings.
 - 4.6 There is no staff-member in the Office of the Prosecutor-General at present who has received training to deal with cases of violence against women and children, neither did anyone participate in gender training programmes.

5. COMPOSITION OF THE PROSECUTOR-GENERAL'S OFFICE:

There are seventy-nine (79) prosecutors countrywide of which twenty-four (24) are females. Two female prosecutors are principal legal officers, thirteen are senior legal officers and nine are legal officers.

6. RECOMMENDATIONS:

- 6.1 It is our recommendation that videotaped interviews be introduced in cases of violence and abuse against woman and children. This must be enforced in cases where victims are from the age of twelve (12) and younger.
- 6.2 The benefit of using videotaped interviews with children as evidence is so that they need not come to court.
- 6.3 The Child would be questioned by a skilled interviewer, who ideally would not use leading questions.
- 6.4 The accused and his lawyers should be behind a one-way screen so that the child could not see them, but they could "feed" their questions to the interviewer through a microphone link. This would combat to some extent the major objection to admitting such evidence as hearsay, in that the accused is deprived of his opportunity to cross-examine the witness.

CHAPTER 34

Mrs Z P Fourie; Church Benevolence Board, Dutch Reformed Church

Dear Sir

In reply to your letter, dated 15 January 1997, I wish to give the following information regarding the work done by the social workers of the Dutch Reformed Church.

1. ORGANISATION STRUCTURES:

The Church Benevolence Board is the welfare division of the Dutch Reformed Church. This organisation is a family care organisation and handles all problems related to family pathology or family disorders.

Violence against women and children is one aspect of family pathology, and is treated as such. The Church Benevolence Board has one office in Windhoek, with five social workers, who render services locally.

One regional office is situated in Tsumeb with one full-time social worker, who renders services in the North of the country. Another regional office is situated in Keetmanshoop with one social worker who serves the Southern region. A third regional office is situated in Walvis Bay with two full-time workers who render services in Walvis Bay, Swakopmund and Henties Bay. All social workers of the CBB are at all times prepared to co-operate with other organisations in National programmes.

2. PROGRAMMES

At present no specific programmes, dealing with violence against women and children, have been implemented. The main reason for this is that no specific need for this has yet been identified in the communities served by the CBB. Although violence against women occurs in all social classes, this is a very concealed problem. Women are usually too proud and ashamed to reveal these violent acts against them, and suffer in secrecy.

However, when a woman approaches this organisation for help, she insists on secrecy and is seldom prepared to lay charges against the culprit. Individual therapy is the method of treatment in most cases.

Social workers aim at building the woman's self esteem and reinforcing her ego-strength in order to stand up against the ill-treatment. Many women believe that they have done something wrong which deserves this kind of treatment. Social workers have the responsibility to help women to change this misconception.

Lack of funds and lack of manpower also prevent this organisation from running preventive programmes on violence against woman.

Thus, no specific programmes will be run in the near future on this issue. This organisation would rather prefer to be part of a national strategy for the prevention of violence against women and children. At this stage this organisation co-operates with the "Woman and Child Abuse Centre", and this unit is better equipped to handle the legal aspects involved.

3. SUGGESTIONS:

Preventive programmes could be implemented to change the community's women and child abuse. Women should be encouraged and equipped to stand up against ill-treatment. They should also learn skills to defend themselves and to be less vulnerable.

The attitude of men in some cultures towards women need to be changed and they need to learn to respect women. This change of attitude should begin in childhood.

This can only be achieved by a national strategy where different organisations should join forces.

In order to combat violence against women and children, the legal system should also be changed to make law-enforcement more effective. Women are often discouraged to lay charges as trials are delayed and the culprit often comes away scot-free.

The Church Benevolence Board is prepared to take part in a national strategy and to join forces with other organisations to combat violence against women and children.

Thank you.

CHAPTER 35

Mr O Nekondo; Namibian Catholic Bishops Conference

1. Let me start my statement by quoting Article 8, sub-articles 1 and 2(b) of the Constitution of the Republic of Namibia. Sub-article 1 "The dignity of all persons shall be inviolable" and sub-article 2(b) "No person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

The message from this article is very dynamic and clear. But the Namibian society is being plagued by the crime of women and children battering, which is really a complex and difficult problem. Women and child abuse does not only affect individuals, their families, their friends, their neighbours, but it also affects their religious communities and their co-workers.

2. Many people believe that women and child abuse only involves physical abuse e.g. rape or physically beaten. The abuse is called a crime if a culprit is a complete stranger and the act took place in public. If it occurs within the privacy of the home, it will be dismissed as a "domestic affair" or ignored by those who view it, a "private" and "family affair".
3. Not only does abuse occur in places like sport fields, riverbeds, clubs, workplaces, streets etc, but the home - a place of supposed safety of life - is the most dangerous and violent place women and children know. Not only do women and children suffer violations and abuses from strangers but husbands/boyfriends, fathers/mothers, teachers those who say they love them, those who are supposed to cherish them, those who are supposed to be able to be trusted are those who abuse, hurt and or threaten.

Apart from physical and sexual abuse, women and children are also suffering from:

- emotional
- verbal abuse and
- economic abuse.

Some people may argue that there is no definite trend concerning the abuser and the abused. Of course there are cases of mutual abuse and women abusing men. But, the trend of violence in society against women and children by men is general and undeniable.

4. There are many myths and realities surrounding abuse of women and children. For example, it is a myth that only certain types of women are abused or that abused women enjoy being abused. It is a myth that women battering is a "traditional" sign of love or that women who are violated or abused ask for it. But it is a reality that women of all races, all education levels, all religious communities, all cultures are victims of violence and abuse by men and nobody enjoys being abused, yet, nobody stays in a situation where she is abused unless she feels that there is no escape.
5. Alcohol and drug abuse, unemployment, stress, childhood experience of abuse are believed causes of women and children abuse. But it is also true that men from all groups, who are sober and who do not take drink or drugs, who did not experience abuse in their childhood are also abusers. We therefore need to be encouraged to question ourselves why violence against women and children happen. There is no excuse good enough to pardon this issue.
6. It is not surprising that as violence dominates our world, people accept it as a means of control in society. e.g. in schools and homes violence is used as a form of discipline. States use violence as a means of maintaining law and order. Violence is prevalent in sport. Violence is popularised and propagated by the media. Society become used to violence because of many articles on violence contained in newspapers and magazines. Anyhow, the Namibian Government should be given credit for its move of banning physical punishment in schools and homes, and the abolition of death penalty as a means of punishment by courts of law. Why should the Namibian society not follow suit and stop abusing defenceless women and children?

We need to actively challenge and prevent women and child abuse. By empowering women and children to value their own needs and feelings so that they will be able to stand up for their rights. Women and children need to be encouraged that they have the right to be treated with dignity and respect.

As there are not enough welfare agencies or personnel to provide intensive individual therapy for abused women and children and traditional services tend to overlook the issue, it is of vital importance to actively involve the community in the battle against this crime.

People in the community should be encouraged to see that they do have the right to stop people abusing their own family; and community members.

A community network at national, and regional levels, consisting of individuals and groups can be the best way of combating the abuse of women and children. The Catholic Church is ready to be part of this network.

Where possible our church will provide all her resources at its disposal to be used effectively against the abuse of women and children.

As a moral institution, the church was , it is and it will be the educator of people to "love their neighbours as they love themselves".

CHAPTER 36

Rev. B Tjingaete; The United Reformed Church

The Bible speaks about the Day of the Lord that is still to come. But while the World is awaiting this Day, another urgent cry seems to be developing these days and that is against violence.

Violence as an act of great unwanted force is increasing in our community. On radios, newspapers or on televisions, violence seems to be ruling the country. Gone are the God-fearing homes, where children were brought up in keeping with God's command, where husband and wife and the entire household lived in peace and harmony and mutual love and trust. Quarrel, strife, hatred, distrust have disrupted the family. Something must be done. Failure to recognise this situation could only bring a more devastating human relationship and nature. But the questions remains what, how and who? Where and who has got the answer? Is it the laws, the jails in the whole country or is it the community itself that should provide the answer?

The theme is, violence against and abuse of women and children, but does it then mean the total end of violence in our society? We have got poor people, are they not violated against? But for sure women and children are regarded as the weak, in strength, the easy prey, hence, we have to pay more attention to them. As in the case of the wealthier members of the community of Israel that should have the obligation to support their poorer brethren, strong members of our community must act on their behalf. But again who are the strong members? The question again comes back to me, who am I, what am I, what am I supposed to be in this disrupted community, torn apart by the evil of bloodshed, man hunting, rape, money-madness, hunger for gold, cruelty and unreal service.

Mr Convenor, we should be critical in our perception of our situation, in our reasoning and speaking. All organisations, including the church, should hold hands together. We should really combine socially, physically and spiritually.

The Church should lament over this sad condition. Human dignity, be it women, children and even the poor should be respected. True love and righteousness should/must be the characteristic features of the divine dealing with man. Thus, we have to be the light of the world and the salt of the earth (Math. 5).

To combat violence against and abuse of women and children, we don't need to teach an abused child to violently retaliate. Nor do we have to tell women to carry guns and knives in their pockets for self-protection. We must not answer violence with violence, but evil with good. No more the law of Moses of an eye for eye, but the law of Christ to love one another, to love your neighbour, to love your enemy.

The source of rectification is to look into the roots of evil. We have to look into the question of why and where the root of evil is coming from. Is it because of socio-economic problems like unemployment, poverty? Or is it psychological problems? Or pure vengeance? Therefore, we have to engage ourselves in more research in order to unveil the source of these violent acts. But it is through proper teaching and counselling of everyone, those in jails, hospitals, on streets and in our own homes, that we will come out as victorious. And to give proper teaching and counselling, we need to equip ourselves with the most needed, perfect tools.

In the fight in respect of these new challenges the Church therefore should redefine its structures. Where the Church seems to be more concerned about its members, the Church should organise more workshops, more religious films, more conferences in conjunction with NGOs and the Government to draw the society together with the aim of teaching all for their own good future.

I hope that if we reach this goal, we will reconcile the perpetrators and the victims and the whole nation will be at peace with one another.

Let us therefore work together as a team for a total human restoration.

CHAPTER 37

Bishop P Hilukiluah; Church of the Province of Southern Africa (Anglican Diocese)

A. WOMEN

1. Physical abuse: beating up.
2. Verbal Abuse: insults etc.
3. Sexual abuse:
 - 3.1 Sexual abuse between spouses, in the home – not commonly brought to church – perhaps culture forbids.
 - 3.2 Extra-marital relationships very common among men. Culture extremely biased against women in this regard
 - 3.3 Co-habitation: Perhaps the most common in church.
 - 3.4 Rape – serious, but not brought to church – alcohol.

B. CHILDREN

1. As in 1 and 2 above.
2. Rape – common, but not brought to church.
3. Teenage pregnancy by adult men – including schoolgirls, by teachers.

C. ACTION

Church's Mission: Preach, Teach and Heal. Church has no means for:

1. Training of personnel.
2. Putting up of facilities.

Therefore, joint action would be the best option, because the Government has means, while the church is better disposed to people.

CHAPTER 38

Rev. A //Kheibeb; Chairperson, Peace, Justice and Reconciliation, Evangelical Lutheran Church in the Republic of Namibia (ELCRN)

*Mr. The Chairperson,
Members of the Law Reform and Development Commission,
Ladies and Gentlemen.*

Let me introduce these with my own saying: *"Threat to the existence of women and children, is the fall of the nation, and an absence of peaceful society"*. Having these short phrase in mind, we of the ELCRN share with the church of J.C. and all concerned organisations in all times and places the calling to be peace-makers. In the liturgy of the Holy Communion we pray for the peace of the whole world asking *"Lord have mercy"*. Our petition unites faith in the Truth God with our world's sufferings and hopes.

At the end of a violent century, we share with people everywhere hope for a more peaceful and just world, also for women and children.

Therefore, the ELCRN welcomes the just started hearings on violence against and abuse of women and children which were initiated by the Law Reform and Development Commission, because such violence and abuse are not merely legal issues, but should be addressed as well as on the religious, political, community and societal levels in order to ensure that the dignity of women and children is respected and protected, one needs to break through the minds of our people to change their attitudes. Goods laws are not the only solution. Thus education needs to be stressed as a strong weapon to the fight violence against women and children. The ELCRN is against violence and abuse of women and children around the globe, violence in an ongoing and systematic form. For example in Namibia about 50% of women and children have experienced domestic violence which is caused by men or husbands, by poverty, unemployment, alcohol and drug abuse. Violence against women and their children remain all-pervasive. Violence cuts across society, race, ethnic and class, status lines, cultural differences and religious denominations. The ELCRN has seen in the last years an increase of violence against women and children not only in society, but also in church and religion. A poem "Ntozake Shange" has summed up this life - threatening danger in which women of all classes, races, religions and cultures find themselves caught up daily. Every three minutes a woman is beaten, every five minutes a woman is raped and every ten minutes a little girl is molested. Everyday women's bodies are found in the rivers and bedrooms, as well as at the top of the stairs.

Furthermore Susan Lee aptly describes this cruelty against women: then I married a man who, once the wedding ring was safely on my fingers began to abuse me. The crisis was both personal and religious- "Where was God when one month after our wedding my husband blackened my eye ... I was pregnant ... when he broke my nose ... because I wanted to see my family. This is the situation of our children and women. In such situations the church cannot and will not remain silent, because violence against women and children thrives on silence. For this reason action of resistance and empowerment to make women's voices heard becomes important. Resisting violence and abuse is a deeply spiritual work interwoven with the struggle of life. Furthermore the ELCRN affirms that women's rights are human rights-given by God - economic as well as political rights, and the construction of an ethic of the common good or fullness of life, must keep this principle at the centre.

Above all, ELCRN calls for an end to violence against women because it is unchristian and against the will of God. This has been the teaching of ELCRN and will be continuing. Because in the Biblical tradition God provides us with the notion of human rights and dignity. According to this tradition all people, women and men are made in the image and likeness of God. This point is clear in the book of Genesis.

Furthermore, the book of Genesis provides us with the fact that human beings are created for a life of fellowship with one another. When God created a helper (women) for man, men cried out of joy "this is the flesh of my flesh (Gen.2:23). The man recognises the woman as a being of same kind as he is. As someone with whom he can enter into a relationship. In other words according to an African proverb a

person is a person through others. Therefore, it is a serious injustice and violation of human rights when people, especially women and children are deprived of their dignity and honour. From such traditions we come to a clear understanding that the specific mission of the church therefore involves being of service to people in society, including to be against violence and abuse of women and children. Such a mission gives the church a social role and function, namely to work with the government in order to uproot violence and abuse within our society.

With these remarks the ELCRN calls upon all Christians and citizens of our Republic to:

- Promote respect for human rights, recognising as the foundation of freedom the inherent dignity, and the equal and inalienable rights of all members of the human family.
- To justice and peace in the world (Preamble of UDI-IR 1948). We therefore will teach about human rights, protest their violation, and defend the human rights of groups most susceptible to violations, especially women and children.
- Counter and transform attitudes that encourage violence. A significant cause of violent conflict domestically and internationally are - attitudes that view violence as a acceptable way of dealing with differences and disputes; fear of others and disregard for people's dignity, personal experiences of violence and images at the movies; television, videos and music that glorify violence and increase war attitudes.

The gospel strikes at the heart of what promotes such attitudes freeing us from fear to see others as brothers and sisters for whom Christ died and lives. The media should depict honestly the violence, brutality and terror of war and should expose falsehoods. We encourage efforts in education, the arts and the teaching of the worthiness of life.

We as ELCRN promote, encourage and support a non-violence society. We strongly support and stand ready with our various bodies to bring about justice and a peaceful atmosphere for women and children (nation) – we also believe strongly in unitary action.

- ELCRN is involved in education programs to change human beings life towards each other, baptism classes, Sunday school, confirm/counselling/conferences.
- ELCRN provides pastoral support for those who in conscience undertake non-violent action for peace.

Let's educate each other and let's treat women and children as part of God's creation, with dignity and respect. Good laws are not enough, but changing of attitudes will provide a good life for all. Threats to women and children, is the downfall of the whole nation. I thank you.

CHAPTER 39

Mrs L Vries; The Shelter for Battered Women and Children, Social Diaconate Action for Young Women

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- Introduction
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- Objective
- Aims
- Achievements
- Planned activities
- Recommendations to the National Hearing
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 2. Constitution
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INTRODUCTION

The Social Diaconate Action Young Women established themselves as an ecumenical body in 1986, and consists of voluntary members of different denominations rendering social services that address the numerous problems faced by members of the community. The association is registered as a Welfare Organisation. (See appendix 1)

BACKGROUND

The Social Diaconate Action Young Women identified domestic violence, battered women and abuse against children as major problems in the Namibian society. Against this background, the organisation decided to offer a helping hand. They initiated and implemented the Friendly Haven Shelter for Battered Women and Abused Children. The shelter was inaugurated on the 14th of September 1996. Funds from the Namibian Development Trust enabled us to purchase a small house. Other contributions were made by the Department of Women Affairs, Office of the President, numerous individuals, and by members, who initiated several fundraising events.

OBJECTIVE

The shelter will act as a safe place where women and children can spend time while going through a process of empowerment, education and rehabilitation which is needed to restore their dignity and self respect. The shelter will assist them to become independent from the abused relationships from which they come. (See appendix 2)

AIMS

The aims of the association are:

- to render social diaconal services to individuals as stipulated in the preamble;
- to establish a 24-hour shelter in Windhoek to be known as the "Friendly Haven", for battered women and their children;
- to conduct research in furtherance of the aims and specifically to investigate the establishment of further shelters;
- to counsel abused women and their children and, where desirable, the abusive partner;
- to promote public awareness in order to minimise and overcome violence against women and children;
- to arrange visits to families and assist with spiritual, social diaconate and reunification needs if desired;
- to refer persons to relevant agencies for further assistance where necessary;
- to strengthen the staff of the associations capacity through training programmes.

ACHIEVEMENTS

- After only eight months of operation, the shelter has accommodated 24 cases from which 34 people

stayed at the shelter.

- Above-mentioned cases received counselling throughout their stay at the shelter. The counselling was a joint effort between the Women and Child Abuse Centre, Ministry of Health and Social Services and the counsellors of the shelter.
- Maintain good communication channels with different institutions, i.e. Churches, Embassies, NAMPOL, Ministry of Health and Social Services
- Established sound relations with Shelters in Cape Town, i.e. Military Shelter, St. Anne's Home.
- The Social Diaconate Action Young Women held different workshops countrywide on Marriage Enrichment Maintenance and the Power of Alcoholism. More than 200 people attended these workshops.

PLANNED ACTIVITIES FOR THE FUTURE

- Constant efforts to find training possibilities for the members. In order for the shelter to function more effectively, constant training is required.
- Continue Negotiations with the Windhoek Municipality. Since December 1994 the Social Diaconate Action Young Women made numerous attempts to negotiate with the Municipality to donate Erf 7028 to the group. (See appendix 3).
- Enlargement of the Shelter. The Shelter consists of two bedrooms (one of which is occupied by the caretaker), kitchen, bathroom, and sitting room. As there are more and more cases referred to the shelter we are in desperate need of space.

SHORTCOMINGS

- Financial constraints.
- Lack of sufficient training of members.
- Not sufficient educational toys, equipment.

RECOMMENDATIONS

- Preventative education in which the Namibian Broadcasting Corporation may play vital role, i.e. no purchase or broadcast of violent visual material.
- Municipal Legislation - Donation of land or ground to bona fide members which assists women and children
- Establishment of Children Courts which are more sensitive, and victim friendly.
- Legislation of Confidentiality (Due to the fact that shelters accommodate battered women and children, security and confidentiality are of prime importance)
- Informative programmes about the Courts, its structure.
- Government assistance, i.e. subsidies to Havens which protect women and children.

CONCLUSION

The Social Diaconate Action Young Women will continue to fight domestic violence, abuse against women and children, and assist these victims to restore their dignity and self-respect.

APPENDIX 1

PROOF OF WELFARE STATUS

Republic of Namibia

Ministry of Health and Social Services

Private Bag 13198
Windhoek
Namibia
Enquiries: Mrs J.J. Comalie

Old State Hospital Building
Harvey Street
Windhoek
Ref. No.: 13/5/4/122

Tel: (061) 203-2858
Telefax: (061) 227607

REGISTRATION CERTIFICATE

It is hereby certified that the SOCIAL DIACONATE ACTION YOUNG WOMEN
P O BOX 11167, KLEIN WINDHOEK, NAMIBIA
is registered as a welfare organisation in terms of section 19 of Act 12 of 1979

The objectives of the organisation are as follows.

- TO RENDER SOCIAL DIACONAL SERVICES TO THE NEEDY IN SOCIETY SUCH AS THE AGED, ORPHANS, SUBSTANCE-ABUSE ADDICTS AND GENERALLY.
- TO WOMEN AND CHILDREN WHO HAVE HAD THEIR RIGHTS VIOLATED THROUGH PHYSICAL, EMOTIONAL, VERBAL, SEXUAL, ECONOMIC, SUBSTANCE AND OTHER ABUSE.

Registration of the organisation is subject to the conditions in Act 12 of 1979 and the regulations promulgated in terms of the act, while attention is drawn to the following:

- (a) The organisation must limit its activities to the area in its constitution.
- (b) The name and/or objectives of the organisation may not be changed without written permission from the Ministry of Health and Social Services.

The welfare organisation must display its registration number WO122 on all public documents, advertisements, authorisations, etc.

This certificate can be amended or cancelled in terms of Section 21 of Act 12 of 1979.

APPENDIX 2

CONSTITUTION

CONSTITUTION OF THE SOCIAL DIACONATE ACTION YOUNG WOMEN

PREAMBLE

WHEREAS the SOCIAL DIACONATE ACTION YOUNG WOMEN was established as an ecumenical body in the year of our Lord, 1986.

AND WHEREAS the association is comprised of young women of different denominations who render social diaconal services to the needy in society, such as the aged, orphans, substance-abuse addicts and generally to women and children who have had their rights violated through physical, emotional, verbal, sexual, economic, substance and other abuse, throughout the Republic of Namibia.

NOW THEREFORE IT IS AGREED THAT:

1. NAME

The name of the association shall be the **SOCIAL DIACONATE ACTION YOUNG WOMEN**.

2. AIMS AND OBJECTIVES

The aims and objectives of the association shall be:

- 2.1 to render social diaconal services to individuals as stipulated in the preamble;
- 2.2 to establish a 24 hour shelter in Windhoek to be known as the 'Friendly Haven', for battered women and their children;
- 2.3 to conduct research in furtherance of the aims and specifically to investigate the establishment of further shelters;
- 2.4 to counsel the abused women and their children and where desirable, the abusive partner;
- 2.5 to promote public awareness in order to minimise and overcome violence against women and children;
- 2.6 to arrange visits to families and assistance with spiritual, social diaconate and reunification needs if desired;
- 2.7 to refer persons to relevant agencies for further assistance where necessary;
- 2.8 to strengthen the staff of the association's capacity through training programmes.

3. STATUS

- 3.1 The association shall be a charitable voluntary association of a public nature, which does not have the aim of making a profit.
- 3.2 The association shall have perpetual succession and hold its property distinct from its members.
- 3.3 The association shall have a separate legal personality from its members and may sue or be sued in its own name.

4. THE MEMBERS

- 4.1 Membership of the association shall be open to interested persons upon application, acceptance by the board and payment of the individual membership fee.
- 4.2 The initial membership of the association shall consist of the persons listed in Annexure "A".
- 4.3 The membership of an otherwise-paid-up member may be terminated on the majority vote of a general meeting.

5. TRUSTEES

- 5.1 The association shall be governed by a board of trustees, which shall consist of at least 5 and not more than 11 trustees.
- 5.2 The board of trustees shall initially consist of the persons listed in Annexure "B".
- 5.3 The board of trustees shall be entitled to act on behalf of the association in all matters affecting the conduct of its affairs in furtherance of its aims and objectives.
- 5.4 The director and deputy-director of the association shall serve as the chairperson and

- deputy-chairperson respectively of the board.
- 5.5 The trustees will ideally be comprised of at least one:
 - 5.5.1 social worker;
 - 5.5.2 psychologist;
 - 5.5.3 legal advisor.
 - 5.6 Three staff members of the association, elected at the annual general meeting, shall serve on the board.
 - 5.7 All property and funds of the association shall vest in the board, who shall hold such property and funds in trust and on behalf of the association as a corporate body.
 - 5.8 The board shall have the power:
 - 5.8.1 to buy, sell, let or hire, exchange, transfer, receive by way of donation or otherwise, movable and immovable property and to execute any act or deed required in connection therewith;
 - 5.8.2 to invest association funds in Government stock, unit trusts or on fixed deposit or call with registered banks or building societies;
 - 5.8.3 to borrow money on the security of movable or immovable property, and to register mortgage bonds against the same;
 - 5.8.4 generally to deal with the property and the funds of the association for its aims and objectives;
 - 5.8.5 to institute and defend legal proceedings on behalf of the association and for that purpose to sign and execute any necessary powers of attorney;
 - 5.8.6 to prescribe the procedure for meetings of the board and the portfolio, if any, which a trustee may hold, save that:
 - 5.8.6.1 the chairperson shall have a casting vote in the event of an equal division;
 - 5.8.6.2 3 trustees shall form a quorum of the board, should the trustees number less than 8; if the trustees number more than 8, a quorum of 5 persons shall apply;
 - 5.8.6.3 The chairperson may at any time convene a meeting of the board and two (?) trustees may, on giving four days written notice to the Chairperson, demand that a meeting of the board be held on a date, and for the purposes, to be specified in such notice;
 - 5.8.7 to elect successors by a simple majority for a three year period to vacancies in the board;
 - 5.8.8 to remove any trustee from the board by a simple majority;
 - 5.8.9 to request the convening of a special general meeting.

6. GENERAL MEETINGS

- 6.1 An annual general meeting of the board of trustees, members and employees, shall be held as soon after the end of the association's financial year as may be convenient, but not later than October of each year.
- 6.2 A special general meeting shall be held on the written request of:
 - 6.2.1 the board of trustees;
 - 6.2.2 25% of the total number of members.
- 6.3 A request for a special general meeting shall set out the purposes of the meeting and be addressed to the Secretary of the board of trustees.
- 6.4 A special general meeting shall have the power to raise, discuss and decide only such specific matters as have been set out for consideration in the notice of the meeting.
- 6.5 General meetings shall be convened by the Secretary, who shall give written notice to all trustees and members and general notice to all employees. Such notices shall be given in the cases of annual general meetings and special general meetings four weeks and two weeks respectively before the dates of such meetings and such notices shall set out the agenda.
- 6.6 The quorum of general meetings shall be one-third of the members.
- 6.7 The agenda for the annual general meeting shall contain the following items:
 - 6.7.1 presentation and discussion of the director's annual report;
 - 6.7.2 consideration of the annual financial statements;
 - 6.7.3 the election of the 3 staff members of the board of trustees;
 - 6.7.4 the appointment of auditors;
 - 6.7.5 any other business which has been presented by a member or trustee to the board in writing.

- 6.8 Voting on each item of the agenda shall be conducted by a show of hands, unless a ballot is requested by 2 or more members.
- 6.9 Each member shall have one vote only.

7. NOTICES

- 7.1 Any notice to a trustee or a member shall, on being posted in an envelope, bearing such address as at the time of posting is recorded in the association's records, be deemed for all purposes to have been received by such member within 4 days of its being posted.
- 7.2 The accidental omission to give notice of any meeting to any person(s) shall not invalidate the proceedings at that meeting.

8. FINANCIAL CONTROL, BOOKS OF ACCOUNT AND ANNUAL FINANCIAL STATEMENTS

- 8.1 The board shall open an operative bank account in the name of the association.
- 8.2 All funds or other donations shall be deposited in this account within two days of receipt.
- 8.3 Any income, donations and/or contributions received shall only be used for the furtherance of the aims and objectives of the association.
- 8.3 Cheques made out in the name of the association greater than N\$5 000 shall be signed by a trustee with signing powers.
- 8.4 No cheque in excess of R40 000 shall be drawn on the association's bank account without prior consent of the board.
- 8.5 The association shall keep a proper set of books of account according to generally accepted principles of accounting, which shall correctly reflect its finances.
- 8.6 The audited annual financial statements shall be ratified by a two-thirds majority of the board.
- 8.7 The board shall annually submit the audited financial statements to donors.
- 8.8 The board shall submit the audited annual financial reports to the annual general meeting for approval, where it shall be ratified by a two-thirds majority.
- 8.9 The financial year of the association shall run from 1 March until 28 February in the next year. The books of account shall be closed and accessible for auditing on 30 April of each year. The auditing shall be finalised before the annual general meeting.
- 8.10 Every trustee and member shall be entitled at all reasonable times to inspect all the books of account and other documents of the association, which the Secretary or other custodian shall accordingly be obliged to produce.

9. AREA OF OPERATION

- 9.1 The association shall only engage in activities in furtherance of its aims and objectives within the territory of the Republic of Namibia.
- 9.2 The association shall nevertheless be entitled to seek donations and contributions from institutions based both inside and outside the Republic of Namibia.

10. AMENDMENTS TO CONSTITUTION AND DISSOLUTION

- 10.1 The terms of this constitution may be amended, the name may be changed, and the association may be dissolved by the decision of the members in a general meeting.
- 10.2 30 days written notice shall be given of such a meeting.
- 10.3 Such notice shall state the nature of the resolutions to be proposed.
- 10.4 Any such resolution shall only be deemed to have been adopted if it is supported by not less than two-thirds of the members present at the meeting.
- 10.5 The association shall only be merged with another association which has similar aims and objectives.
- 10.6 Should a resolution be passed to merge, the assets and liabilities of the association shall accrue to the association with which the merger is effected.
- 10.7 Should a resolution be taken to dissolve the association the assets shall be realised by a liquidator appointed by the general meeting and after all the debts of the association have been settled, any money and/or property which may remain, shall be donated to any other institution or association with similar aims and objectives at the discretion of the steering committee appointed by the general meeting.
- 10.8 Should the association become dormant or be unable to fulfil its purposes and objects, then any member may apply to the High Court for the association's dissolution on any of the aforementioned grounds.

APPENDIX 3

DOCUMENTATION ON ACQUIRING ERF 7028

DEPARTMENT OF PROPERTIES AND PROTECTIVE SERVICES CITY OF WINDHOEK
Att: Mr D L Joubert
P O Box 59
WINDHOEK

Sir,

RE: COUNCIL RESOLUTION 413/10/94: PURCHASE ERF 7028, SOCIAL DIACONATE ACTION OF YOUNG WOMEN

The Social Diaconate Action Young Women hereby acknowledges receipt of your letter dated 3 November 1994 and welcomes the Council Resolution 413/10/94 to sell the Institutional Erf 7028 to the above mentioned association.

While accepting the decision, the association however, for the sake of benevolence, humbly requests the Council to please donate the following to the association:

1. installation of sewer-pipes
2. electrical services
3. water-supply
4. transfer fee,
and
5. to safeguard the association against clause 2.3 of the Resolution

To clause 7.2.2, the association has the support of the Namibia Development Trust, (NDT); that of the Women and Child Abuse Centre in the Ministry of Health and Social Services and of the Management Team of the Council of Churches in Namibia (CCN).

To clause 7.3.3, the association is in the process of its establishment and has at yet no immovable property neither in the municipal area of Windhoek, nor elsewhere

To clause 7.3.4, this is also not applicable.

Clause 5 also not applicable.

Yours faithfully

SIGNED NGENO Z NAKAMHELA
ON BEHALF OF THE SOCIAL DIACONATE ACTION OF YOUNG WOMEN

CHAPTER 40

Mr R Mathews; Christian Science Committee on Publication for Namibia

From September to December 1996 the Christian Science Monitor [an award-winning international daily newspaper, the objective of which is to injure no man but to bless all mankind] did investigative reporting on a theme: safeguarding the Children. The Monitor made a significant and worldwide contribution in highlighting child abuse and explored ways in which it is being combated. Similarly the weekly Christian Science Sentinel, monthly Christian Science Journal, and Monitor Internet edition, have been dealing with child abuse and how various concerned individuals and organisations do effectively cope with the problem both from practical and spiritual perspectives. Having read these periodicals, I, like many people in other countries, have been moved to share two Monitor reprint series respectively entitled "The Child Sex Trade - battling a scourge" and "Out of Harm's Way" with numerous thought leaders and interested parties. The extent of child abuse, the means of tackling the problem and the solutions experienced in America and the rest of the world are useful pointers for us in Namibia to study and apply.

It must be gratefully acknowledged that in safeguarding children, good work is being done by a number of organisations in Namibia. However, there is a real need to enhance their efforts by making the horror of child abuse more keenly felt - thereby enlisting assistance of financially independent pensioners, senior citizens, wives, who can offer their free time gratuitously. Teens too can be fruitfully occupied, counselled, entertained or trained during inactive hours between 3pm and 6pm - which may keep them off the streets, away from unsupervised TV and Internet viewing or mischief born of boredom. Amongst these potential helpers, there is often a hidden reservoir of capability that needs to be tapped. My goal, as a pensioner and Christian, is to continue to stimulate, among individuals and groups, a profound awareness of, and deep compassion for, all children, especially those youngsters in need of comfort, companionship, meaningful occupation of their free time, or rehabilitation. A Monitor staff writer states:

"Moving beyond legislative efforts, adults are recognising the need for community and individual initiative - and are taking action to keep children out of harm's way."

Today's children need help. Parents, individuals, churches, non-governmental organisations, the private and public sectors have a moral duty to constantly watch, pray, love and act compassionately and *effectively* in behalf of children. Attitudes of abusers have to be changed - this is crucial for ending child abuse. Society owes children the recognition that they have human rights. Problems children face can be solved but only if many more persons in the community make a concerted effort. There is a need to foster moral and spiritual strength in children to enable them to develop a sense of self-worth and responsibility, in order to effectively cope with life in the world today.

Programmes relative to safeguarding children are long term, time consuming and in many instances, costly. Problem-solving does not have to be costly if there are volunteers. Problems are challenging but these challenges should be seen as opportunities for discovering or working out solutions. There are more Samaritans about us, who would give of their time and expertise freely, than is generally realised. Some are pro-active, others just need to be approached.

Apart from various organisations, it is important to repeat that individuals (adults and teenagers) and local communities can make a significant contribution to safeguarding children and identifying and reforming abusers. There must be grassroots participation. Avoid imposing "top down" efforts without involving the man in the street, including teens, because they are competent and wise problem solvers. Give youth leadership appropriate roles. Create local community and student think tanks to stimulate interest and thereby discover practical solutions. Let the aged help the young and vice versa. Every step should be backed by prayer to ensure right motivation and success

YOUTH INVOLVEMENT

An organisation styled Youth Crime Watch in America helped to create youth-led programs that free schools from crime and drugs. First the students identify what the problems are, and then they work to

solve the problems. Students are trained in youth conflict resolution, mediation and mentoring. A state school is one where students have a good deal of school spirit [which must be nurtured] and they want to make changes. The more youths are encouraged to invest their [own] ideas in programs, the more the school benefits

Another organisation teaches children teamwork, how to diffuse disagreements, and success-sustaining strategies and afford the youngsters to perform community projects. Students learn to communicate, cooperate and be sensitive to others' feelings and understand diversity.

A Californian teacher says, "we use older kids to educate the younger kids that its protecting everyone to speak out." The school concerned put students at the centre of many of its prevention programs, involving them in everything from poor counselling to clueing adults in to potential problems and weapons on the campus. Kids are the first to know of problems at school

College students are involved with the police department, social agencies, service agencies and clubs.

Students put on plays relative to abuse after which the student audience and cast break into groups and discuss how the abuse can be avoided.

ADULT INVOLVEMENT

A retired postal official as a church volunteer works for 50-60 hours per week. He says: "I want to make a difference. Somebody has to help them. A lot of people pay lip service but I'll be out there being a father image to some of the kids who don't have fathers in the home, and visiting schools and parents."

Volunteers help school students at every level with their homework.

A mentoring program set up by an action group known as 'Fighting Back' involves 60 volunteers.

Child Lines and Help Lines are serviced by volunteers.

Victims of abuse themselves sometimes become volunteers in youth and adult programs.

The opportunities to assist in programs are numerous. Volunteers are either trained or their expertise is utilised to maximum effect. Needless to say the foregoing is not exhaustive.

MEDIA VIOLENCE

Research has indicated that [a] television violence can lead to imitation; [b] witnessing repeated violent acts can lead to desensitisation and empathy for human suffering; [c] the cumulative impact of violence-laden imagery can lead to a mean world perspective, in which viewers have an unrealistically dark view of life. A Monitor editorial poses the question, "Where do many teens say they learn about violence and what it does these days?" And answers: "First, from their parents. At Home. And second, from the killing and bashing on TV and in movies. Domestic violence, anger, aggression, and neglect, in real life or on the screen, undermine a child's growth potential. There is a great need for the public to condemn media violence on a regular basis.

CHURCH POSITION

Our church is not directly involved in social action programs but the Monitor through articles supports and presents to its readers (and world-wide short-wave monitor radio listeners) solution-orientated programs and initiatives taken by others. This does not mean, however, that our Church is passive in the face of child abuse. The role of our church is to find spiritual solutions to heal human problems.

"More things are wrought by prayer than this world dreams of."

Dated at Windhoek this 19th day of March, 1997

Signed: Raymond Mathews

Christian Science Committee on Publication for Namibia.

CHAPTER 41

Mrs B B Keramen-Nell; The Methodist Church, Appointed and approved by the Local Minister, Rev Beukes

I thank the Chairperson and members of this Commission for giving this opportunity to our church, to make a contribution to this issue of "Deep anger, crime and drop in morals", which is of great concern to our church leaders.

The leadership of the Methodist Church has voiced its deep concern about dangerous levels of anger and violence being expressed in our societies. At the Churches' Connexional Executive (CE) in Johannesburg, RSA, at the end of August 1996, bishops and lay leaders identified several areas of particular concern:

- The unacceptably high levels of theft, fraud, muggings, killings and other forms of crime.
- The undercurrent of rage and anger present in people of all colours in the society.
- The rise of vigilante action and the perception that this is a justified response to crime;
- The increasing drug trade and the extent to which our country is becoming a drug trafficking centre of the world.
- The level of disrespect for human life, for women and for children, and the pornography and violence that flows from this attitude; and
- The drop in moral standards in most of our schools.

The Church called on the government to give priority to combating crime through improving the effectiveness of the police force, and to co-operate with the Church in resolving moral and educational crises. It also called all Namibians especially members of the Christian faith, to accept the saving grace of Jesus Christ, which will allow them to let go of the anger that is a cancer in our society. The Methodist leaders said that if Christians could be healed of their anger, they would be able to better witness for God in the nation.

Our new Presiding Bishop, Bishop Mvume Dandala, has issued a threefold agenda for the Church: to become a spiritual people, to address hunger and poverty, and to enable people to learn the skills that will give them dignity. Bishop Dandala said, during a speech at Vista University in Soweto, "It is important that we cultivate a spirit of charity. When I look around the streets of this land at the little street children, and I see some of us passing on without thinking about it, I cry for the spirit of Southern Africa." He challenged Methodists to sacrifice one meal a day or week and give what they save on it to those who are able to feed the hungry.

He added that in the concentration on the struggle against apartheid, Christians in this land had often and wittingly lost their sense of focus on those things that are unacceptable to God. Basic moral issues of fidelity in marriage, trustworthiness, honour and respect for family life, the dignity for work, dependability to your friends and neighbours, a sense of charity and many other such basic human qualities lost ground to the expediency of the struggle against apartheid.

As trusted by the Bishop, it is the intent of every Methodist Church to have a project that is intended to serve the community around them, rather than for our own benefit. These projects will be in the form of a literacy programme, a job creation project, a library for the community, counselling services and centres for abused women and children. The Church will also conduct reach out programs to the rural communities of our Connexion, but these projects will be open to any other denomination.

We realised that the Church has a vital role to play in the needs of our youth of today such as spiritual guidance, life-skills and education, outreach and entertainment. The Church has a role to play in all of

these areas. It has to offer a place to grow spiritually and to have questions answered, as well as a place to be safe and happy. By fulfilling these needs of our youths, youth groups are encouraged to be formed by our youths with the assistance of church leaders. Youth groups do though exist in nearly every Methodist Congregation, and more is expected to be established in those congregations where none are of existence.

The Church also realised that "Freedom cannot be achieved unless women have been freed from all forms of oppression". We hardly need statistics to be aware of suffering and oppression that women and children are still undergoing. It is important that we don't narrow our focus down to the terrible phenomenon of physical violence against women. We have to realise that we are dealing with a far more comprehensive phenomenon: the demeaning of women in most aspect of our lives. Women have the right to claim equality in this world for they contribute more than equally to it;

- 85% of the food produced in Africa is produced by women.
- Women do two thirds of the worlds work, but earn only 5% of its income.(quoted from the Dimension, the Methodist Newspaper)

There is no easy way out of these injustices, but we can start by establishing women groups in our churches, (if not already existing). It is tradition in every Methodist congregation that such women groups do exist.

- Let us work on our self-esteem, and as Christians realise who we are in Christ.
- In cases of physical abuse, let's speak out. We got to speak and comfort one another and assist to get help and protection. Report these cases to the police; provide shelters to abused women and children. This is also one of the projects Rev. Beukes and myself (Blanche) intend to establish among the church community.
- Let us include the men as they have an important role to play. They must constantly be reminded of our shared responsibility for change. Just as in the case our women groups, so do men groups already exist in our Methodist congregations. They only need to be included in our endeavours.
- We have got to make sure that our children get a good education and have a good self-esteem, especially our daughters, so that they will be free.

The Methodist Church nationally used to have "Soup Kitchens" which were run by women of the Church, but due to financial constrains and other human problems they stopped functioning. These Soup Kitchens used to provide food to the aged and street children. We do intent to revive these Soup Kitchens in the near future.

During August/September 1996 the Transformation Committee of the Methodist Church made a proposal, to the Connexional Executive (CE) to address the inadequate representation of women on the Church's highest policy making body. As stated by the Church newspaper the "Dimension" only three of the forty member body are women. The Committee's proposal was, that six additional women, one of whom would have been a minister, be chosen to serve as members with immediate effect. A system of rotating the districts that would choose the women representatives was proposed.

Coupled to this was a suggestion that the Church commits itself to a process that will see women elected to leadership roles at the highest levels in the church. Bishop Ivan Abrahams of the Methodist Bishop of Namibia who has been part of a group evaluating the international Churches decade of solidarity with women, said it was sad that there was not more enthusiasm in tackling gender imbalance. He added that an important forum such as the Connexional Executive was not hearing more that half of the Church. Members expressed their views in hoping that synods would be educated about women leadership, so the newspaper added.

As stated during the Assembly of the World Federation of Methodist Women, held in Rio de Janciro, during August 1996, Methodist women are going to have or be far more proactive and assertive if we want their voices to be heard, as a world-wide body, and if they want the excellent work being done in individual countries and societies to be taken note of. This goes not only for the Methodist Church's women, but also for each and every woman in our country.

To prepare the way of the Lord in our lives means setting out on a journey, which will lead us not only towards God, but also to a greater understanding of ourselves and to an active involvement in the needs of those around us. It involves prayer, but it also demands action. It is a journey that changes our lives. I thank you.
Shalom.

CHAPTER 42

Ms M Isaacs; Namibia Red Cross Society

The Namibia Red Cross Society expresses grave concern over the plight of our women who are being abused daily, and our children who suffer both serious abuse and obvious neglect. In our work daily, we are approached by very desperate women, who due to the abuse and their inability to support themselves and their children, find themselves in a very vulnerable position.

We are deeply concerned about the lack of support structures and financial safety nets for these women and children. We feel that a lot is being unreported and unacknowledged in our country. Therefor we are grateful to the Ministry of Justice and its Law Reform and Development Commission for their excellent work in this area, and for the invitation to the Red Cross to voice it's concerns.

The Red Cross have seven day-care centres countrywide - our focus is on the care and nurturing of our pre-school aged children. Our centres cater both for the most vulnerable and those families who can afford to pay a reasonable fee. The abuse and neglect we see crosses all income and ethnic groups. We feel that the Government must play a bigger role in educating the nation on the importance of good care and parenting and early childhood development. We must as a nation, make a concerted effort to ensure that our children are given the best foundation possible.

We encounter women who due to their partners' physical, verbal or mental abuse, no longer can concentrate on being good mothers or even feeding their children properly. What we see then, are children who are caught in the middle of a terrible family life. Without a doubt, this has a serious impact on the well being of the child. Both the child's ability to learn and development as a human being are seriously affected. We call for a partnership by the Government, NGO's and the private sector to highlight the promotion of all our children.

We are sad to report that many children are being sent to schools, without food or proper clothes. These children are also coming from homes that can afford to provide care for their children. We see that little attention is given to good nutrition and the required diet for children. However, we see that the parents of these same children are usually very well dressed. Does it mean then, that we do not prioritise the development of our children? We must put our children first, before concentrating on our own material needs.

Very often, children are not being picked up on time. The teachers then take these children home. Usually after the child has spent a night with the teacher, the parent then picks up the child as if nothing has happened. If we continue to ignore the basic needs of our children and their psychological well being, we will have a very bad future to offer our children.

We note with concern the treatment of children who live with stepparents or extended families. They do not receive equal attention or treatment. Often times, if teachers discuss these issues with the families, then they victimise the child. We must recognise that if we accept children into our homes, then they have the right to love, care and equal treatment.

We must educate young people on the role and responsibilities of having a baby. It remains unfair that we often dump our babies on grandparents, who are even struggling to care for themselves. While Namibia acknowledges the rights of the child, much more must be done to educate the public on the subject.

The Namibia Red Cross Society thanks the Commission for this opportunity to address it. May we grow as a nation that nurtures and protects all members of our Society.